

# Residential Real Estate Closing Customs New London County

## **Introduction**

The following customs for residential real estate closings were adopted by the New London County Bar Association effective August 1, 2000 and as amended effective August 1, 2001. The customs may be superseded by any written contract of the parties, but in areas where the contract is silent, these customs are to be followed.

## **Residential Real Estate Closing Customs For New London County**

### 1. PAYMENT OF THE TITLE SEARCH

Buyer will pay for Buyer's own search.

### 2. ADJUSTMENTS

Adjustments are made on the basis of the Buyer owning the property on the date of the closing. Adjustments to the Seller are made through the day immediately preceding the closing day.

### 3. RENT AND SECURITY DEPOSIT ADJUSTMENTS

Rent adjustments are based on the number of days in the month of the sale. This is true with respect to rent backs as agreed to by the parties and with respect to tenants in the premises. . It shall be considered the responsibility of the Sellers to collect rent for the month of the closing and rent shall be adjusted as if rent has been paid to the Sellers for the month in which the closing is taking place. Security Deposits are also to be adjusted from the Sellers to the Buyers. It shall be the responsibility of the Sellers to provide proof that a Security Deposit does not exist or that interest is not due for the failure of the tenant to pay rent on time. The amount of the security deposit shall be calculated by adding to the security deposit interest from the date of the last payment of interest to the tenant or if no such payment has been made then adding interest from the-date the security deposit was placed with the Sellers. Interest shall be at the rate set by the Department of Banking for the State of Connecticut as adjusted from time to time. The parties shall, if requested by Buyers' counsel execute a form in substantially the same form as is attached hereto as Exhibit "A".

### 4. ADJUSTMENTS FOR OIL IN THE TANK

The oil in the tank shall be adjusted in favor of the Seller. Seller shall provide at the closing a reading from seller's oil company of the amount of oil in the tank on or before the time of the closing and the current price of that oil from the last provider. When the tank is a 275 gallon tank the parties shall adjust based on a full tank containing 260 gallons of oil. In circumstances where the Sellers of property are to maintain possession after closing oil adjustments shall be made between the parties on the date occupancy is taken by the Buyers.

### 5. LOCATION FOR THE CLOSING

The closing shall be held in an office designated by the Buyer's attorney and located in New London County (unless Buyer's lender requires otherwise). It is the custom of New London County to allow the Sellers and their counsel to complete their side of the transaction and be released even though the Buyers may have significant loan documentation to complete.

## 6. COMMON INTEREST COMMUNITIES — ADJUSTMENTS OF WORKING CAPITAL ACCOUNT CONTRIBUTIONS

Contributions required to be made by the first purchaser of a unit in a common interest community to a working capital account or reserve account of the community association are not subject to recoupment or other adjustment on subsequent resale of the unit.

## 7. COMMON INTEREST COMMUNITIES - SPECIAL ASSESSMENTS

Special assessments of a common interest community, not part of the regularly budgeted common expense assessments, are not subject to adjustment. If payment of all or any portion of the special assessments is due and payable prior to the original closing date stated in the contract, the amount then due (without regard to any grace period) is payable by the Seller; if all or any portion of the special assessment is due and payable on or after the original closing date stated in the contract, such payment becomes the Buyer's responsibility.

## 8. COMMON INTEREST COMMUNITIES - MONTHLY ADJUSTMENT OF COMMON CHARGES

Regularly budgeted common expense assessments are adjusted as if they were payable on the first day of the month in advance, whether such assessments are in fact made on an annual basis and payable monthly, or assessed on a monthly basis.

## 9. SEWER AND WATER ASSESSMENT ADJUSTMENT AT TIME OF CLOSING

In those instances where the Buyer has agreed to assume and pay any outstanding sewer assessment and payment of all or any portion of a principal installment on account of said assessment is due and payable prior to the original closing date stated in the contract, such amount then due (without regard to any grace period) is payable by the Seller, if all or any portion of a principal installment on account of said assessment is due and payable on or after the original closing date stated in the contract, such payment becomes the Buyer's responsibility. Interest on sewer assessments is paid in arrears. This custom would then provide for the Buyer to receive a credit at the closing for interest on the outstanding principal balance from the date to which interest has been paid to the date of the closing. Interest only shall be adjusted pro rata as of the date of closing. Principal payments would not be prorated. In the event the contract is silent as to the existence of or payment for a Sewer or Water Assessment, the seller shall payoff said assessment in full.

## 10. REAL ESTATE TAXES - ADJUSTMENT AT CLOSING

Real estate taxes shall be adjusted as of the date of the closing unless otherwise agreed. The tax year shall be the fiscal year of the town in which the property is located. All New London county towns are now on a fiscal year commencing July 1 and ending June 30. Real estate taxes assessed upon the List of the preceding October 1st shall be considered to be applicable to the subsequent fiscal year. This method of tax adjustment would also apply to any other taxes levied upon the same grand list, for example fire district taxes and association taxes. Such adjustments are made on the basis of a 365-day year. Taxes shall only be adjusted on the basis of actual taxes paid by the Sellers in advance in those circumstances where taxes have been reduced or adjusted pursuant to C.G.S. § 12-129b or C.G.S. §170aa.

When closings take place during the months of July and January it shall be the responsibility of the Sellers to prove the payment of taxes or adjustments shall be made by having the Buyers pay the taxes and adjust to the Buyers for the actual taxes paid. In the event a Seller's mortgagee has "disbursed" taxes and the tax collector has not yet received such payment the Sellers shall deliver to Buyers' counsel a sum equal to the taxes due plus two (2) months interest on said bill. Upon proof that the taxes have been paid the Buyers counsel shall release such

sums to the Sellers. In the event taxes remain unpaid on August 20th for the July bill or February 20th, for the January bill the Buyers' counsel shall have the right to use the escrowed sums to pay the taxes due. Taxes shall be adjusted in favor of the Sellers under this circumstance.

#### 11. FUNDS AT CLOSING

At closing Buyer shall tender to Sellers an attorney trustee check, cashier's, teller's or certified check(s), payable to Sellers for the balance of the purchase price due, at closing, as set forth in the Buy/Sell Agreement adjusted in accordance with the Buy/Sell Agreement and these local customs. The settlement agent shall be considered the issuing agent for all checks to be cut with respect to the transaction. As such the settlement agent shall issue all checks for payoffs of the Sellers' mortgage obligations as well as all other Seller obligations due in accordance with the purchase and sale contract. All checks issued shall be in accordance with disbursements listed on the HUD1 Settlement Statement. All funds shall be delivered to Sellers' counsel in escrow pending Buyers' counsel having the opportunity to deposit funds necessary for closing and to perform a rundown of title prior to recording the closing documents. Sellers' counsel shall, if requested, execute an Escrow Agreement in substantially the same form as is attached hereto as Exhibit "C".

#### 12. RELEASES AT CLOSING

In the event Seller's title is encumbered by one or more liens, Seller's attorney shall deliver to Buyer's attorney a release for each such lien together with recording fees for all such releases. Seller's attorney shall immediately cause payoff proceeds to be delivered to each lienholder(s). The settlement agent shall be entitled to a fee of Twenty and 00/100 (\$20.00) Dollars as compensation for compliance with the notification law under C.G.S. §49-10b for each Mortgage on the property to be paid at the time of closing.

#### 13. UNAVAILABILITY OF RELEASE OF MORTGAGE LIEN AT CLOSING

In the event Sellers' title is encumbered by a mortgage lien(s) for which Sellers' attorney is unable to deliver a release of mortgage at closing, the parties shall close the transaction, provided Seller's attorney delivers the following.

*If the debt secured by the mortgage lien previously has been paid but the lien is not released from the Land Records at the time of the closing, and in a circumstance where a title insurance company release service was not utilized:*

A. Mortgagee's written payoff statement as defined by C.G.S. Section 498a (as the same may be amended from time to time) with respect to each loan secured by such mortgage;

B. Written confirmation, in a form similar to that attached as Exhibit "B", that the Attorney who handled the payoff will make prompt, reasonable and diligent efforts to obtain the release of mortgage lien and provide same to Buyer's attorney, along with recording fees for such release and that, in the event that such attorney, for any reason, is unable to obtain the release of mortgage lien within 10 days that such attorney shall take such immediate action pursuant to C.G.S. Section 49-8a to effectuate the release of the mortgage in accordance with the referenced statute.

C. Photostatic copy of the front and back of the canceled check paying off said mortgage.

*If the debt secured by the mortgage lien previously has been paid but the lien is not released from the Land Records at the time of the closing, and in a circumstance where a title insurance company release service was utilized*

D. Buyers' counsel and/or its title insurance company shall be provided an indemnity by Sellers' title insurance company release service that payment of the mortgage has been made and that it shall remain responsible to obtain the release or comply with the requirements of C.G.S. Section 49-8a to effectuate the release of the mortgage in accordance with the referenced statute

*If the debt secured by the mortgage lien is to be paid at the time of the closing by the Seller's attorney Buyers' counsel has agreed to use a Mortgage Release Service operated by or on behalf of a licensed title insurance company:*

E. Mortgagee's written payoff statement as defined by C.G.S. section 498a with respect to each loan secured by such mortgage(s);

F. Written confirmation (See Attached Exhibit "C") that Seller's attorney will make prompt and reasonable delivery of the Mortgage payoff, which payoff shall be sent with a letter prepared by Buyers' counsel instructing lender where to send the Release document. Sellers' counsel shall also, by such confirmation, agree to deliver to Buyers' counsels' release service such release in the event same is forwarded to them. Sellers shall indemnify Buyers and Buyers' counsel that such funds as are necessary to payoff the loan will be supplied by them and that in the event additional sums are necessary they will be provided within forty eight (48) hours of notice that such funds are necessary;

G. Seller shall also deliver to Buyers' counsel a sum not to exceed \$35.00 per Release to be paid to such counsels' title insurance company release service as a fee for the processing of the Release documents together with the recording fee necessary for such Release. Such payment shall be made at the time of closing and shall be by check directly to the title company release service provider. Payment of this fee shall absolve Sellers' counsel of the obligation to track and obtain the Release from the Sellers' lender. Seller shall remain responsible for any financial deficiency in the payoff amount and Sellers' counsel shall remain responsible for the delivery of the payoff amount to the Sellers' lender. Sellers counsel will cooperate as necessary to assure that the funds have been delivered to Sellers' lender by supplying proof of delivery of such funds if requested by Buyers' counsel.

*If the debt secured by the mortgage lien is to be paid at the time of the closing by the Seller's attorney and Buyers' counsel does not use a Mortgage Release Service operated by or on behalf of a licensed title insurance company:*

H. Mortgagee's written payoff statement as defined by C.G.S. section 498a with respect to each loan secured by such mortgage(s);

1. Written confirmation (See Attached Exhibit "B") that Seller's attorney has made and will make prompt, reasonable and diligent efforts to obtain the release of mortgage lien and provide same to Buyer's attorney, along with recording fees for such release; (2) that Seller's attorney shall immediately cause the mortgage payoff proceeds to be delivered to Seller's mortgagee(s) in accordance with mortgagee's payoff statement, and (3) that, in the event that Seller's attorney, for any reason, is unable to obtain the release of mortgage lien within 60 days from the receipt of payment by the Mortgagee(s), Sellers' attorney shall take such immediate action as is necessary to deliver to Buyer's attorney a release of mortgage affidavit and exhibits pursuant to C.G.S. Section 49-8a, together with recording fees for such affidavit(s) and exhibits and the Sellers' indemnity that such funds as are necessary to payoff the loan proceeds will be supplied by them;

#### 14. MECHANIC'S LIEN WAIVERS

A seller of property is obligated to deliver to the buyers or the buyers' counsel completed absolute lien waivers at the closing whenever work has been performed or services have been provided during the ninety (90) days preceding the transfer of title. The buyers or counsel for buyers shall not be obligated to accept, in lieu of lien waivers any indemnity agreement promising to hold buyers or counsel harmless from the loss arising from sellers' failure to provide such waivers.

#### 15. ESTATE TAX LIENS AND PROBATE MATTERS

A seller of property subject to an estate tax lien to the State of Connecticut shall provide to buyers' counsel either of the following:

A. A Release of Succession Tax Lien from the State of Connecticut Commissioner of Revenue Services.

B. An Agreement to hold the gross proceeds from the sale of the property in escrow pending receipt by the Buyers' counsel of a Release of Succession Tax Lien from the State of Connecticut Commissioner of Revenue Services.

#### 16. EXECUTION AND DELIVERY OF DOCUMENTS

It is commonly understood that certain documents to be executed by the parties at closing are required by a lender to a transaction as well as by the Settlement Agent to comply with law and/or custom. Such documents to be executed by the respective parties include a Hazardous Waste Affidavit specific to the property referenced, a Non-Foreign Affidavit, a Title Insurance Affidavit, a Utility Affidavit, and a Form 1099 or its alternative. A copy of the HUD1 shall also be delivered to each Realtor.

#### 17. ESCROW FOR FIRE DISTRICT TAXES OR WATER BILLS

In the event counsel is unable to obtain information for either fire district taxes or final water readings for use at closing the custom in New London County is to escrow two (2) times the last fire district tax bill plus interest and/or two (2) times the last water bill. In the event counsel is unable to determine the last water bill with any certainty it shall be assumed that the amount to be escrowed shall be equal to two

(2) times Two Hundred and 00/100 (\$200.00) Dollars per housing unit being sold. Such sums shall be held by the Sellers' counsel until such time as the bills are determined and appropriate checks cut to pay the outstanding amount, if any, with the balance resumed to the Sellers.

#### 18. CLOSING COST CREDITS

Whenever a contract for purchase calls for a closing cost credit and the items to be used to determine the credit are not specifically identified in the contract, a closing cost shall be defined by reference to that allowance that the Buyers' mortgage lender attributes to the term. The intent of this section is, in circumstances where the terms of the closing cost credit are not specifically defined, to be as liberal in construing the term "Closing cost" as a Buyers' lender will allow without regard to each parties' understanding of the meaning of the term. In general terms it is the intent of this section that closing costs could be everything other than the sale price in the event a lender allows all such items to be considered closing costs. Absent guidance from a lender, and where a contract is not specific, a closing cost is anything other than the sale price.

## 19. ESCROWS, ESCROW AGENTS AND ESCROW AGREEMENTS

The handling of escrows at closing has become an issue after the Appellate Court decision in *Galvanek v. Skibitchv* and the enactment of Public Act No. 00-74. This section is adopted in consideration of the foregoing while balancing the ethical implications of attempts to hold escrow agents harmless from their responsibilities as escrow agents while recognizing their obligations as attorney for one of the parties. Connecticut Bar Association Informal Opinion 99-17 requires that any limitation of liability with respect to an escrow agents responsibilities may be considered an attempt to limit prospective liability for malpractice and such a limitation can only be made if the client consents after solicitation of independent representation. As a result, and in attempt to balance the practicalities of the practice of real estate law with the case law, statutory authority and ethical obligations, these closing customs permit the handling of an escrow by one of the parties' attorneys upon the signing of an escrow agreement in substantially the same form as attached hereto as Exhibit "D" for escrows in an amount less than the small claims limit of Thirty Five Hundred and 00/100 (\$3,500.00) Dollars. For any escrows in excess of the small claims limit of Twenty Five Hundred and 00/100 (\$3,500.00) Dollars it is believed that given the nature of any anticipated litigation that an independent escrow agent should be engaged.

**Exhibit "A"**

ASSIGNMENT OF LEASES

This Assignment (assignment.) is made as of the date hereinafter set forth by

\_\_\_\_\_ of the County of New London and State of Connecticut and  
(assignor) to of the City of

\_\_\_\_\_, County of New London, State of Connecticut ("Assignee").

FOR VALUE RECEIVED, Assignor hereby grants, transfers and assigns to Assignee its interest as lessor in any and all leases now in together with all rents, income and profits arising from said leases to accrue in the future from the Property, and from any and all leases for the use and occupancy of the together with and including Assignor's entire interest in any other lease, rental or occupancy agreement now existing with respect to the Property located at

(all of which present and future leases, rentals and occupancy agreements whether or not identified in are made subject to this Assignment and are herein referred to as "Leases").

The tenants which are the subject of this Assignment are as follows:

- 1.
- 2.
- 3.

Assignors also warrant that they have transferred this date all security deposits, if any, with respect to the leases described together with all properly due interest on said security deposes.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2001 at \_\_\_\_\_ Connecticut.

Sellers

Buyers

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**Exhibit "B"**

**GUARANTEE LETTER INDEMNIFICATION AGREEMENT**

(No Release Tracking Sew cer)

TO: [Buyers' Counsel]

FROM: [Seller's Counsel]

RE: Sale of Property located at:  
(Property Address!)

SELLERS: (Sellers)

BUYERS: (Buyers)

DATE: (Closing Date)

\_(Buyer's/Title Counsel]

\_(Sellers Counsel)

Please be advised that the undersigned is representing the Sellers in the aboverferenced transaction. The property is encumbered by a mortgage from the Sellers to \_

Page (Lender) in the original principal amount of \$ dated and recorded in Volume of the (Property Town) Land Records. Said mortgage was further assigned to in Volume

Page

The Lender will not provide a release of the mortgage until said Mortgagee has received the funds necessary to satisfy said Mortgage in full according to the terms set forth in Mortgagee's written payoff letter. To the best of my knowledge, I know of no fact or circumstances which would prevent the Lender from issuing a release of mortgage upon receipt of funds sufficient to satisfy the mortgage.

To induce the Buyers to complete the purchase of the property and to induce the Title Insurance Company to issue a policy or policies of title insurance to the buyers and/or the Buyers' Mortgagee without taking exception for the aforesaid mortgage, the undersigned as counsel for the Sellers does hereby agree to immediately forward to Sellers' Mortgagee as aforesaid sufficient funds to fully satisfy Sellers mortgage and to obtain a release of the Seller's mortgage within Sixty (60) days after the date hereof. Promptly, upon receipt of said release of mortgage, I shall have the same properly recorded and forward a copy of the same to the Buyer's counsel.

In the event the Mortgagee has received payment in satisfaction of the mortgage and the release of the Seller's mortgage has not been subsequently executed and delivered by the Mortgagee within Sixty (60) days after receipt of payment, the undersigned seller's attorney shall proceed pursuant to P.A. 86-341, to notify the Mortgagee in writing at least fifteen (15) days in advance of his intention to execute an affidavit in compliance with the Act. A copy of such affidavit will be attached to the notification and forwarded to the Mortgagee.

If such Mortgagee fails to respond to the notification within fifteen after receipt of the aforesaid affidavit, undersigned seller's attorney shall promptly file the affidavit on the land records of the proper town(s) in lieu of the mortgage release with the same effect as H such release had been recorded.

Upon either the proper filing of such affidavit or release of mortgage on the land records, I shall forward a copy of the Affidavit or Release to the Title Counsel and provide all pertinent recording information of said affidavit or release.

In further consideration of Buyer's Counsel closing the transaction this date, the Seller, whose signatures appear below, hereby indemnify and hold homeless Buyers' Counsel and the Buyer of said transaction, as to any and all losses, damages and/or claims thereof, including but not limited to, attorneys fees in regard to any litigation related thereto, in regard to the aforementioned payoff and release of mortgage.

Dated this (Day of Closing) day of (Month of Closing), (Year of Closing).

\_\_\_\_\_  
Seller's Attorney

\_\_\_\_\_(Seller1 )  
\_\_\_\_\_  
(Seller2)

STATE OF CONNECTICUT        )  
  )ss:

COUNTY OF NEW LONDON        )

Personally appeared (Seller1 ) and (Seller2), signers and sealers of the foregoing instrument and acknowledged the same to be their free act and deed before me.

\_\_\_\_\_  
Commissioner of Superior Court  
Notary Public

**Exhibit "C"**

GUARANTEE LETTER INDEMNIFICATION AGREEMENT  
(Release Tracking Servicer)

TO: [Buyers' Counsel]

FROM: [Seller's Counsel]

RE: Sale of Property located at:  
(Property Address)

SELLERS: (Sellers)

BUYERS: (Buyers)

DATE: (Closing Date)

Please be advised that the undersigned is representing the Sellers in the abovereferenced transaction. The property is encumbered by a mortgage from the Sellers to \_

(Lender) in the original principal amount of \$ \_\_\_\_\_ dated \_\_\_\_\_ and recorded in Volume \_\_\_\_\_ Page \_\_\_\_\_ of the (Property Town) Land Records. Said mortgage was further assigned to in Volume \_\_\_\_\_ Page \_\_\_\_\_

The Lender will not provide a release of the mortgage until said Mortgagee has received the funds necessary to satisfy said Mortgage in full according to the terms set forth in Mortgagee's written payoff letter. To the best of my knowledge, I know of no fact or circumstances which would prevent the Lender from issuing a release of mortgage upon receipt of funds sufficient to satisfy the mortgage.

To induce the Buyers to complete the purchase of the property and to induce the The Insurance Company to issue a policy or policies of title insurance to the buyers and/or the Buyers' Mortgagee without taking exception for the aforesaid mortgage, the undersigned as counsel for the Sellers does hereby agree to immediately forward to Sellers' Mortgagee as aforesaid sufficient funds to fully satisfy Seller's mortgage. Sellers' counsel shall deliver such funds together with a letter prepared by Buyers' counsel instructing the Sellers' lender where to deliver the Release document. Sellers counsel will cooperate as necessary to assure that the funds have been delivered to Sellers' lender by supplying proof of delivery of such funds if requested by Buyerst counsel.

In further consideration of Buyer's Counsel closing the transaction this date, the Sellers, whose signatures appear below, hereby indemnify and hold harmless Buyers' Counsel and the Buyer of said transaction, as to any and all losses, damages and/or claims thereof, including but not limited to, attorneys fees in regard to any litigation related thereto, in regard to the aforementioned payoff and release of mortgage. Sellers further agree that in the event additional sums are necessary to pay off the mortgage referenced that such sums will be delivered to Buyers' counsel with forty eight (48) hours of request for same.

Dated this (Day of Closing) day of (Month of Closing), (Year of Closing).

\_\_\_\_\_ -

Seller's Attorney

\_\_\_\_\_  
(Seller1 )

\_\_\_\_\_  
(Seller2)

STATE OF CONNECTICUT     )

)ss:

COUNTY OF NEW LONDON     )

Personally appeared (Seller1) and (Seller2), signers and sealers of the foregoing instrument and acknowledged the same to be their free act and deed before me.

\_\_\_\_\_  
Commissioner of Superior Court  
Notary Public

**Exhibit "D"**

CHECK ESCROW AGREEMENT

Sellers' et al

TO

Buyers, et al

I, the undersigned, hereby acknowledge receipt of all checks payable to Seller or on behalf of Seller as referenced on the HUD 1 Settlement Statement which checks are issued by Buyers' Counsel as settlement agent in the above referenced matter. If you have required, the checks referenced are itemized as follows:

- 1.
- 2.
- 3.
- 4.
- 5.
- 6.
- 7.
- 8.
- 9.

In order to provide sufficient time to deposit Lender Funds and/or confirm Ore funds pursuant to Statewide Grievance Committee Ethics Opinion 99-1, record relevant closing documentation on the appropriate land records, and to assist Buyers' Counsel in its efforts to comply with Practice Book Sec. 27A.1, (OVERDRAFT NOTIFICATION) it is expressly agreed that the above referenced checks are accepted in escrow and shall not be disbursed to any party until \_\_\_\_\_ or sooner notified by a representative of Buyers' counsel. In the event you choose to disburse said checks you acknowledge your responsibility in the event checks are presented for deposit prior to the time referenced herein.

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Seller's Attorney

**Exhibit "E"**

**ESCROW AGREEMENT**

PARTIES:

Buyer:

Seller:

Property Address:

Wherein Seller desires to convey the properly listed above to the Buyer, and the Buyer desires to obtain possession of said property; and wherein Buyer and Seller acknowledge that certain work needs to be done and/or certain items need to be repaired and/or the parties wish an escrow established for the following purpose(s).

Now in consideration of the above, Seller and Buyer hereby deliver

(\$ \_\_\_\_\_) to \_\_\_\_\_, Escrow Agent, and agree to the following:

1. That the following items will be repaired and/or the following work and/or will be performed (Add additional sheets if necessary):

ITEMS/WORK REQUIRED	ESCROWED AMOUNT	COMPLETION DATE
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1.

2.

3.

**MISCELLANEOUS PROVISIONS**

1. Escrow Agent: Seller and Buyer hereby deliver to escrow agent cash in the sum referenced above.

2. All items listed on the schedule above are to be done in reasonably workmanlike manner of a quality customary for similar work in the New London County area.

3. Amount escrowed for any one item may be released when that particular item is completed, and upon written notification of both Buyer and Seller.

4. The money escrowed is solely for the above items and is applicable only to them and cannot be retained for other items not set forth above.

5. If any item is not completed by the date set forth above, the amount escrowed for such item shall be released to \_\_\_\_\_ . retains the right to exercise any legal remedy, including but not limited to monetary reimbursement, necessary to satisfy such deficiency.

6. If the Buyer feels that any item has not been completed in a reasonably workmanlike manner as required in paragraph "2" above, the matter shall be submitted to an appraiser employed or selected by mortgage bank for decision, and Seller and Buyer shall split the cost of said appraiser's fee.

