

## **NEW YORK LOCK-IN AGREEMENT**

**THE USE OF THIS FORM IS OPTIONAL.** If you use this form properly without alteration, you may assume that you are in compliance with New York State Department of Financial Services disclosure requirements as set forth in Part 38.6 of the General Regulations of the Banking Board as in effect on April 1, 2003.

However, use of this form does not constitute a guarantee against civil or criminal liability.

Each page must contain the Company Name, the title of the form and be numbered. **Each page must contain either the initials or signature of the applicant(s).**

Instructions are enclosed in brackets, are preceded by the word "**INSTRUCTION**", and are in italics. The instructions are for your benefit and should not be included in your New York Lock-In Agreement.

**COMPANY NAME**  
**Company Address**  
**Telephone**  
**Fax**

**NEW YORK LOCK-IN AGREEMENT**

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**BORROWER(S):** \_\_\_\_\_

**PROPERTY ADDRESS:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Purchase \_\_\_\_\_  
Primary Residence \_\_\_\_\_

Refinance: \_\_\_\_\_  
Second Home: \_\_\_\_\_

You have placed an application for a mortgage loan with the above lender, to be secured with the property above. The Lender agrees to accept your loan application under the terms and conditions listed below. This is not a loan commitment. You will be notified as to whether or not your application is approved.

This lock-in agreement shall become binding when signed by you and the lender.

**LOCK-IN FEE:**

A lock-in fee of \$ \_\_\_\_\_ ( \_\_\_\_\_ % of the Loan Amount) is required to lock-in the terms of this Agreement. The lock-in fee \_\_\_ is \_\_\_ is not included in the Origination Fee/Discount Points stated below. This lock in fee must be paid by \_\_\_\_\_.

(Date)

**[INSTRUCTION: Such fee cannot be taken prior to the time that the lock-in agreement is binding.]**

If you provide the lender with incomplete or incorrect credit information, you may forfeit some or all of your lock-in fee.

**LOAN TERMS:**

The loan you have applied for is a \_\_\_\_\_ fixed rate \_\_\_\_\_ adjustable rate mortgage loan.

Loan Amount: \$ \_\_\_\_\_ Loan Term: \_\_\_\_\_ months.

Commitment Fee: \$ \_\_\_\_\_ ( \_\_\_\_\_ % of the Loan Amount) \_\_\_ is \_\_\_ is not

included in the Origination Fee/Discount Points stated below.

Origination Fee/Discount Points is \$ \_\_\_\_\_ ( \_\_\_\_\_ % of the Loan Amount).  
Interest Rate: \_\_\_\_\_ (If this an adjustable rate mortgage, this is your initial interest rate.)

Monthly Payment of Principal & Interest: \$ \_\_\_\_\_. (If this is an adjustable rate mortgage, this is your initial monthly payment of principal & interest.)

Balloon Payment: \_\_\_ Yes \_\_\_ No  
Negative Amortization: \_\_\_ Yes \_\_\_ No

Private Mortgage Insurance: \_\_\_ Required \_\_\_ Not Required, provided the appraised value of the property results in a Loan to Value ratio of 80% or less.

**[INSTRUCTION: If Private Mortgage Insurance is required state the condition(s) under which such insurance would no longer be required.]**

Escrows for Real Estate Taxes and Insurance: \_\_\_ Required \_\_\_ Optional

**[INSTRUCTION - Fill in this information only if this Lock-In Agreement is for an Adjustable Rate Mortgage.]**

**ADJUSTABLE RATE MORTGAGES ONLY:**

Margin: \_\_\_\_\_ Index Value: \_\_\_\_\_ Index Description \_\_\_\_\_  
Adjustment period: \_\_\_\_\_ Caps: Per adjustment \_\_\_\_\_ Lifetime \_\_\_\_\_

**EXPIRATION DATE:**

The Expiration Date of this Lock-In Agreement is: \_\_\_\_\_.

If your loan does not close by the Lock-in Expiration Date, the Lender has no obligation to honor the terms of this agreement and this may result in a higher rate or more points being charged on your loan.

**[INSTRUCTION - See the additional information on the Expiration Date in the commentary immediately following this form.]**

**REFUNDABILITY:**

Your Lock-In Fee is non-refundable, except for the following circumstances:

- A) If the Lender issues a commitment to make you a loan and the commitment is conditioned on the approval of a third-party investor or mortgage insurance

company and that party rejects the loan.

- B) If the property appraisal report is not favorable for the loan you applied for (unless you and the Lender agree on another loan for which the appraisal is favorable).
- C) If you provided the Lender with complete and accurate credit information and your application is declined.
- D) Other \_\_\_\_\_.

**DOCUMENTATION:**

The following is a list of information and conditions that the Lender would typically require you to produce and/or satisfy prior to closing your loan:

- A) Provide written verification of the information contained in the loan application including income, assets and the timely payment of debts (mortgage loans, credit cards, rent, etc.)
- B) Title report and insurance, property survey, copy of Certificate of Occupancy for use, satisfactory final inspection (if new construction), evidence of appropriate hazard insurance, evidence of flood insurance as appropriate, master policy insurance certificate (if applicable in the case of condominiums), termite inspection report, radon test report, well water test report and septic inspection report.

**[INSTRUCTION - If the mortgage loan is related to a cooperative housing unit, you must substitute the following paragraph for paragraph B above.]**

- B) Proprietary lease, recognition agreement, pledge of shares of stock, warranty and representation that no outstanding claims against the proprietary lease or stock will exist at closing and a copy of certificate of occupancy and title policy for the entire building if conversion has occurred within the last six (6) months.
- C) Other \_\_\_\_\_.

**CHANGING LOAN PROGRAMS:**

The loan terms described in this Agreement apply only to the loan program you have locked-in. If you chose to change programs, this agreement may become null and void at the Lender's option.

Please sign and return this Agreement together with a check made payable to the Lender in the amount of the Lock-In Fee listed above. If you do not sign and return this Agreement with the Lock-In Fee by \_\_\_\_\_, the Lender may, at its option, declare this agreement null and void. Please retain a copy for your files.

Lender \_\_\_\_\_  
By:

Date \_\_\_\_\_

\*\* Applicant \_\_\_\_\_

Date \_\_\_\_\_

\*\* Applicant \_\_\_\_\_

Date \_\_\_\_\_

\*\* Do not sign this form if spaces are left blank.

## COMMENTARY ON NEW YORK LOCK-IN AGREEMENT

### EXPIRATION DATE - RIGHT OF RESCISSION

While transactions subject to the right of rescission may result in timing differences between the closing date of a mortgage loan and the funding date (i.e. disbursement of funds) of a mortgage loan, most lenders honor the lock-in agreement if the loan closes by the expiration date. The Department believes that consumers benefit most from this approach since consumers usually do not draw a distinction between the closing and the funding of a loan. However, the Department recognizes that some lenders have a policy of requiring the actual funding to occur prior to the expiration date in order to cover the rescission period. Lenders that have such a policy must ensure that consumers are aware of this distinction by providing a clearly worded explanation in the lock-in agreement. In the absence of such an explanation, the Department will expect lenders to honor the closing date.

**[INSTRUCTION - *If you are a lender that will only honor the rate lock if the loan closes and is funded prior to the expiration date, you must delete the standard expiration clause contained in the model form and insert the following clause.*]**

“If this loan is for the refinance of your primary residence you will not receive the loan proceeds on the date of your closing. Therefore, your loan must close at least (3) three business days prior to the expiration date stated above or the Lender has no obligation to honor the terms of this agreement and this may result in a higher rate or more points being charged on your loan.”