



**STATE OF NEW YORK
OFFICE OF THE ATTORNEY GENERAL
REAL ESTATE FINANCE BUREAU**

**DISTRIBUTION OF DIGITAL COPIES OF
OFFERING PLANS AND AMENDMENTS**

**COOPERATIVE POLICY STATEMENT #10
(Applicable to all Cooperative Interests in Realty)**

Effective May 15, 2012¹

¹Supersedes Previous Version of Cooperative Policy Statement #10 Dated October 25, 2011

1. Background

Cooperative Policy Statement #10 authorizes distribution of Plans¹ and Amendments by Offerors under Article 23-A of the New York General Business Law (“GBL”) in Digital Copy format at the election of Offerors and Offerees of Cooperative Interests in Realty.

GBL § 352-e (5) provides that:

No offering or sale whatever of securities described in subdivision one of this section shall be made except on the basis of information, statements, literature, or representations constituting the offering statement or statements or prospectus described in such subdivision, and no information, statements, literature, or representations shall be used in the offering or sale of securities described in such subdivision unless it is first so filed and the prospective purchaser furnished with true copies thereof.

A Plan offering Cooperative Interests in Realty is typically a voluminous bound document. Pursuant to various provisions of the Department of Law’s Regulations set forth in 13 NYCRR Parts 18, 19, 20, 21, 22, 23, 24 and 25 (collectively, “Regulations”), an Offeror is required to periodically amend a Plan. Typically, after an Amendment to a Plan is accepted for filing by the Department of Law, Offerors either re-bind the Plan to include such Amendment or insert the printed Amendment into a previously-bound copy of the Plan for distribution to prospective purchasers. In addition, to the extent required by the applicable Regulations, Offerors separately serve Amendments on Offerees.

2. Policy Justification

The Department of Law believes that in light of widespread access to and ownership of computers and other digital devices, the inconvenience to prospective purchasers of storing a large bound Paper Copy of a Plan, the cost to Offerors of reproducing Paper Copies of Plans, and the impact of such reproduction on the environment, Offerors and Offerees should be permitted, if they both so elect, to distribute and receive Digital Copies of Plans and/or Amendments. The Department of Law expects that use of Digital Copies will reduce transaction costs and aid Offerors, Offerees, and their counsel in their review of Plans and/or Amendments.

3. Effective Date

This Cooperative Policy Statement is effective as of May 15, 2012.

This revised Cooperative Policy Statement supersedes the previous version of Cooperative Policy Statement #10 issued on October 25, 2011.

¹ All capitalized terms used in this Cooperative Policy Statement that are not defined when they first appear shall be defined in accordance with Section 4 of this Cooperative Policy Statement.

4. Definitions

“Amendment” means an amendment to a Plan accepted for filing by the Department of Law pursuant to the GBL and applicable Regulations.

“Cooperative Interest in Realty” means a fee, leasehold or right-to-use interest in a cooperative apartment, a condominium unit, a membership interest in a homeowners’ association, an interest in a senior residential community, or an ownership interest, points or other use entitlement in a timeshare, fractional or other vacation ownership development.

“Digital Copy” means a copy of a Plan or an Amendment that is identical in content to a Paper Copy except that it is recorded electronically in read-only .pdf format or other electronic format that the Department of Law determines to be acceptable. Digital Copies of a Plan or an Amendment shall include all of the supporting documents included in Part II of the Plan, or all exhibits and documents annexed to the Amendment, as applicable.

“Offeree” means a potential purchaser of a Cooperative Interest in Realty or a party entitled to service of a Plan and/or an Amendment pursuant to applicable Regulations.

“Offeror” means a “Sponsor” (as defined in the part of the Regulations applicable to the Plan or Amendment), including, without limitation, a new or successor sponsor, a holder of unsold shares, an owner of unsold units or other promoter pursuant to GBL § 352-e.

“Paper Copy” means a printed paper copy of a Plan or an Amendment.

“Plan” means an offering plan or prospectus of Cooperative Interests in Realty for a particular property or vacation ownership club accepted for filing by the Department of Law pursuant to the GBL and applicable Regulations.

5. Prerequisites for Distributing Digital Copies to Offerees

In order to distribute a Digital Copy to an Offeree, Offeror shall follow the procedures outlined in this Cooperative Policy Statement. These procedures require, among other things, that Offeror: (1) certify that the Digital Copy of the Plan (as amended, if applicable) is identical to the Paper Copy, using a certification in the form annexed hereto as Exhibit A (“Certification”); (2) provide Offeree with the Instructions for Electing to Receive a Digital Copy using the form annexed hereto as Exhibit B (“Instructions”) together with an election form using the form annexed hereto as Exhibit C (“Election Form”); (3) obtain Offeree’s executed Election Form pursuant to which Offeree elects to receive a Digital Copy; (4) use the formatting and naming conventions prescribed in Section 8 of this Cooperative Policy Statement; (5) distribute the Digital Copy of the Plan and/or an Amendment together with a cover letter using the form annexed hereto as Exhibit D (“Cover Letter”) or the form annexed hereto as Exhibit E (“Cover Letter for Distribution of URL for Downloading Amendments”), as applicable, with a label using the form annexed hereto as Exhibit F.

6. Submission of Certification to the Department of Law

Before providing a Digital Copy of a Plan or an Amendment to Offerees, Offeror must submit to the Department of Law a Certification containing the statements in the form annexed hereto as Exhibit A. Offeror and all principals of Offeror must sign the Certification.

Once a Certification has been submitted to the Department of Law for a Plan or an Amendment, no additional Certification is required to be submitted in connection with subsequent Amendments or other submissions with respect to that Plan unless the identity of Offeror or its principals changes, in which case a new Certification must be submitted to the Department of Law.

If Offeror intends to offer Digital Copies, a Certification shall accompany the submission of a proposed Plan or proposed Amendment first submitted to the Department of Law for review on or after May 15, 2012, or when it decides to offer Digital Copies, if that is later.

An Offeror who wishes to make a Plan and/or Amendments available as a Digital Copy before submission of the next Amendment may do so without filing an Amendment specifically for such purpose. In such case, Offeror must first submit the Certification to the Department of Law under cover of an attorney transmittal letter addressed to the Department of Law stating the name, address and file number of the Plan and a statement that the sole purpose of the transmittal letter is to submit the Certification. After such submission, Offeror may distribute Digital Copies to Offerees after individual Offerees have so elected, as provided herein.

7. Offeree's Option to Receive a Digital Copy

After an Offeror has submitted a Certification to the Department of Law and has complied with the requirements contained in Sections 7 through 11 of this Cooperative Policy Statement, Offeror may elect to provide Offerees with Digital Copies of Plans, Plans as amended to date, or Plans as amended to date and subsequent Amendments in lieu of a Paper Copy, but only if Offeree has so elected by signing and delivering to Offeror the Election Form.

An Offeror is not required to provide: (a) multiple copies of a Plan or an Amendment to any one Offeree (*i.e.*, where multiple individuals comprise a purchaser, unit owner, tenant, or shareholder), or (b) a duplicate copy of a Plan or an Amendment to an Offeree's attorney or other representative, regardless of Offeree's election to receive a Digital Copy or Paper Copy. An Offeror may also opt to provide Plans or Plans as amended to date as Digital Copies, but opt to provide subsequent Amendments solely as Paper Copies.

An Offeree shall not have the right to elect to receive both a Paper Copy and a Digital Copy of a Plan or an Amendment. However, Offeror may, in Offeror's sole discretion, provide an Offeree with a Digital Copy together with a Paper Copy of a Plan or an Amendment, or vice-versa, so long as the Offeree receives the Plan or Amendment in the format he or she has specified.

If an Offeror opts to offer Digital Copies, it must provide Offerees with the Election Form and Instructions when they provide Plans and/or Amendments to Offerees. Unless and until Offeror

receives a properly signed Election Form from Offeree electing to receive a Digital Copy, Offeror shall provide Offeree with a Paper Copy.

If Offeror changes the format, method or media of distribution of Digital Copies as set forth in Section 8 below, Offeror shall so notify each Offeree who had previously elected to receive Digital Copies before serving any further Digital Copies on such Offerees. Such Offerees have the right to change their election to receive a Plan and/or Amendment from Digital Copy to Paper Copy, or vice-versa. In addition, each Offeree may change its election once within any 12 month period. An Offeree may change his or her election by executing and delivering a new executed Election Form to Offeror explicitly stating that the form supersedes and replaces the previous Election Form. Offeror shall have 30 days from receipt of the new executed Election Form to change its means of distribution to such Offeree.

8. Format of Digital Copies of Plans and Amendments

Digital Copies must be made searchable to the extent technically possible, as set forth below:

If Offeror intends to distribute Digital Copies, Digital Copies of proposed Plans or Amendments first submitted to the Department of Law for review on and after May 15, 2012 must be made searchable by keyword. If portions of such Plans or Amendments cannot be made searchable, same shall nevertheless be included in the Digital Copies. The Election Form shall include a statement, if applicable, informing Offerees that certain portions of the Digital Copy may not be searchable by keyword.

Plans and Amendments accepted for filing by the Department of Law before May 15, 2012 need not be made searchable by keyword.

All Digital Copies of Plans and Amendments shall be saved as separate digital files and shall be individually named and identified (e.g., Thirteenth Amendment to Condominium Offering Plan for XYZ Condominium.pdf).

9. Media for Distribution of Digital Copies

All Digital Copies shall be distributed, at Offeror's option, on CD-ROMs, DVDs, USB flash drives, or via other electronic format determined to be acceptable by the Department of Law in its sole discretion. Alternatively, Digital Copies may be distributed by providing Offeree with written notification of a URL at which Offeree may access the Plan and/or Amendment, which notification contains the statements set forth in Exhibit E annexed hereto. Digital Copies of Amendments (but not Plans) that are less than 20 gigabytes in size may also be distributed by emailing .pdf attachments to Offerees at the addresses specified by them.

An Offeror may use different methods for distributing Digital Copies of Plans and Amendments provided that Offeror specifies in the Instructions all distribution formats, methods, and media to be used.

An Offeror may change the format, medium, or method of distribution of Digital Copies upon 30 days' prior written notice to Offerees. Such notice must be accompanied by a new Election

Form specifying the new format, method, media, including any change in system compatibility requirements. Although an Offeree may not otherwise change his or her Election Form more than one time within any given 12 month period, he or she may change his or her Election Form each time Offeror changes the format, medium, or method of delivery of Digital Copies.

All CD-ROMs or DVDs containing Digital Copies must bear a label or printed or written information on the jewel case, sleeve, or other container using the form annexed hereto as Exhibit F.

In Offeror's sole discretion, a separate Digital Copy may be made of a Plan and another separate Digital Copy may be made of Amendments, or a separate Digital Copy may be made of each Amendment.

10. Cover Letter

All Digital Copies shall be accompanied by a Cover Letter. The Cover Letter shall list the Plan and/or Amendment(s) (as applicable) included in the Digital Copy.

If a Digital Copy includes an Amendment requiring timely action by a contract vendee or prospective purchaser, including, without limitation, a right of rescission, the Cover Letter shall include the language provided in Exhibit D annexed hereto in **BOLD, ALL CAPS**.

In the case of emailed attachments, the Cover Letter shall contain the text of the email.

11. Affidavit of Service

An Offeror shall prepare and maintain affidavits of service of Digital Copies as provided in the applicable Part of the Department of Law's Regulations.

EXHIBIT A

**CERTIFICATION OF OFFEROR AND PRINCIPALS
CONCERNING DIGITAL COPIES**

We are the Offeror and principals of the Offeror of the Plan for the [insert Property name, complete address, and Department of Law file number] (“Plan”).

We understand that we have primary responsibility for compliance with the provisions of Article 23-A of the General Business Law, the regulations promulgated by the Department of Law in Part __ of Title 13 of the New York Code of Rules and Regulations and such other laws and regulations as may be applicable.

We have read the Plan [as amended to date]. We hereby jointly and severally certify that any Digital Copy of the Plan and/or Amendments thereto to be distributed by us or on our behalf will be identical in content to the Paper Copy of the Plan and/or Amendments thereto as accepted for filing by the Department of Law. The terms “Paper Copy” and “Digital Copy” shall have the meanings ascribed to such terms in the Department of Law's Cooperative Policy Statement #10.

This certification is made under penalty of perjury for the benefit of all persons to whom the offer under the Plan is made. We understand that violations are subject to the civil and criminal penalties of the General Business Law and Penal Law.

[Offeror]

By:

[printed name and title of authorized signatory]

[printed name of principals on separate signature lines]

Sworn to before me this
___ day of _____, 20_____

Notary Public
[affix stamp]

EXHIBIT B

INSTRUCTIONS FOR ELECTING TO RECEIVE A DIGITAL COPY OR A PAPER COPY

[Insert Name and Address of Property] (“Property”)

Article 23-A of the New York General Business Law (“GBL”) requires the sponsor or other offeror of the offering statement, prospectus or plan (“Plan”) to provide to you the Plan and amendments to the Plan (“Amendments”). You are given the choice to receive the Plan **[and Amendments]** either in paper format (“Paper Copy”) or in digital format (“Digital Copy”) by completing and returning the attached Election Form to **[insert name of Offeror]** (“Offeror”). However, Offeror cannot provide Digital Copies of the Plan and/or Amendments in lieu of Paper Copies unless you elect to receive Digital Copies.

It is your obligation to notify Offeror at [insert address of Offeror], in writing of any changes in your name, email address, mailing address or telephone number. Please also note that you have a right to change your election by giving written notice to Offeror at the address listed in this paragraph, but you may not change your election more than once within any 12 month period. However, you may change your election earlier if Offeror changes the format or media of the Digital Copies. Offeror will have 30 days from receipt of notice of change in your contact information or your election (as applicable) to reflect the change on Offeror’s records.

The Digital Copy of the Plan or any Amendment that you receive may from time to time include forms that must be printed out and returned to Offeror within a specified time period. In such case, you must have access to a printer.

Offeror is distributing Digital Copies of **[the Plan/ the Plan as amended to date/ the Plan and subsequent Amendments to the Plan]** [on/in] a **[specify CD-ROM, DVD, USB flash drive or other media acceptable to the Department of Law, or by letter containing a URL for accessing the Plan or Amendment, or by email for Amendments smaller than 20 gigabytes].** **[If subsequent Amendments will be offered solely as Paper Copies, so state.]**

The Digital Copies are saved in **[specify software, including version used]**. To view the Plan and/or Amendments you must have a computer running **[specify version of operating system required]** and have **[specify versions of software required]**. Offeror, in its sole discretion, may change the format or media used to distribute Digital Copies in the future upon giving you not less than 30 days’ prior written notice. Offeror shall not be required to create Digital Copies in a format that is compatible with your digital device, computer hardware, software or operating system at that time. **If Offeror is transmitting Amendments smaller than 20 gigabytes by email, Offeror is not responsible if such Amendments are filtered by your spam filtering program, firewall, or antivirus software.**

In no event will Offeror or any principals of Offeror be responsible for any incompatibility of any Digital Copies with your digital device, computer, operating system, or software, nor shall Offeror or any principals of Offeror be liable for any corruption of, or defect in, the Digital Copies received by you.

All notices between Offeror and you shall be provided in the method prescribed in your Purchase Agreement or as otherwise required by the Department of Law's Regulations.

Dated: _____, 20__

EXHIBIT C

**ELECTION FORM TO RECEIVE
A DIGITAL COPY OR A PAPER COPY FOR**

[Insert Name, Address and File Number of Property] (“Property”)

The undersigned is/are (check and complete as applicable):

___ The prospective purchaser or purchaser under an agreement to purchase a **[insert applicable Cooperative Interest in Realty]** (“Purchaser”).

___ The owner of **[insert applicable Cooperative Interest in Realty]** in the Property (“Owner”).

___ A tenant in occupancy of an apartment in the Property being converted from rental to condominium or cooperative ownership (“Tenant”).

If there are multiple parties comprising the Purchaser, Owner or Tenant, or if Purchaser, Owner or Tenant is an entity, the undersigned represents that the undersigned is the authorized signatory for all such multiple parties or such entity, as applicable.

Check the appropriate box (ONLY ONE BOX MAY BE CHECKED):

_____ The undersigned (if a Purchaser) hereby elects to receive a Digital Copy of the offering plan for the Property (“Plan”) **[as amended to date] [[and] [but not]] all future amendments to the Plan** in digital format via **[Offeror to specify CD-ROM, DVD, USB flash drive, letter containing URL, email for amendments smaller than 20 gigabytes, or other media acceptable to the Department of Law]**. The undersigned (if an Owner or Tenant) hereby elects to receive Digital Copies of Amendments to the Plan. The undersigned understands that the Digital Copy may not be fully searchable, and that Offeror may change the format or medium of future Digital Copies upon 30 days’ prior written notice.

_____ The undersigned (if a Purchaser at the Property) hereby elects to receive a Paper Copy of the Plan as amended to date and Paper Copies of all future amendments to the Plan. The undersigned (if an Owner or Tenant at the Property) hereby elects to receive Paper Copies of all future amendments to the Plan.

If the undersigned has elected to receive Digital Copies of the Plan or Amendments, the undersigned acknowledges having read the Instructions attached to this Election Form, including the system requirements for the Digital Copy provided by Offeror. The undersigned understands that neither Offeror nor the principals of Offeror shall be responsible for any incompatibility of any Digital Copies with the undersigned’s digital device, computer, operating system, or software and that neither Offeror nor the principals of Offeror shall be liable for any corruption of, or defect in, the Digital Copies the undersigned may receive.

Dated: _____, 20__

Signature of Offeree

Printed Name of Offeree

Mailing Address of Offeree

Telephone Number of Offeree:

Email Address of Offeree:

EXHIBIT D

**COVER LETTER FOR DISTRIBUTION OF
DIGITAL COPIES OF OFFERING MATERIALS**

[Letterhead of Offeror or Offeror's Attorney or Selling Agent]

[Date of Letter]

[Dear Offeree]:

Enclosed please find a Digital Copy of the [offering plan and/or amendments __ through __ thereto] OR [Amendment no. __ to the offering plan] for the [insert name of Property], located at [insert complete address of Property], File No. [insert Department of Law file number]

[THE ENCLOSED AMENDMENT NO. __ REQUIRES TIMELY ACTION BY A CONTRACT VENDEE OR PROSPECTIVE PURCHASER [AND EXTENDS AN OFFER OF RESCISSION THAT IS TIME-SENSITIVE]. REVIEW THE CONTENTS IMMEDIATELY SO THAT YOU MAY DETERMINE WHETHER YOU WISH TO EXERCISE ANY RIGHTS INCLUDED IN IT.

[printed name of Offeror or Offeror's Attorney or Selling Agent]

EXHIBIT E

**COVER LETTER FOR DISTRIBUTION OF
URL FOR DOWNLOADING AMENDMENTS**

[Letterhead of Offeror or Offeror's Attorney or Selling Agent]

[Date of Letter]

[Dear Offeree]:

A Digital Copy of the [offering plan and/or amendments __ through __ thereto] OR [Amendment no. __ to the offering plan] for the [insert name of Property], located at [insert complete address of Property], File No. [insert Department of Law file number], is now available for downloading in [searchable] .pdf format at the following address:

[insert URL]

[AMENDMENT NO. __ REQUIRES TIMELY ACTION BY A CONTRACT VENDEE OR PROSPECTIVE PURCHASER [AND EXTENDS AN OFFER OF RESCISSION THAT IS TIME-SENSITIVE]. REVIEW THE CONTENTS IMMEDIATELY SO THAT YOU MAY DETERMINE WHETHER YOU WISH TO EXERCISE ANY RIGHTS INCLUDED IN IT. NOTE THAT THE AMENDMENT MAY INCLUDE A FORM WHICH MUST BE PRINTED AND RETURNED TO OFFEROR WITHIN THE TIME PERIOD SPECIFIED IN THE AMENDMENT OR THE OFFEREE MAY NEED TO PROVIDE A LETTER OR OTHER COMMUNICATION TO OFFEROR OR ITS AGENT [NAME OF OFFEROR OR OFFEROR'S ATTORNEY OR SELLING AGENT] WITHIN THE TIME PERIOD SPECIFIED IN THE AMENDMENT.

EXHIBIT F

**LABEL FOR JEWEL CASE, SLEEVE OR
OTHER CONTAINER OF CD-ROM OR DVD**

Offering Plan for [insert name of Property] _____

Complete Address of Property:

Department of Law File No: _____

Offeror's Name and Address: _____

Contents: _____ [e.g., offering plan; offering plan and
amendments no. 1-6 thereto; amendment no. 1]