

## **ADDITIONAL TERMS AND CONDITIONS**

### **SECTION I: DEFINITIONS**

**Base penalty:** The term “base penalty” means, with respect to any notice of violation returnable to the Environmental Control Board, the penalty that would be imposed upon a timely admission by the respondent or finding of liability after an adjudication, pursuant to the applicable penalty schedule, without regard to reductions of penalty in cases of mitigation or involving stipulations.

**Compliance Judgment:** A judgment arising out of a notice of violation that includes an order requiring the correction of the violation. The City agency that issued the notice of violation will either issue a certificate of compliance (also known as a Certificate of Correction) or will transmit an electronic record to DOF indicating that the condition cited in such notice of violation has been corrected to the satisfaction of such agency.

**Default decision and order:** The term “default decision and order” means a decision and order of the Environmental Control Board, pursuant to subparagraph (d) of paragraph (1) of subdivision d of section 1049-a of the charter of the city, determining a respondent’s liability for a violation charged based upon that respondent’s failure to plead within the time allowed by the rules of the Environmental Control Board or failure to appear before the Environmental Control Board on a designated adjudication date or on a subsequent date following an adjournment.

**Default penalty:** The term “default penalty” means, with respect to any notice of violation returnable to the Environmental Control Board, the penalty imposed by the Environmental Control Board, pursuant to subparagraph (d) of paragraph (1) of subdivision d of section 1049-a of the charter of the city, in an amount up to the maximum amount prescribed by law for the violation charged.

**Environmental Control Board (ECB):** The terms “Environmental Control Board” and “ECB” mean a division of the office of administrative trials and hearings and its tribunal, as described in section 1049-a of the charter of the city.

**Imposed penalty:** The term “imposed penalty” means, with respect to any notice of violation returnable to the Environmental Control Board, the penalty imposed by the Environmental Control Board after an adjudication, pursuant to subparagraph (a) of paragraph (1) of subdivision d of section 1049-a of the charter of the city.

**Judgment:** The term “judgment” means monies owed to the city as a result of a final order of the ECB imposing a civil penalty, either as a result of a default decision and order or after a hearing and finding of violation, that was entered in the civil court of the city or any other place provided for the entry of civil judgments within the state, pursuant to subparagraph (g) of paragraph (1) of subdivision d of section 1049-a of the charter of the city.

**Payor:** The term “payor” means a person or entity who is not the respondent but who makes the payment for a particular judgment entered by the Environmental Control Board.

**Respondent:** The term “respondent” means a person or entity named as the subject of a notice of violation returnable to, or a judgment issued by, the Environmental Control Board.

**Settlement Program:** The OATH-Adjudicated ECB Judgments Settlement Program (“Settlement Program”) is the DOF program that allows respondents or payors to pay for an Environmental Control Board default judgment at a reduced amount. The Settlement Program is not offered for judgments in which the Respondent had a hearing.

## **SECTION II: HOW DO I SEARCH FOR THE JUDGMENTS?**

A respondent or a payor can search the NYC CityPay website for a list of the respondent’s judgments by entering the OATH ID, name and address, or ticket number. This search will list the outstanding ECB violation(s) and will display whether each displayed judgment is entered and eligible for the Settlement Program.

The displayed entries listed in response to a search will show the amount that will be owed under the Settlement Program and the original amount that is owed. The search may also display violations that have not yet been entered into judgment. Please note that the search results may not include all violations for a particular entity, as there may be variations in the way names are spelled or addresses are entered into the City’s databases. Respondents and payors are advised to search under the respondent’s full name and address. If a respondent owns more than one property or has more than one name, the violations may be recorded under more than one OATH ID. Please make sure to search under all applicable properties, names and OATH ID(s).

Please contact us at (212) 440-5300 if you are not sure that you have found all your Settlement Program-eligible judgments on the NYC CityPay website.

## **SECTION III: COMPLIANCE JUDGMENT**

### **A. Settlement Program**

1. A compliance judgment may be resolved under the Settlement Program only if the issuing City agency has issued a certificate of compliance or has transmitted an electronic record indicating compliance to DOF.
2. Compliance judgments for which the issuing agency has not issued a certificate of compliance or has not transmitted an electronic record indicating compliance to DOF will not display a settlement amount.

3. A compliance judgment for a Department of Buildings (DOB) judgment that has received a 50% credit of any default penalty aggravated I default penalty or aggravated II default penalty under DOB rule 1 RCNY Section 102-01(J) is not eligible for the Settlement Program.
4. A judgment that has been referred to a New York City marshal or to the Sheriff for enforcement will not be eligible for the Settlement Program.
5. A judgment that has been referred to the New York City Law Department for collection will not be eligible for the Settlement Program.

#### B. Certificates of Compliance

Nothing contained in these terms and conditions requires a City agency to issue or approve certificates of compliance or the equivalent if such agency does not have a program to do so as of the effective date of Local Law 81 for the year 2021.

### **SECTION IV: DOF SETTLEMENT PROGRAM FOR OUTSTANDING DEFAULT JUDGMENTS**

#### **Who may participate?**

A respondent or a payor may participate in the Settlement Program.

#### **Which judgments are eligible for the Settlement Program?**

- a. The Settlement Program is available for any default judgment entered in the civil court of the city or any other place provided for the entry of civil judgments within the State of New York unless the ECB judgment is a compliance judgment and the issuing city agency has not issued a certificate of compliance or transmitted an electronic record indicating compliance to DOF.
- b. A compliance judgment for a DOB judgment that has received a 50% credit of any default penalty aggravated I default penalty or aggravated II default penalty under DOB rule 1 RCNY Section 102-01(J) is not eligible for the Settlement Program.
- c. A judgment that has been referred to a New York City marshal or to the Sheriff for enforcement will not be eligible for the Settlement Program.
- d. A judgment that has been referred to the New York City Law Department for collection will not be eligible for the Settlement Program.
- e. Judgments that are included in a prior or existing agreement, whether paid or unpaid, with a New York City marshal or the Sheriff.

#### **Am I entitled to a refund if I have previously made payments on a particular violation that would now have the benefit of the Settlement Program?**

There are no refunds available under the Settlement Program.

#### **How do I identify the eligible judgments?**

A respondent or a payor may search NYC CityPay website ([nyc.gov/citypay](http://nyc.gov/citypay)) to see whether a Settlement Program amount for the particular judgment is displayed.

#### **Can I pay for some but not all of the eligible judgments under the Settlement Program?**

You may pay for some judgments, but if you do not pay all eligible judgments that you owe, DOF may take all legal enforcement action without further notice.

### **How much must I pay?**

For a default judgment, the amount due on the Settlement Program is the current base penalty amount, accrued interest on the base penalty amount from the date of the original entry of the judgment, and one-half the amount of default penalties. The remaining half of the default penalties are waived.

### **Conditions for participation in the Settlement Program:**

1. A payment from a respondent or a payor to resolve an outstanding judgment from a default judgment under the Settlement Program shall be deemed an admission of the liability.
  
2. A resolution of a default judgment under the Settlement Program shall constitute a waiver of all legal and factual defenses to liability for the judgment, including giving up your legal rights and admitting liability for all of the violations that you have selected to pay under this agreement. You give up any further rights to challenge the applicable judgments.
  
3. You agree to waive all of the following under the Settlement Program:
  - Any right to challenge any of the judgments that are paid for under this agreement in any forum, including the right to seek to vacate the default judgments.
  
  - Any right to challenge any of the judgments that are paid for under this agreement including:
    - The right to seek to vacate any of the default judgments.
    - The right to challenge or contest any such judgment in any administrative or court proceeding.
    - The right to challenge or otherwise contest the amounts due.
    - Any defenses in connection with such judgments, including any claims or defenses relating to failure to receive notice of such violations and judgments.
    - Any claims that such judgments have expired or are otherwise non-enforceable due to the expiration of a statute of limitations for such judgments.
    - The right to contest in any forum those judgments paid under this agreement that are currently due and payable.
    - The right to any other legal or factual setoff or defense.

## **SECTION VI: PAYMENT INFORMATION**

### **Can I pay my judgments or violations that are not eligible for the Settlement Program?**

Yes. You may pay judgments pursuant to the terms and conditions of this agreement that are adjudicated at a hearing by ECB or ECB violations that are not judgments.

**Can I select and pay for some judgments under the Settlement Program and some judgments that are not eligible for a reduction?**

Yes. You can search and pay any and all judgments and violations that appear in the list of entries on the NYC CityPay website.

**How do I apply and pay for judgments through the Settlement Program or make payments on other judgments or violations?**

Application and payment may be made online at [nyc.gov/citypay](http://nyc.gov/citypay) and is subject to the NYC CityPay website's Terms and Conditions in addition to these Additional Terms and Conditions and together constitute the agreement between a respondent, or a payor, and DOF. The payment(s) must be paid immediately.

**Can I make partial payments on a judgment that is eligible for the Settlement Program?**

No. To make a payment under the Settlement Program, you must pay the settlement amount for the particular judgment in full.

**Payment by eCheck:**

Important Note: If you are a corporation making an electronic check (e-Check) or Automated Clearing House (ACH) payment, please contact your banking institution to provide them with the appropriate ACH company ID (A136400434) and name (NYC ECB FINES) to allow for the removal of any ACH debit block which may affect the processing of your payment so that the payment is not rejected.

**Difficulty Paying Online:**

If the respondent or payor is unable to pay online, then the terms and conditions may be signed and payment may also be made in person with paper check, money order, or cash at any of the DOF business center locations listed below. Checks or money orders must be payable to "NYC Department of Finance."

**Manhattan** - 66 John Street, 2nd Floor

**Brooklyn** - 210 Joralemon Street, 1st Floor

**Bronx** - 3030 Third Avenue, 2nd Floor

**Queens** -144-06 94th Avenue, 1st Floor

**Staten Island** - 350 St. Mark's Place, 1st Floor

If the respondent or payor is unable to pay online or at a Department of Finance business center, they may contact us at [nyc.gov/contactsettlement](http://nyc.gov/contactsettlement) or call us at (212) 440-5300.

**What happens when DOF receives my payment?**

When DOF receives timely payment of the amount required to pay the selected judgments, the City of New York ("the City") will fully release you from any further liability for such judgments as follows:

- The City irrevocably releases and discharges the respondent from any liability for the penalties and interest associated with such judgments.

- This release shall not otherwise affect any other lawsuit, violation, claim, motion, demand, agreement, or other action existing or that shall arise between the City and the respondent or payor.
- Nothing in the release waives a respondent or payor's obligation to comply with existing laws, ordinances, regulations, and administrative orders, including orders to correct, and, furthermore, nothing in the release shall bar the City from issuing Notice of Violations ("NOVs") or taking other appropriate actions with respect to any conditions that give rise to NOVs issued to you by the City, to the extent that any such conditions continue to exist or arise in the future.
- Any such release as described above is subject to the requirement that you pay timely and in full the amount required to resolve all judgments subject to this agreement. You acknowledge that the failure to timely pay in full any amounts due under this agreement will render any such release or discharge null and void.

**Non-Waiver by DOF:** Failure of DOF to enforce any of its rights upon default herein shall not be deemed a waiver of the right to do so upon any other default.