

IN THE CIRCUIT COURT OF THE
ELEVENTH JUDICIAL CIRCUIT, IN AND
FOR DADE COUNTY, FLORIDA

STATE OF FLORIDA, OFFICE OF FINANCIAL
REGULATION,

CASE NO.: 07-43672 CA 09

Plaintiff,

v.

BERMAN MORTGAGE CORPORATION, a Florida
corporation, M.A.M.C. INCORPORATED, a Florida
corporation, DANA J. BERMAN, as Owner and
Managing Member,

Defendant.

and,

DB ATLANTA, LLC, a Florida Limited Liability
Company, **DB DURHAM, LLC**, a Florida Limited
Liability Company, **NORMANDY HOLDINGS II,
LLC**, a Florida Limited Liability Company,
NORMANDY HOLDINGS III, LLC, a Florida
Limited Liability Company, **ACQUISITIONS, LLC**, a
Florida Limited Liability Company, **DBKN GULF
INCORPORATED**, a Florida Limited Liability
Company, **OCEANSIDE ACQUISITIONS, LLC**, a
Florida Limited Liability Company, **DB BILOXI,
LLC**, a Florida Limited Liability Company, **DB
BILOXI II, LLC**, a Florida Limited Liability
Company, **DB BILOXI III, LLC**, a Florida Limited
Liability Company, **DBDS VERO BEACH, LLC**, a
Florida Limited Liability Company, **DB TAMPA,
LLC**, a Florida Limited Liability Company, **DB
SIMPSONVILLE, LLC**, a Florida Limited Liability
Company, **DBDS NORTH MIAMI, LLC**, a Florida
Limited Liability Company, **REDLANDS RANCH
HOLDINGS, LLC**, a Florida Limited Liability
Company, **DBDS BISCAYNE PARK, LLC**, a Florida
Limited Liability Company, **DB CARROLL
STREET, LLC**, a Florida Limited
Liability Company,

Relief Defendants.

**RECEIVER'S MOTION FOR AN ORDER APPROVING SETTLEMENT BETWEEN
MAMC INCORPORATED AND EMERALD CAY INVESTMENTS, LLC**

Michael I. Goldberg, as State Court Appointed Receiver over Defendants Dana J.

Berman, Berman Mortgage Corporation, M.A.M.C. Incorporated, et al., and Relief Defendants
BERGER SINGERMAN Boca Raton Fort Lauderdale Miami Tallahassee
attorneys at law

200 South Biscayne Boulevard Suite 1000 Miami, Florida 33131-5308 Telephone 305-755-9500 Facsimile 305-714-4340

DB Atlanta, LLC, et al., by and through undersigned counsel, hereby files this Motion for an Order Approving Settlement between M.A.M.C. Incorporated and Emerald Cay Investments, LLC ("Motion") and states:

1. M.A.M.C. lenders (the "Lenders") holds a first mortgage in the principal amount of \$2,500,000.00 ("Mortgage") on various parcels of real property located in Osceola County, Florida (the "Property") owned by Emerald Cay Investments, LLC ("Emerald Cay"). Defendant, M.A.M.C. Incorporated, as attorney-in-fact for the Lenders, instituted foreclosure proceedings on the Property.

2. On October 15, 2008, M.A.M.C. Incorporated (on behalf of the Lenders) obtained a Final Judgment of Foreclosure against Emerald Cay and the guarantors of Emerald Cay's obligations pursuant to subject loan and Mortgage.¹

3. The amount of the Lenders' Final Judgment of Foreclosure is \$3,097,171.44 plus interest at the rate of 11 percent per annum. A copy of the Final Judgment of Foreclosure is attached hereto as **Exhibit A**.

4. Subject to this Court's approval, the Receiver entered into an agreement ("Proposed Settlement") to compromise the foreclosure action between M.A.M.C. Incorporated, Emerald Cay, as well as the issues between M.A.M.C. Incorporated and Carlos J. Bonilla, Daniel E. Harper, and Ray Smith, who are the personal guarantors of Emerald Cay's obligations pursuant to the subject loan and Mortgage ("Personal Guarantors").

5. Pursuant to the Receivership Order, this Court has authorized the Receiver to preserve and recover the assets of the Relief Defendants on behalf of the Receivership and to institute, defend, compromise, or adjust such actions or proceedings in state or federal courts now pending and hereafter instituted, as may in his discretion be

¹ The guarantors of Emerald Cay's obligations pursuant to the subject loan and Mortgage are Zuma Developments, LLC, Millennium Investment, LLC, Ray Smith, Carlos J. Bonilla, and Daniel E. Harper.

advisable or proper for the protection of the Receivership Assets or proceeds thereof, and to institute, prosecute, compromise or adjust such actions or proceedings in state or federal courts as may in his judgment be necessary or proper for the collection, preservation and maintenance of the Receivership Assets and/or on behalf of the Receivership Defendants.

6. Importantly, this Court has previously authorized the Receiver to execute contracts, instruments, and other agreements on behalf of the Receivership Defendants:

The Receiver is further authorized to ... execute, deliver, file and record such contracts, instruments, releases, indentures, certificates, and other agreements and documents, and to take such action as he deems advisable or proper for the marshalling, maintenance or preservation of the Receivership Assets. From and after the date of the entry of this Order, the Receiver shall have the authority to conduct the business operations of the Receivership Defendants and any entity it controls[.]

Receivership Order, ¶ 21.

7. Pursuant to the Loan Origination and Servicing Agreement ("LOSA") between the Lenders and M.A.M.C Incorporated and executed by each of the Lenders, the Lenders appointed M.A.M.C. Incorporated as their agent to declare any loan in default, to initiate foreclosure of any loan, and to liquidate any real estate beneficially acquired in foreclosure. However, the LOSA reserves to the Lenders the decision to settle a foreclosure action in which any amount less than the outstanding principal balance of the loan plus accrued interest will be recovered. See LOSA attached hereto as **Exhibit B** at ¶10k. The LOSA also provides in that section that MAMC is entitled to recover costs incurred in the foreclosure action including but not limited to legal costs.

8. In an abundance of caution and in the interest of providing all interested parties with notice and opportunity to be heard with regard to the terms of the Proposed Settlement, the Receiver has filed the instant Motion rather than utilize the alternative Decision Notice procedures outlined in the LOSA. Pursuant to the procedure previously established by this Court,

a copy of this Motion and notice of hearing thereon are being posted on the Receiver's website, which website is available to all MAMC Lenders. Notice of the posting is simultaneously emailed to all MAMC Lenders.

9. By this Motion, the Receiver requests a Court Order approving the Proposed Settlement and authorizing the Receiver to execute all appropriate documents to effectuate the Proposed Settlement.

10. TERMS OF PROPOSED SETTLEMENT. Pursuant to the Proposed Settlement:

- a. Emerald Cay will pay the M.A.M.C. Incorporated in its capacity as servicer for the Lenders, \$2,300,000.00 of the Lenders' \$2,500,000.00 loan principal. In exchange, M.A.M.C. Incorporated, in its capacity as servicer for the Lenders, will release its right to recovery on the Final Judgment of Foreclosure in the amount of \$3,097,171.44 plus post-judgment interest.
- b. The Personal Guarantors will pay M.A.M.C. Incorporated \$60,000.00. In exchange, M.A.M.C. Incorporated will release the Personal Guarantors from all obligations pursuant to the subject loan and Mortgage.

11. The Proposed Settlement and closing of the sale of the Property, if consummated, will recover over 92 percent of the loan principal for the Lenders and will spare the Receivership the costs associated with proceeding to foreclose on the Property (including obtaining the foreclosure sale of the Property) and marketing the Property for sale, including the concomitant professional fees and carry costs.

12. Upon information and belief, to obtain the necessary funds to perform the Proposed Settlement, Emerald Cay has entered into an agreement to sell the Property to a third party. A copy of the "As Is" Sales Contract for the Sale and Purchase" ("Sales Contract") of the

Property made between Emerald Cay and the prospective buyer, Canreig Building Development II, LLC. is attached hereto as **Exhibit C**.

13. The Sales Contract provides that the purchase of the property by the prospective buyer will be a cash transaction of \$2,300,000.00 with no contingencies for financing, which amount will be paid to M.A.M.C. Incorporated at closing.

14. The Sales Contract is expressly conditioned on the release by M.A.M.C. Incorporated of the Personal Guarantors under their respective personal guaranties.

15. In exchange for the consideration outlined herein, the Receiver has agreed to release the claims of M.A.M.C. Incorporated and the Lenders ("Noticed Parties") pursuant to the subject loan and Mortgage against Emerald Cay and the Personal Guarantors. The Receiver requests an order deeming the Lenders to have acknowledged said release of the Personal Guarantors as required by the Sales Contract upon the closing of the Sales Contract and payment of the amounts in paragraph 10 hereof.

WHEREFORE, the Receiver moves this Court for entry of an Order:

a. finding that the posting and distribution procedures established by the Court and followed by the Receiver provide adequate notice of the instant Motion and of the hearing thereon to the Noticed Parties;

b. approving the Proposed Settlement outlined herein;

c. authorizing the Receiver to file and/or execute all documents appropriate to effectuate the terms of the Proposed Settlement;

d. deeming the Noticed Parties to have acknowledged the release of the Personal Guarantors under the guaranties of the subject loan and Mortgage upon the closing of the sale of the Property pursuant to the Sales Contract and payment of the amounts outlined herein;

- e. authorizing the Receiver to execute and deliver releases to the Personal Guarantors at the closing of the sale of the Property pursuant to the Sales Contract; and
- f. awarding such other and further relief this Court deems just and proper.

CERTIFICATE OF SERVICE

WE HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by Electronic Mail and U.S. Mail on this 9th day of September 2009, to the attached service list.

Respectfully submitted,

BERGER SINGERMAN

Attorneys for Receiver, Michael Goldberg

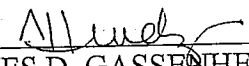
1000 Wachovia Financial Center

200 South Biscayne Boulevard

Miami, Florida 33131

Phone: (305) 755-9500 / Fax: (305) 714-4340

By: _____


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Lawrence Meyer IRA, Lawrence Meyer Roth IR

and Mary Joe Meyer SD IRA and Mary Joe Meyer Roth IRA

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2525 Ponce de Leon Boulevard, Suite 400

Coral Gables, Florida 33134

cc:

The Honorable Thomas Wilson, Jr. *(via Hand-Delivery)*

Michael Goldberg, Esq., as Receiver *(via e-mail)*

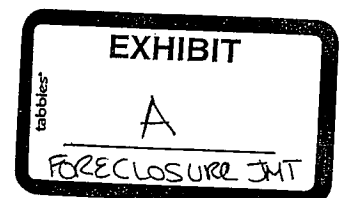
The Investor(s)/Lender(s) Group *(via e-mail)*

Posted to the Berman Mortgage Website

IN THE CIRCUIT COURT OF THE
NINTH JUDICIAL CIRCUIT, IN AND
FOR OSCEOLA COUNTY, FLORIDA

CASE NO.: 08-CA5759MF

M.A.M.C., INCORPORATED, a Florida corporation, as Servicing Agent and Attorney in Fact for COCONUT GROVE BANK, as Custodian of the FORREST RHEA NICHOLS IRA, as to an undivided 0.8% interest, COCONUT GROVE BANK, as Custodian of the LARRY RODAMMER S/D ROLLOVER IRA, as to an undivided 1.2% interest, COCONUT GROVE BANK, as Custodian of the DOUGLAS KNISKERN IRA, as to an undivided 0.6% interest, COCONUT GROVE BANK, as Custodian of the HARVEY A. SHULMAN S/D IRA, as to an undivided 1.6% interest, COCONUT GROVE BANK, as Custodian of the GARY FARNSWORTH IRA, as to an undivided 2% interest, COCONUT GROVE BANK, as Custodian of the JAMES J. HOURIN IRA, as to an undivided 0.72% interest, COCONUT GROVE BANK, as Custodian of the PATRICIA HOURIN, as to an undivided 1% interest, COCONUT GROVE BANK, as Custodian of the PAUL ADLINGTON IRA, as to an undivided 0.6% interest, COCONUT GROVE BANK, as Custodian of the ALICIA M. ERCKMANN IRA, as to an undivided 1.2% interest, COCONUT GROVE BANK, as Custodian of the ROBERT R. ALLEN IRA, as to an undivided 0.4% interest, COCONUT GROVE BANK, as Custodian of the CALVIN WILLIAMSON TINSLEY III IRA, as to an undivided 2% interest, COCONUT GROVE BANK, as Custodian of the STANLEY S. HAYDEN R/O IRA, as to an undivided 2% interest, COCONUT GROVE BANK, as Custodian of the JAMES HOURIN ROTH IRA, as to an undivided 0.2% interest, COCONUT GROVE BANK, as Custodian of the JOAN LEA MILLER ROLLOVER IRA, as to an undivided 0.8% interest, COCONUT GROVE BANK, as Custodian of the



WILLIAM E. PITTS R/O IRA, as to an undivided 2% interest, COCONUT GROVE BANK, as Custodian of the JACK CONNELLY ROLLOVER IRA, as to an undivided 1.2% interest, COCONUT GROVE BANK, as Custodian of the STEVEN HAGGERTY R/O IRA, as to an undivided 2% interest, COCONUT GROVE BANK, as Custodian of the KATHLEEN A. STIRLING R/O IRA, as to an undivided 0.8% interest, COCONUT GROVE BANK, as Custodian of the WARREN S. HOFFMAN ROLLOVER IRA, as to an undivided 0.8% interest, COCONUT GROVE BANK, as Custodian of the ALBERT MARTINEZ IRA, as to an undivided 0.2% interest, SHIRLEE THALER, as to an undivided 2% interest, GILBRALTER BANK, as Custodian of the IRA HERSHMAN IRA, as to an undivided 2% interest, AS TO EACH OF THE FOREGOING INSTITUTIONAL TRUSTEES, their successors and/or assigns as their interests may appear with full power vested in the applicable Trustee and its successors to deal in or with the Note and the Mortgage, or any interest therein or any part thereof, including the powers to protect, conserve, sell, lease, satisfy or otherwise to manage and dispose of the Note and Mortgage or any part thereof in accordance with and pursuant to Florida Statutes 689.071, AND KEITH LAWRENCE NOVAK, as to an undivided 1% interest, KENNETH HALPERIN, as to an undivided 0.6% interest, ALBERT J. KAPLIN IRREV. TRUST, LEAH KAPLAN, TRUSTEE, as to an undivided 0.4% interest, MARVIN KAPLAN and/or CATHERINE ELLISON, as to an undivided 1.6% interest, ROBERT REFVITZ TRUST, as to an undivided 8% interest, HAROLD J. BROOKS DEFINED BENEFIT PENSION PLAN, as to an undivided 1% interest, RICHARD GOLD, as to an undivided 1.36% interest, LEE TEICHNER, as to an undivided 1.2% interest, MATTHEW KAPLAN in Custody for YAARA KAPLAN, as to an undivided 0.6% interest, MATTHEW

KAPLAN in Custody for NOAM KAPLAN, as to an undivided 0.6% interest, MATTHEW KAPLAN in Custody for AMITAL KAPLAN, as to an undivided 0.6% interest, ROBERT PARKER, as to an undivided 2% interest; JAMES B. and SHARON L. JONES, as to an undivided 0.4% interest, MARTIN GOLD Q TIP TRUST, as to an undivided 0.24% interest, RICHARD B. CARMEL PROFIT SHARING TRUST, as to an undivided 3% interest, WENDY PAGAN, as to an undivided 2% interest, RICHARD A. MOLINARI, as to an undivided 0.4% interest, KATIKA CARMEL, as to an undivided 2% interest, DANIEL WAN and CAYAN CHIN, tenants by entirety, as to an undivided 0.8% interest, PAULA TOMPKINS, as to an undivided 0.4% interest, J & D CAPITAL CORPORATION, as to an undivided 2% interest, FRANKLIN E. WARD and/or CHRISTINA WARD, as to an undivided 0.6% interest, PONCE PORTFOLIO MORTGAGE, LTD., as to an undivided 0.4% interest, ETHLYN J. PASTINA SHELDON, as to an undivided 0.4% interest, FAGENHOLZ FAMILY LTD PARTNERSHIP, as to an undivided 2% interest, ALBERT and BETH FRIEDMAN, as to an undivided 0.6% interest, RICHARD B. CARMEL, as to an undivided 3% interest, LORILEE AMEDIA as custodian of SAMUEL I. AMEDIA POD FRANK, as to an undivided 1% interest, PAYANDE, LLC, as to an undivided 0.4% interest, SERVE UNDERWRITERS AGENCY INC. PROFIT SHARING PLAN, as to an undivided 1% interest, RAMESH OUTRAM, as to an undivided 0.4% interest, MORRIS BERGER, as to an undivided 3% interest, GUILLAUME FRIEDMAN, as to an undivided 0.6% interest, LEONARD SCHUPAK, as to an undivided 1% interest; GREGG O. HANSON TOD JESSICA M. HANSON, as to an undivided 0.6% interest, ACHELIS LTD., as to an undivided 0.4% interest, DAVID E. MUMME, as to an undivided 1% interest, JAMIE FREDERICK BURTS, as to an undivided

1.2% interest, UNIVERSAL CHEMICAL AND SUPPLY CORP. PENSION PLAN, as to an undivided 4% interest, MIKE & LYNDIA MORGAN, as to an undivided 1% interest, JOSEPH A. PIRELLO, as to an undivided 3% interest, MARJORIE FLANZ, as to an undivided 0.4% interest, THE EITEL FAMILY LIVING TRUST, as to an undivided 1% interest, DUCK INVESTMENTS LIMITED, as to an undivided 0.6% interest, MICHAEL F. BERGMAN and DONNA M. BERGMAN JTWROS, as to an undivided 0.8% interest, EDWARD & JUDY RODE, as to an undivided 1% interest, DOUGLAS & MERI-LEIGH KNISKERN, as co-tees, KNISKERN 1997 TRUST, as to an undivided 2% interest, IGNACIO A. and JEANNE L. CARDONA, as to an undivided 6% interest, KENNETH S. BRAIMAN, as to an undivided 3% interest, LAWRENCE J. ROBBINS, as to an undivided 1% interest, GAYLEN ROBBINS, TTEE FOR THE REVOCABLE TRUST DTD 2/9/95, as to an undivided 1% interest, and MELVIN LIPSCHITZ, as to an undivided 2% interest,

Plaintiff,

vs.

EMERALD CAY INVESTMENTS LLC, a Florida limited liability company, ZUMA DEVELOPMENTS LLC, a Florida limited liability company, MILLENNIUM INVESTMENT GROUP, LLC, a Florida limited liability company, RAY SMITH, individually, CARLOS J. BONILLA, individually, and DANIEL E. HARPER, individually,

Defendants.

FINAL JUDGMENT OF FORECLOSURE

THIS CAUSE came on for hearing on Plaintiff's Motion for Final Judgment and pursuant to the Joint Settlement and Stay Agreement, and the Court having reviewed the

pleadings on file, having heard argument of counsel, and having been otherwise duly advised in the premises, it is hereby

ORDERED AND ADJUDGED:

1. Final Judgment of Foreclosure is hereby granted against the Defendants, EMERALD CAY INVESTMENTS LLC, a Florida limited liability company, ZUMA DEVELOPMENTS LLC, a Florida limited liability company, MILLENNIUM INVESTMENT GROUP, LLC, a Florida limited liability company, RAY SMITH, individually, CARLOS J. BONILLA, individually, and DANIEL E. HARPER, individually.

2. There is now due and owing to Plaintiff from EMERALD CAY INVESTMENTS LLC, as Borrower, and ZUMA DEVELOPMENTS LLC, MILLENNIUM INVESTMENT GROUP, LLC, RAY SMITH, CARLOS J. BONILLA, and DANIEL E. HARPER, as Guarantors, jointly and severally, the principal amount of \$2,500,000.00, accrued interest at the regular rate from 10/1/07 – 11/9/07 in the amount of \$41,666.67, accrued interest at the default rate from 11/10/07 – 12/31/07 in the amount of \$89,005.48, accrued interest at the default rate from 1/1/08 – 10/15/08 in the amount of \$493,313.52, court costs of \$1,122.27 and attorneys' fees of \$9,563.50, less funds received on 10/3/08 in the amount of \$37,500.00, **for a total sum due of \$3,097,171.44**, as of the date of this Judgment, which amount shall bear interest at the per annum rate specified by the State of Florida Comptroller pursuant to Florida Statute §55.03 which rate is currently 11%, for which sum let execution issue.

3. Plaintiff holds a lien for the total sum superior to any claim of any of the Defendants on the following described real and personal property in Osceola County, Florida:

REAL PROPERTY DESCRIPTION:

SEE ATTACHED EXHIBIT "1"

PERSONAL PROPERTY LEGAL DESCRIPTION:

SEE ATTACHED EXHIBIT "2".

4. If the total sum with interest at the rate described in Paragraph 2 and all costs accrued subsequent to this Judgment are not paid, the Clerk of this Court shall sell the real and personal property identified in Paragraph 3 above at Public Sale on the 17th day of January, 2008⁹ at 11:00 a.m. to the highest bidder for cash, except as prescribed in Paragraph 5, at the Osceola County Courthouse, 2 Courthouse Square, Suite 2600/Room #2602, Kissimmee, Florida 34741, in accordance with Section 45.031, Florida Statutes.

5. Plaintiff shall advance all subsequent costs of this action and shall be reimbursed for them by the Clerk if Plaintiff is not the purchaser of the property for sale. If Plaintiff is the purchaser, the Clerk shall credit Plaintiff's bid with the total sum with interest and costs accruing subsequent to this Judgment, or such part of it as is necessary to pay the bid in full. If the Plaintiff is not the highest bidder at the time of the sale, the highest bidder shall be required to pay, in addition to such highest bid, the State of Florida documentary stamps to be affixed to the Certificate of Title, the Clerk's sale fee and any registry fees charged by the Clerk. Should Plaintiff or an agent of Plaintiff fail to appear at the foreclosure sale, the Clerk is ordered to cancel the sale with jurisdiction being reserved by this Court to reset the foreclosure sale for another date. Should the highest bidder at the sale fail to tender the full bid amount in a timely manner, the property shall be sold to the next highest bidder timely tendering said next highest bidder's full bid amount, without the necessity of any further sale or advertising.

6. On filing the Certificate of Title, the Clerk shall distribute the proceeds of the sale, so far as they are sufficient, by paying: first, all of Plaintiff's costs; second, documentary stamps affixed to the Certificate; third, Plaintiff's attorneys' fees; fourth, the total sum due to

Plaintiff, plus interest at the rate prescribed in Paragraph 2 from this date to the date of the sale; and by retaining any remaining amount pending the further order of this Court.

7. On filing the Certificate of Title, Defendants and all persons claiming under or against them since the filing of the notice of lis pendens shall be foreclosed of all estates or claims in the property and the purchaser at the sale shall be let into possession of the property.

8. On filing the Certificate of Title, Defendants and all persons claiming under or against them since the filing of the notice of lis pendens shall remove all possessions from said property and if said Defendant or such other persons fail to do so, upon application to the Clerk of the above-entitled court, said Clerk of the Court shall issue a Writ of Possession commanding the Sheriff of Osceola County, Florida to remove all persons from the above-described property and to put said title holder in possession of said property.

9. If this property is sold at public auction, there may be additional money from the sale after payment of persons who are entitled to be paid from the sale proceeds pursuant to this Final Judgment.

10. If you are a subordinate lienholder claiming a right to funds remaining after the sale, you must file a claim with the Clerk no later than 60 days after the sale. If you fail to file a claim, you will not be entitled to any remaining funds.

11. Jurisdiction of this action is retained to enter further Orders that are proper, including, but not limited to, deficiency judgments and writs of possession.

12. The true and correct physical address of Plaintiff is M.A.M.C. INCORPORATED, 501 Continental Plaza, 3250 Mary Street, Coconut Grove, Florida 33133.

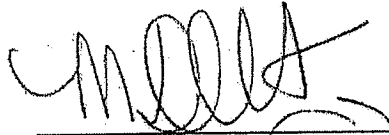
DONE AND ORDERED in Chambers at Kissimmee, Osceola County, Florida this 15th
day of October, 2008.

s/ R. JAMES STROKER

Circuit Judge

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been sent this
15th day of October, 2008, by U.S. Mail to MEGAN COSTA DEVAULT, ESQ., Akerman
Senterfitt, P.O. Box 231, Orlando, Florida 32802 and JEFFREY M. GARBER, ESQ., Casey
Ciklin Lubitz Martens & O'Connell; 515 North Flagler Drive, 18th Floor; West Palm Beach, FL
33401



Judicial Assistant/Attorney

CL 2005284993

DR 3010/2430

LOT 3

COMMENCE AT THE NORTHWEST CORNER OF SECTION 2, TOWNSHIP 25 SOUTH, RANGE 28 EAST, OSCEOLA COUNTY, FLORIDA; THENCE RUN S 89°55'59" E, ALONG THE NORTH LINE OF SAID SECTION 2, A DISTANCE OF 385.04 FEET TO THE POINT OF BEGINNING OF SOUTHBRIDGE "TRACT 1" AS RECORDED IN PLAT BOOK 5, PAGE 199, OF THE PUBLIC RECORDS OF OSCEOLA COUNTY, FLORIDA; THENCE CONTINUE S 89°55'59" E, ALONG SAID NORTH LINE OF SECTION 2, 724.01 FEET TO A POINT ON THE WESTERLY RIGHT OF WAY LINE OF STATE ROAD 535; THENCE DEPARTING SAID NORTH LINE, RUN S 36°57'19" E, ALONG THE WESTERLY RIGHT OF WAY LINE OF STATE ROAD 535, 42.13 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE S 36°57'19" E, ALONG SAID RIGHT OF WAY OF STATE ROAD 535, 160.23 FEET; THENCE DEPARTING SAID RIGHT OF WAY LINE, RUN S 53°02'33" W, 466.61 FEET; THENCE RUN N 36°58'54" W, 63.45 FEET TO THE BEGINNING OF A CURVE CONCAVE NORTHEASTERLY, HAVING A RADIUS OF 188.00 FEET, A CHORD BEARING N 23°11'54" W, A CHORD DISTANCE OF 89.58 FEET, THROUGH A CENTRAL ANGLE OF 27°34'01", THENCE RUN ALONG THE ARC OF SAID CURVE 90.45 FEET TO THE POINT OF TANGENCY; THENCE RUN N 09°24'53" W, 32.65 FEET TO THE BEGINNING OF A CURVE CONCAVE SOUTHEASTERLY, HAVING A RADIUS OF 138.00 FEET, A CHORD BEARING OF N 35°27'57" E, A CHORD DISTANCE OF 194.75 FEET, THROUGH A CENTRAL ANGLE OF 89°45'39"; THENCE RUN ALONG THE ARC OF SAID CURVE 216.19 FEET TO THE POINT OF TANGENCY; THENCE RUN N 80°20'46" E, 139.72 FEET TO THE BEGINNING OF A CURVE CONCAVE NORTHWESTERLY, HAVING A RADIUS OF 125.00 FEET, A CHORD BEARING OF N 66°40'56" E, A CHORD DISTANCE OF 59.06 FEET, THROUGH A CENTRAL ANGLE OF 27°19'40", THENCE RUN ALONG THE ARC OF SAID CURVE, 59.62 FEET TO THE POINT OF TANGENCY; THENCE RUN N 53°01'06" E, 63.03 FEET TO THE POINT OF BEGINNING.

AND

LOT 1

COMMENCE AT THE NORTHWEST CORNER OF SECTION 2, TOWNSHIP 25 SOUTH, RANGE 28 EAST, OSCEOLA COUNTY, FLORIDA; THENCE RUN S 89°55'59" E, ALONG THE NORTH LINE OF SAID SECTION 2, A DISTANCE OF 385.04 FEET TO THE POINT OF BEGINNING OF SOUTHBRIDGE "TRACT 1" AS RECORDED IN PLAT BOOK 5, PAGE 199, OF THE PUBLIC RECORDS OF OSCEOLA COUNTY, FLORIDA; THENCE DEPARTING SAID NORTH LINE, RUN S 09°24'53" E, ALONG THE WESTERLY LINE OF SOUTHBRIDGE "TRACT 1", 535.15 FEET; THENCE RUN S 19°13'22" E, 290.97 FEET; THENCE RUN S 37°00'09" E 15.82 FEET TO A POINT ON THE NORTHERLY RIGHT OF WAY LINE OF POLYNESIAN ISLES BOULEVARD; THENCE DEPARTING AFORESAID WESTERLY LINE OF SOUTHBRIDGE "TRACT 1", RUN N 73°16'10" E, ALONG THE RIGHT OF WAY OF POLYNESIAN ISLES BOULEVARD, 206.35 FEET, TO THE POINT OF BEGINNING, THENCE DEPARTING SAID RIGHT OF WAY LINE RUN N 16°43'50" W, 120.32 FEET; THENCE RUN N 61°43'50" W, 82.86 FEET; THENCE RUN N 09°24'53" W, 68.24 FEET; THENCE RUN N 80°35'07" E, 36.59 FEET TO THE BEGINNING OF A CURVE CONCAVE NORTHWESTERLY, HAVING A RADIUS OF 114.00 FEET, A CHORD BEARING OF N 47°26'29" E, A CHORD DISTANCE OF 124.66 FEET, THROUGH A CENTRAL ANGLE OF 66°17'16", THENCE RUN ALONG THE ARC OF SAID CURVE 131.89 FEET TO THE POINT OF A NON TANGENT LINE; THENCE RUN N 53°01'06" E, 58.91 FEET; THENCE RUN S 36°58'54" E, 107.49 FEET TO THE BEGINNING OF A CURVE CONCAVE WESTERLY, HAVING A RADIUS OF 100.00 FEET, A CHORD BEARING OF S 13°41'32" E, A CHORD DISTANCE OF 79.08 FEET, THROUGH

EXHIBIT 1

CL 2005284993

DR 3010/2431

A CENTRAL ANGLE OF $46^{\circ}34'45''$, THENCE RUN ALONG THE ARC OF SAID CURVE 81.30 FEET TO THE POINT OF TANGENCY, THENCE RUN $S 09^{\circ}35'51'' W$ 34.01 FEET TO THE BEGINNING OF A CURVE CONCAVE EASTERLY, HAVING A RADIUS OF 100.00 FEET, A CHORD BEARING OF $S 11^{\circ}07'24'' E$ A CHORD DISTANCE OF 70.76 FEET THROUGH A CENTRAL ANGLE OF $41^{\circ}26'30''$, THENCE RUN ALONG THE ARC OF SAID CURVE 72.33 FEET TO THE POINT OF TANGENCY; THENCE RUN $S 31^{\circ}50'39'' E$, 18.28 FEET TO A POINT ON THE NORTHERLY RIGHT OF WAY LINE OF POLYNESIAN ISLES BOULEVARD, SAID POINT ALSO BEING A POINT ON A NON RADIAL CURVE CONCAVE NORTHWESTERLY, HAVING A RADIUS OF 533.69 FEET, A CHORD BEARING OF $S 65^{\circ}45'01'' W$, A CHORD DISTANCE OF 139.68 FEET, THROUGH A CENTRAL ANGLE OF $15^{\circ}02'19''$, THENCE RUN ALONG SAID RIGHT OF WAY LINE AND THE ARC OF SAID CURVE 140.08 FEET TO THE POINT OF TANGENCY; THENCE RUN $S 73^{\circ}16'10'' W$, 31.17 FEET TO THE POINT OF BEGINNING.

AND

TRACT C

COMMENCE AT THE NORTHWEST CORNER OF SECTION 2, TOWNSHIP 25 SOUTH, RANGE 28 EAST, OSCEOLA COUNTY, FLORIDA; THENCE RUN $S 89^{\circ}55'59'' E$ ALONG THE NORTH LINE OF SAID SECTION 2, A DISTANCE OF 385.04 FEET TO THE POINT OF BEGINNING, SAID POINT ALSO BEING THE POINT OF BEGINNING OF SOUTHBRIDGE "TRACT 1" AS RECORDED IN PLAT BOOK 5, PAGE 199, OF THE PUBLIC RECORDS OF OSCEOLA COUNTY, FLORIDA; THENCE CONTINUE $S 89^{\circ}55'59'' E$ ALONG SAID NORTH LINE OF SECTION 2, 724.01 FEET TO A POINT ON THE WESTERLY RIGHT OF WAY LINE OF STATE ROAD 535; THENCE DEPARTING SAID NORTH LINE RUN $S 36^{\circ}57'19'' E$, ALONG THE WESTERLY RIGHT OF WAY LINE OF STATE ROAD 535, 42.13 FEET; THENCE DEPARTING SAID WESTERLY RIGHT OF WAY, RUN $S 53^{\circ}01'06'' W$, 63.03 FEET TO THE BEGINNING OF A CURVE CONCAVE NORTHWESTERLY, HAVING A RADIUS OF 125.00 FEET, A CHORD BEARING OF $S 66^{\circ}40'56'' W$ A CHORD DISTANCE OF 59.06 FEET, THROUGH A CENTRAL ANGLE OF $27^{\circ}19'40''$; THENCE RUN ALONG THE ARC OF SAID CURVE, 59.62 FEET TO THE POINT OF TANGENCY; THENCE RUN $S 80^{\circ}20'46'' W$, 139.72 FEET TO THE BEGINNING OF A CURVE CONCAVE SOUTHERLY HAVING A RADIUS OF 138.00 FEET, A CHORD BEARING OF $A 70^{\circ}03'23'' W$, A CHORD DISTANCE OF 49.30 FEET, THROUGH A CENTRAL ANGLE OF $20^{\circ}34'46''$, THENCE RUN ALONG THE ARC OF SAID CURVE, 49.57 FEET TO A RADIAL LINE, THENCE RUN $N 30^{\circ}13'59'' W$, ALONG SAID RADIAL LINE, 59.31 FEET; THENCE RUN $N 89^{\circ}55'59'' W$, 416.82 FEET TO A POINT ON THE WESTERLY LINE OF AFORESAID SOUTH BRIDGE "TRACT 1"; THENCE RUN $N 09^{\circ}24'53'' W$, ALONG SAID WESTERLY LINE, 85.47 FEET TO THE POINT OF BEGINNING.

CL 2005284993

OR 3010/2432

AND

Lot 3, Calypso Cay Commercial, Phase II, Section 2, Township 25 South, Range 28 East, Osceola County, Florida, as recorded in Plat Book 18, Page 43 of the public records of Osceola County, Florida.

LESS AND EXCEPT:

TRACT "A":

A portion of Lot 3, Calypso Cay Commercial, Phase II, as recorded in Plat Book 18, Page 43, of the Public Records of Osceola County, Florida, more particularly described as follows:

Commence at the Northwest Corner of Calypso Cay Commercial, Phase II, Section 2, Township 25 South, Range 28 East, Osceola County, Florida, as recorded in Plat Book 18, Page 43, of the public records of Osceola County, Florida, said point also being a point on the Southerly Right of Way of Polynesian Isles Boulevard; Thence departing said Southerly Right of Way run S 37°00'09" E, along the Westerly lot line of aforesaid Lot 3, 449.30 feet; Thence run S 69°47'21" E, 145.19 feet, to THE POINT OF BEGINNING, Thence departing said Westerly lot line of said Lot 3, run N 53°02'39" E, 132.71 feet to a point on the Easterly lot line of said Lot 3; Thence run S 36°57'21" E, along said Easterly line of said Lot 3, 146.43 feet, to a point on the Southerly lot line of said lot 3; thence run S 53°02'39" W, along said Southerly lot line, 63.26 feet to the Southwesterly corner of said lot 3; thence run N 36°58'55" W, 38.83 feet; thence run N 69°47'21" W, 128.06 feet; to the Point of Beginning.

TOGETHER WITH:

197 A. all buildings, structures, improvements of every nature whatsoever now or hereafter situated on the
 198 Land, and all fixtures, machinery, equipment, furniture, vehicles and other personal property of every nature whatsoever
 199 now or hereafter owned by Mortgagor and located in, on, or used or intended to be used in connection with or with the
 200 operation of the Land, buildings, structures or other improvements, including all extensions, additions, improvements,
 201 betterments, renewals, and replacements to any of the foregoing; and all of the right, title and interest of Mortgagor in
 202 any such personal property or fixtures subject to a conditional sales contract, chattel mortgage or similar lien or claim
 203 together with the benefit of any deposits or payments now or hereafter made by Mortgagor or on Mortgagor's behalf;

204 B. all easements, rights of way, strips and gores of land, streets, ways, alleys, passages, sewer rights,
 205 water, water courses, water rights and powers, and all estates, rights, titles, interests, privileges, liberties, tenements,
 206 hereditaments and appurtenances whatsoever, in any way belonging, relating or appertaining to any of the property
 207 herein above described, or which hereafter shall in any way belong, relate or be appurtenant thereto, whether now owned
 208 or hereafter acquired by Mortgagor, and the reversion and reversions, remainder and remainders, rents, issues, profits
 209 thereof, and all the estate, right, title, interest, property, possession, claim and demand whatsoever, at law as well as in
 210 equity, of Mortgagor of, in and to the same, including but not limited to all judgments, awards of damages and
 211 settlements hereafter made resulting from condemnation proceedings or the taking of the mortgaged property or any part
 212 thereof under the power of eminent domain, the alteration of the grade of any street, or for any damage (whether caused
 213 by such taking or otherwise) to any of the property herein above described or any part thereof, or to any appurtenance
 214 thereto, and all proceeds of any sales or other dispositions of any of the property herein above described or any part
 215 thereof;

216 C. all right, title and interest of Mortgagor in and to any and all leases now or hereafter on or affecting
 217 the mortgaged property, together with all security therefor and all monies payable thereunder, provided, however, the
 218 foregoing assignment of any lease shall not be deemed to impose upon Mortgagee any of the obligations or duties of
 219 Mortgagor provided in any such lease, and Mortgagor agrees to fully perform all obligations of the lessor under all such
 220 leases; and

221 D. all goods, now located on or used in the development of the Property, including but not limited to: (i)
 222 all property, equipment and fixtures affixed to or located on the Property, which, to the fullest extent permitted by law,
 223 shall be deemed fixtures and a part of the Land, (ii) all articles of personal property and all materials delivered to the
 224 Property for the use and operation of said Property or for use in any construction being conducted thereon, and owned
 225 by Mortgagor, (iii) any and all rights and benefits of Mortgagor relating to the Property, including, but not limited to,
 226 contracts, agreements, promises or bargains with and any building permits or licenses issued or to be issued by any
 227 governmental entity of any type, whether federal, state, municipal or otherwise, any utility company (whether subject
 228 to governmental regulation or not), any architect, engineer, contractor, independent contractor, security company, waste
 229 disposal company, elevator company, exterminating company, environmental control company or any person, other than
 230 Mortgagee, financing the acquisition, operation, leasing, sale or other disposition or use of the Property or any part
 231 thereof, together with all deposits, prepaid fees or other security of whatever nature given by Mortgagor in connection
 232 with the aforesaid; the right to all claims of Mortgagor for damages arising out of or for breach of or default under any
 233 of the aforesaid; the right of Mortgagor to perform under or to terminate the aforesaid or to demand and compel
 234 performance obligation thereunder or to exercise other remedies of Mortgagor thereunder, and the right to receive all
 235 monies due or to become due Mortgagor under or in connection with the aforesaid; (iv) all right, title and interest of
 236 Mortgagor in all tradenames hereinafter used in connection with the use of the mortgaged property, and (v) all proceeds,
 237 products, replacements, additions, substitutions, renewals and accessions of any of the foregoing.

EXHIBIT "A"

LENDERS: A Group of Lenders Assembled By Berman Mortgage Corporation
BORROWER: Emerald Cay Investments, LLC
GUARANTORS: Ray Smith, Carlos Bonilla, Daniel E. Harper, Zuma Developments, LLC,
Millennium Investment Group, LLC.
LOAN: \$2,500,000.00 Loan to Borrower
COLLATERAL: Various Parcels of Real Property Located in Osceola County, Florida
LENDERS' ATTORNEYS: Baker Cronig Gassenheimer LLP.
BORROWER'S ATTORNEYS: Bonse Casey Cikin Lubitz Martens McBane & O'Connell
DATE: August 23, 2006

Debtor grants Secured Party a security interest in, and assigns and pledges to Secured Party, all of the following property now owned or hereafter acquired by Debtor or in which Debtor now or hereafter has any interest, to wit:

(a) all fixtures and building materials of every kind and nature whatsoever, now or hereafter located upon the real property described on this financing statement or any part thereof and used in connection with any present or future construction on or occupancy or operation of said real property and/or any buildings or improvements thereon or thereto (the real property and all buildings and improvements hereinafter being the "Real Property"); AND

(b) the equipment described as: all electrical, heating, lighting, incinerating and power equipment; engines, pipes, pumps, ducts, compressors, tanks, motors, conduits, switchboards; plumbing, lifting, cleaning, laundering, fire prevention, fire extinguishing, waste disposal, refrigerating, ventilating, communications, air cooling, and air conditioning apparatuses; elevators, escalators, other people or freight moving systems, shades, screens, storm prevention equipment, cabinets, partitions, shrubbery, and abstracts of and commitments and policies to insure or insuring title to the Real Property; AND

(c) any and all awards or payments, including interest thereon, and the right to receive the same, which may be made with respect to the Real Property as a result of the exercise of the right of eminent domain, the alteration of the grade of any street or any other damage to or decrease in the value of the Real Property; and all proceeds of the conversion, voluntary or involuntary, of the Real Property, or any part thereof, into cash or liquidated claims, including without limitation, proceeds of insurance; AND

(d) all rights to enter into and all contracts for the sale of the Real Property or any part or unit thereof built or to be built on the Real Property and all licenses or leases now and hereafter entered into involving the Real Property or any part or unit thereof and all right, title, and interest of Debtor thereunder, including, without limitation, cash or securities deposited thereunder to secure performance by the contract vendees or the lessees of their obligations, together with the right, upon the happening of any event of default under the Mortgage Deed and Security Agreement and Assignment of Leases, Rents and Other Property evidenced by this Financing Statement, to receive and collect the rents, additional rents and other payments payable thereunder; AND

(e) all rights of Debtor and deposits under any agreements of whatever nature between Debtor and any utility company of whatever nature, whether public, private or otherwise, now or hereafter servicing the Real Property; AND

(f) all agreements or undertakings between Debtor (and/or any predecessor of Debtor which Debtor has acquired by assignment or otherwise) and any architect, engineer, contractor, independent contractor, security company, waste disposal company, elevator company, exterminating company, environmental control company, any other developer or any governmental entity of any type involved in or having jurisdiction of the Real Property and/or any construction or development thereon or relating thereto; AND

(g) all royalties, mineral, oil and gas rights (including easements and/or licenses for exercising such rights), water and water rights and liberties, privileges, hereditaments and appurtenances whatsoever belonging to the Real Property or in any wise pertaining therein, including those interests outside the boundaries of the Real Property as a result of which the Real Property is or becomes the dominant or servient estate; and the rents, issues, profits, reversions and remainders thereof; AND

(h) all building permits, licenses, approvals, plans, drawings, specifications, surveys, site plans, plot plans, plats and any pending zoning or building applications and the deposits accompanying same applicable to or affecting the Real Property or any part thereof; AND

(i) all right, title and interest of Debtor in and to all extensions, improvements, betterments, renewals, substitutes and replacements of, and all additions and appurtenances to, the Real Property, hereafter acquired by, or released to, Debtor or constructed, assembled or placed by Debtor on the Real Property, immediately upon such acquisition, release, construction, assembling, or placement, as the case may be, and in each such case, without any further or additional mortgage, security agreement, conveyance, assignment or other act by Debtor, the same shall become subject to the lien and security interest of the Mortgage Deed and Security Agreement and Assignment of Leases, Rents and Other Property evidenced by this Financing Statement, as fully and completely, and with the same effect, as though now owned by Debtor and specifically described herein; AND

(j) all funds under and all interest reserve or cash deposit accounts now or hereafter established in connection with or pursuant to any construction loan agreement between Debtor and Secured Party relating to the Real Property; AND

(k) all accounts, instruments (including promissory notes), chattel paper (including mortgages and security agreements), and general intangibles arising in connection with or as the result of any of the aforescribed property; AND

(l) all insurance policies, payments, escrows, refunds and prepaid premiums with respect to the aforescribed property; AND

(m) all property of the same classes described above, acquired or created by Debtor subsequent to the execution hereof until the termination or release of this Financing Statement; AND

(n) all increases, substitutions, replacements, parts, special tools, renewals, additions and accessions to the aforesaid property; AND

(o) all proceeds and products of the aforescribed property;

LOAN ORIGATION AND LOAN SERVICING AGREEMENT

This Loan Origination and Loan Servicing Agreement (hereinafter referred to as the "Agreement") is made and entered into as of the date indicated below by and between **Berman Mortgage Corporation**, a Florida corporation, having its principal place of business at 501 Continental Plaza, 3250 Mary Street, Coconut Grove, Florida 33133 (hereinafter referred to as "**BMC**"), **M.A.M.C. Incorporated**, a Florida corporation, having its principal place of business at 501 Continental Plaza, 3250 Mary Street, Coconut Grove, Florida 33133 (hereinafter referred to as "**M.A.M.C.**") and the person, persons and/or entity indicated below, jointly and severally if more than one (hereinafter referred to as "Lender").

Lender Information

NAME(S):

ADDRESS:

TELEPHONE:

E-MAIL ADDRESS:

SOCIAL SECURITY NUMBER(S):

TITLE IN WHICH LOANS ARE
TO BE HELD (ACCOUNT NAME):

DATE OF THIS AGREEMENT:

PREFERRED FORM OF
NOTIFICATION REGARDING LOANS: ☒ E-mail ☐ United States Mail

RECITALS

BMC is a Florida licensed Mortgage Lender whose business includes the origination of commercial hard equity secured loans (hereinafter "Loans").

M.A.M.C. is a Florida licensed Mortgage Servicer whose business is limited to the management and servicing of such Loans.

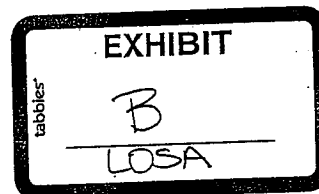
Lender has accurately completed a separate Lender's Representation (the "Lender's Representation"), which is incorporated by reference herein.

BMC will, from time to time, offer Lender the opportunity to extend Loans to borrowers who approach BMC for Loan ("Borrowers") which Loan(s) may be funded solely by Lender, or by Lender and other parties who may extend a portion of the Loan together with Lender (collectively "Participants") and which Loans will be managed and serviced by M.A.M.C.

BMC, M.A.M.C. and the Lender identified above wish to enter into this Agreement, whereby BMC will originate Loans, Lender will have the opportunity to extend and/or participate in such Loans, and M.A.M.C. will manage and service such Loans for Lender and all Participants, as applicable.

NOW THEREFORE, in consideration of Ten Dollars paid by Lender to BMC and M.A.M.C., and other good and valuable consideration, the adequacy and receipt of which hereby are acknowledged, the parties agree as follows:

1. Recitals The foregoing Recitals are true, correct and complete, and are incorporated herein by reference.



36 Part One - Origination of Loans

37 2. Origination of Loans. Lender hereby requests that BMC notify it of the availability of Loans in which
38 Lender may participate, on the terms and conditions set forth in Part One of this Agreement and BMC hereby agrees to
39 do so. The parties stipulate and agree that all Loans to be originated under this Agreement are subject strictly to the
40 provisions of Florida Statutes §494.0043.

41 3. Notice of Available Loans. Periodically, BMC will notify Lender that a Loan is available for Lender's
42 review and provide an information package regarding the available Loan (a "Loan Availability Notice") which will
43 include, among other information, the interest rate to be charged to the Borrower, the term of the Loan and any interest
44 reserves and interest guarantees, as contained in the commitment letter issued to the Borrower (the "Loan Commitment").

45 4. Future Advance Loans. From time to time, a Borrower under a Loan may request that additional funds be
46 lent to that Borrower, with repayment secured by the same collateral (a "Future Advance" under a Loan). Provided:
47 (i) the loan to value ratio of the Loan following the extension of such a Future Advance does not exceed seventy-five
48 percent (75%); or (ii) the Lender/Participants in the existing Loan consent to the making of the Future Advance pursuant
49 to a Decision Notice as set forth in Section 11(a) and the loan to value ratio does not exceed eighty percent (80%); then
50 BMC shall have the right to issue a Loan Availability Notice as to such Future Advance, which shall be processed in
51 the same manner as an initial Loan and to close the Future Advance.

52 5. Acceptance of Available Loan or Participation in Loan. If Lender wishes to participate in the extension
53 of a particular Loan, Lender shall notify BMC, either by written notice or by e-mail: (i) specifying the amount which
54 Lender is willing to extend as in connection with the Loan (the "Participation Amount"), which Participation Amount
55 shall be in the minimum sum of Ten Thousand Dollars (\$10,000.00 US) and in additional Five Thousand Dollar
56 (\$5,000.00 US) increments; (ii) confirming that Lender has examined and approves all information in the applicable
57 Loan Availability Notice; and (iii) acknowledging the date by which Lender's funds must be received (an "Acceptance
58 Notice"). Lender acknowledges that: (i) all Loans simultaneously will be offered to multiple Participants; (ii)
59 acceptance of any Loan Availability Notice will be on a "first come, first served" basis; and (iii) BMC does not
60 guarantee that any Loan submitted to Lender for review will remain available, in whole or in part, for acceptance by
61 Lender for any particular period of time. Lender acknowledges that, except in connection with a particularly small Loan,
62 most Loans originated by BMC will have multiple Participants. All Acceptance Notices are subject to acceptance by
63 BMC in its sole and absolute discretion and BMC retains the sole right to decline any Acceptance Notice, or to accept
64 any Acceptance Notice but to reduce the amount of Lender's Participation Amount, in its sole discretion with or without
65 cause. BMC will notify each Lender whose Acceptance Notice was received prior to completion of funding of the Loan
66 and accepted by BMC to participate in the Loan: (i) that the Lender's Acceptance Notice was accepted for participation
67 in the Loan; (ii) the amount of the Participation Amount confirmed by BMC; (iii) wiring instructions for the transmission
68 of the Lender's funds for the Participation Amount; (iv) wiring instructions for funding of the Participation Amount; and
69 (v) confirming the Available Funds Date (an "Acceptance Confirmation").

70 6. Funding of Loan Participations. Lender, by the transmission of any Acceptance Notice, agrees to fund the
71 amount of its Participation Amount as set forth in the Acceptance Notice, no later than the Available Funds Date, in
72 clear funds actually received into the trust account of Baker Cronig Gassenheimer LLP., as Escrow Agent, pursuant to
73 the wiring instructions which will be contained in the Acceptance Confirmation. Lender acknowledges that: (i) the Loan
74 Closing Date for any Loan is an approximate date and may change based upon the Borrower's compliance with the Loan
75 Commitment executed by the Borrower; (ii) interest and other payments set forth in the Loan Availability Notice will
76 not commence to accrue until closing of the underlying Loan has occurred; (iii) if closing of the underlying Loan does
77 not occur, no interest or other payments will be made to Lender and the Lender's Participation Amount will be returned
78 to Lender or applied toward another Loan at Lender's direction.

79 Lender acknowledges that some Loans may not close due to the Borrower's failure to fulfill the
80 requirements of the Loan Commitment or for other reasons. BMC will not close any Loan
81 where the Borrower has not complied with all material conditions of the Loan Commitment,
82 although BMC reserves the right to modify such terms when, in BMC's reasonable judgment,
83 such modification will not have a material adverse effect on the lien priority of the Loan or the
84 loan to value ratio.

7. **Closing of Loans.** Upon full funding of a Loan and fulfillment of all conditions contained in the Loan Commitment, each Loan will be closed and funded. Lender's Participation in the Loan will be titled as set forth at the beginning of this Agreement. All Loans will be closed by BMC's attorneys, Baker Cronig Gassenheimer LLP. The terms of many Loan Commitments will require the posting of funds into trust for interest reserves, construction escrows and for other purposes. All such funds will be held in trust by Baker Cronig Gassenheimer LLP, as Escrow Agent, and disbursed only in accordance with the terms of the Loan Commitment and the Escrow Terms contained in this Agreement. Within five (5) business days of the closing of a particular Loan, BMC will notify Lender of such Closing (a "Loan Closing Notice"). At the next "Lender Payment Date", as set forth in Section 10(e), all amounts due to Lender in connection with a newly closed Loan will be disbursed to Lender by BMC. Copies of all documents executed in connection with the Loan ("Loan Documents") will be posted to BMC's internet website and will be available for Lender's review at that website for a period of seven (7) years following closing of the Loan. BMC reserves the right in its sole discretion to modify the method by which Loan Documents are made available for Lender's review as technology changes and in accordance with all applicable laws. Upon posting of the Loan Documents to the BMC website, all of BMC's obligations in connection with any applicable Loan will be deemed fulfilled, except as to such continuing obligations as may be imposed by Florida or federal law.

8. **Loans Which Do Not Close.** In the event any particular Loan for which Lender has received an Acceptance Confirmation and for which Lender has funded Lender's Participation Amount fails to close, BMC will notify Lender (a "Loan Commitment Termination"). Lender will have a period of five (5) business days from BMC's transmission of the Loan Commitment Termination to notify BMC whether Lender wishes to: (i) reallocate the Lender's Participation Amount, in whole or in part, to another Loan for which BMC has sent a Loan Availability Notice; or (ii) receive a return of Lender's Participation Amount in full. If BMC does not receive any response from Lender to a particular Loan Commitment Termination, it shall be presumed that Lender directs BMC to have Lender's Participation Amount returned to Lender. Such Participation Amounts will be returned by trust check issued by Baker Cronig Gassenheimer LLP, sent to Lender's address stated in this Agreement.

Part Two - Loan Servicing

9. **Appointment of M.A.M.C.** Following the closing of each Loan, responsibility for administration and servicing of the Loan shall be undertaken by M.A.M.C. on the terms and conditions set forth in Part Two of this Agreement. Lender hereby engages M.A.M.C. to administer and service on Lender's behalf all Loans in which Lender participates pursuant to this Agreement, including all Loans originated by BMC prior to the date of this Agreement and previously administered and serviced by BMC Loan Servicing, and M.A.M.C. accepts such engagement. M.A.M.C. shall employ commercially reasonable practices to perform the duties and obligations of M.A.M.C. set forth in this Agreement.

10. **Loan Administration and Servicing.** M.A.M.C. will undertake the following obligations and provide the following services in connection with each Loan (the "Services"):

a. Confirmation that any improvements of the premises securing each Loan are insured by one or more companies deemed acceptable by M.A.M.C. in amounts at least equal to the outstanding principal balance of each such Loan (and in the amount(s) necessary to comply with any applicable co-insurance provisions); which insurance shall contain a mortgagee clause in accordance with the Borrower Loan Commitment. M.A.M.C. shall hold, on Lender's behalf, all such policies and renewals thereof or, in lieu thereof, a current Certificate of Insurance for each Loan.

b. Compliance with all applicable State and Federal mortgage lending regulations.

c. Collection of all monthly and other payments due pursuant to each Loan.

d. Fulfillment of Lender reporting obligations, and maintenance of appropriate records, with respect to each Loan and providing Lender access to records for all Loan(s) that M.A.M.C. is servicing on Lender's behalf.

e. Principal reductions and interest disbursements to Lender. M.A.M.C. will make such disbursements on or before the twentieth day of each month as set forth in the Loan Documents applicable to each Loan (the

132 "Lender Payment Date") Such disbursements shall be made to Lender only after receipt of payment by
133 M.A.M.C. from the Borrower as to each Loan.

134 f. Review of trust records for all interest reserve and other escrow accounts maintained by Baker Cronig
135 Gassenheimer LLP. as Escrow Agent in connection with Loans.

136 g. Timely payment, from escrow accounts or as provided herein, of applicable taxes, insurance
137 premiums, and such other payments as may be necessary or appropriate with respect to the each Loan.

138 h. Undertake appropriate escrow analysis, where applicable.

139 i. Maintain necessary or appropriate communications with Lender.

140 j. Process and obtain the consent of Lender with respect to any requests for contractual waivers or
141 modifications of the Loan terms and/or Loan Documents.

142 k. M.A.M.C. shall have broad discretionary authority to administer and service Loans, including the
143 decision to declare a Loan in default, to accelerate the maturity date of the Loan, and to initiate foreclosure of
144 a Loan, however, the settlement of a foreclosure action, bankruptcy action, or other litigation regarding a
145 Loan whereby any amount less than the outstanding principal balance, note rate interest will be recovered shall
146 be reserved to the Lender or, in connection with Loans in which there are multiple Participants, the
147 Participants. In the event of declaration of default in connection with any Loan, M.A.M.C. will have the
148 authority to retain appropriate professionals, on Lender's behalf, with respect to the commencement and
149 prosecution of a foreclosure and/or other appropriate action with respect to the property securing such Loan,
150 or with respect to the acquisition of such property, and, pending completion of such foreclosure or acquisition,
151 use of reasonable efforts to protect such property from waste, vandalism, theft and/or burglary. Lender(s) shall
152 reimburse M.A.M.C. for M.A.M.C.'s reasonable out-of-pocket expenses so incurred, including all reasonable
153 attorneys' fees and costs in connection with any such foreclosure, acquisition or in connection with any other
154 out-of-pocket expenses incurred by M.A.M.C. pursuant to M.A.M.C.'s responsibilities under this Section 10(k).
155 Lender hereby appoints M.A.M.C. as Lender's agent to liquidate any real estate beneficially acquired by
156 Lender in foreclosure or otherwise in connection with the default or threatened default of any provision(s) of
157 any Loan which has been declared to be in default. In the event Lender acquires beneficial title to any real
158 estate acquired in foreclosure or in connection with the default or threatened default of any provision(s) of the
159 Loan, M.A.M.C. shall form a special purpose entity to take such title to the subject property, which shall be
160 managed by M.A.M.C. on behalf of the Lender or Participants.

161 l. Process any loan assumption requests under the direction of Lender.

162 11. Provisions Regarding Multiple Participant Loans. Lender acknowledges that most Loans originated by BMC
163 will have multiple Participants. As to each such Loan:

164 a. When any provision of this Agreement requires the approval of the Participants, M.A.M.C. will notify
165 the Participants of the issues which require approval (a "Decision Notice"), which Decision Notice will set forth
166 in reasonable detail the events which have led to the need for the Participants' decision, and the question or
167 questions presented to the Participants. Such approval shall be based upon a simple majority vote of the
168 respective ownership interests in the Loan by those Participants who respond to the Decision Notice within five
169 (5) business days of transmission of the Decision Notice by M.A.M.C. (a "Majority Decision"). Any
170 Participant who fails to respond within said five (5) business day period shall be deemed to have delegated to
171 M.A.M.C. the authority to vote upon the questions presented in the Decision Notice.

172 b. When a Loan is held by multiple Participants and any amount under this Agreement is due to be paid
173 or reimbursed to M.A.M.C., the Participants shall be responsible for such payment and/or reimbursement on
174 a *prorata* basis, computed according to their respective undivided interests in the Loan.

12. **Compensation.** M.A.M.C. shall be entitled to payment of compensation for its services rendered in connection with each Loan for which services are provided pursuant to this Agreement, as follows:

a. M.A.M.C. shall receive a fee for its services hereunder, the amount of which shall be set forth in each Loan Availability Notice (the "Service Fee"), paid on a *prorata* basis if the Loan has multiple Participants. M.A.M.C.'s entitlement to the Service Fee for each particular Loan shall be conditioned upon M.A.M.C.'s collection of the Loan payments as to each particular Loan. Service Fees will be deducted from the monthly payments made pursuant to the Loan Documents for each Loan, on a monthly basis, as and when collected. M.A.M.C. also shall be entitled to retain any late payment penalty charges collected for any Loan serviced under this Agreement.

b. In the event the Lender/Participants acquire title to the property which serves as the collateral for any Loan ("Collateral"), M.A.M.C. shall receive for its management of the default and/or foreclosure process a work-out fee (the "Work-Out Fee") equal to fifty percent (50%) of the Net Sale Proceeds received upon the subsequent sale of the Collateral to a third party purchaser or at the judicial foreclosure sale of the Collateral. Net Sale Proceeds shall be defined as the gross sales price received from the buyer of the Collateral, plus any default interest, late fees, attorneys' fees or costs that may be awarded by the Court with respect to the default of the Loan, less the outstanding principal balance of the Loan and note rate interest under the Loan Documents. The Workout Fee shall, in all events, be subordinate to the full return of all principal and unpaid note rate interest to the Lenders.

13. **Banking.** In connection with M.A.M.C.'s responsibilities hereunder, M.A.M.C. shall maintain bank accounts, in such bank or banks as M.A.M.C. may determine in its reasonable discretion. M.A.M.C. reserves the right to designate personnel who shall be authorized to make deposits into and disbursements from such accounts as necessary to carry out M.A.M.C.'s duties hereunder. M.A.M.C. shall have the right, from time to time, to pay appropriate expenses and make disbursements on behalf of Lender(s), including, but not limited to, tax payments, escrow payments, mortgage insurance payments and principal and interest payments to appropriate lenders. The parties mutually agree that any out-of-pocket costs associated with the transfer or disbursement of any funds, as contemplated herein including, but not limited to any, service charges with respect to such accounts, will be borne solely by Lender.

14. **Term and Termination.**

a. Except as specifically provided in this Section 14 with respect to any particular Loan(s), this Agreement shall remain in full force and effect, from the date of the execution of this Agreement through the later of: (i) the date upon which Lender shall notify M.A.M.C. of termination of this Agreement, which shall be ninety (90) calendar days following such notice; (ii) the date upon which M.A.M.C. shall notify Lender of termination of this Agreement, which shall be ninety (90) calendar days following such notice; (iii) the date which is one hundred eighty (180) days following satisfaction or other termination, settlement or adjudication of all Loans in which Lender has participated (including the disposition of any beneficial interest in Collateral obtained in a settlement or foreclosure), during which one hundred eighty (180) day period Lender has not accepted any new Loan Availability Notice. Lender shall have the right to terminate this Agreement as to all Loans serviced by M.A.M.C. for Lender, or only as to specified Loans ("Terminated Loans").

b. In connection with termination of this Agreement by Lender, Lender shall pay to M.A.M.C. a termination fee equal to one percent (1%) of Lender's undivided percentage interests in all Loans which are subject to such termination (the "Termination Fee"), provided however, no Termination Fee shall be payable if:

i. M.A.M.C. files any voluntary petition in bankruptcy, or a receiver or conservator is appointed for the assets of M.A.M.C.;

ii. An involuntary petition in bankruptcy is filed against M.A.M.C. or a third party petition for appointment of a receiver or conservator is filed and any such petition is not dismissed within thirty (30) calendar days after service upon M.A.M.C.

iii. M.A.M.C. assigns or attempts to assign, without Lender's written consent, its rights and obligations hereunder, other than as specifically provided herein.

iv. M.A.M.C.'s mortgage lender's license is revoked by the State of Florida.

c. Upon termination of this Agreement, M.A.M.C. shall account for and turn over to Lender all funds collected by M.A.M.C. with respect to all Loans which are subject to the Termination Notice, together with copies of all material records and documents relating to such Loans.

d. As to any Loan which is subject to this Agreement in which multiple Participants hold undivided interests, Lender shall not have the right to terminate this Agreement unless: (i) Lender shall secure a Majority Decision of all Participants, agreeing to terminate this Agreement as to that particular Loan; and (ii) all Participants shall agree either to service the Loan themselves, appointing one Participant to receive all notices on behalf of all of the Participants; or (iii) all Participants shall appoint a substitute servicing agent for the Loan; and (iv) all Participants shall execute a Termination Notice in writing, notifying M.A.M.C. of: (A) the effective date of termination (which shall not be earlier than ninety (90) days following the date the Termination Notice is delivered to M.A.M.C.); (B) the name and address of the Participant or successor servicing agent to whom all further communications and payments under the Loan should be directed; and (C) indemnifying M.A.M.C., its affiliates, officers, directors, employees and related professionals, from and against all loss, damage or claims which may arise after the effective date of such termination, in the manner described in Section 15(b).

15. Indemnities

a. M.A.M.C. agrees to indemnify and hold harmless Lender and all officers, directors, employees and agents of the Lender from and against any and all (i) claims, demands and causes of actions of any nature whatsoever brought by any person or entity (other than Lender or Lender's assigns or successors-in-interest) and arising from, or related to, the material misrepresentation or material willful breach by M.A.M.C. of any terms of this Agreement; (ii) costs and expenses incident to the defense of such claims, demands and causes of action including reasonable attorney's fees and court costs; and (iii) liabilities, judgments, settlements, penalties and assessments arising from such claims, demands or causes of action.

b. Lender agrees to indemnify and hold M.A.M.C., its officers, directors, employees and agents harmless from and against any and all (i) claims, demands and causes of actions of any nature whatsoever brought by any person or entity (other than M.A.M.C. or M.A.M.C.'s assigns or successors-in-interest) and arising from or related incident to the material misrepresentation or material willful breach by Lender of any terms of this Agreement; (ii) costs and expenses incident to the defense of such claims, demands and causes of action including reasonable attorney's fees and court costs; (iii) liabilities, judgments, settlements, penalties and assessments arising from such claims, demands or cause of action; and (iv) any termination of this Agreement as set forth in Section 14(d).

c. Except as expressly provided herein, the parties agree that Lender's sole liability to M.A.M.C. hereunder shall be with respect to payment of the compensation due M.A.M.C., as provided herein. The parties further agree that M.A.M.C. shall not be liable to Lender, except as specifically provided in Section 14(b) hereof, regarding the waiver of the Cancellation Fee should M.A.M.C. violate any of the provisions of Section 14(b). Without expanding the limitation of the foregoing sentence, the Lender agrees that M.A.M.C. shall not, under any circumstances, be liable to Lender for any breach of warranty, obligation, or negligence, in any amount that is in excess of the total amount of compensation actually paid to M.A.M.C. by Lender for the Loan or Loans which is/are the subject of such claim. In no event shall either Lender or M.A.M.C., or their assigns or successors-in-interest, be liable to the other for incidental or consequential damages, loss of business or profits, or special or indirect damages of any nature whatsoever.

16. Power of Attorney. In connection with all Loans which are subject to this Agreement, M.A.M.C. shall have the power to accept payments of principal and interest, including full or partial prepayments, to issue partial releases from and satisfactions of mortgages and all other Loan Documents, to issue estoppel information, to settle and compromise the debts evidenced in Loan Documents as it shall determine in its reasonable discretion, and in all other

269 respects to deal with the promissory notes, mortgages and other Loan Documents in the same manner as the Lender could
270 do in Lender's own name. Lender hereby appoints M.A.M.C. and its Senior Vice President and Chief Financial Officer,
271 Mitchell Morgan, with full power of substitution, Lender's true and lawful attorney in fact for the purpose of carrying
272 out the foregoing powers and duties and the powers and duties contained in this Agreement. This power of attorney,
273 being coupled with an interest, shall be irrevocable.

274 Part Three - Lender Qualification

275 17. Lender Qualification. Lender acknowledges and agrees that BMC's notification to Lender of the
276 availability of one or more Loan(s), and M.A.M.C.'s agreement to service Loan(s) on behalf of Lender is based upon
277 BMC and M.A.M.C.'s reliance upon the accuracy of the information and representations contained in Lender's
278 Representation previously completed by Lender. Lender further represents and warrants that Lender shall notify BMC,
279 and M.A.M.C. in the event there is any material change in Lender's financial condition, or with respect to other
280 information provided by Lender in the Lender's Representation (after the date upon which Lender completed the
281 Lender's Representation). In the event Lender wishes to acquire Loan Participations for members of Lender's family,
282 or wishes to transfer Loan Participations in whole or in part following the closing of a Loan, Lender hereby represents
283 to BMC and M.A.M.C. that such family member will comply with the requirements for being a "Lender" as set forth
284 in this Agreement and the Lender's Representation.

285 Part Four - Escrow Provisions

286 18. Provisions Relating to Trust Account Funds. In connection with interest reserves and other Loan
287 proceeds held in trust by Baker Cronig Gassenheimer LLP., as Escrow Agent, the terms and conditions set forth in this
288 Part Four shall apply.

289 19. Identity of Escrow Agent. The Escrow Agent shall be the law firm Baker Cronig Gassenheimer LLP.
290 (the "Escrow Agent") The identity of the Escrow Agent may not be changed except as set forth in these Escrow Terms.

291 20. Clearance of Funds. All funds to be held by Escrow Agent must be cleared funds actually received by
292 the Escrow Agent (hereinafter "Funds") before any obligation of Escrow Agent shall arise hereunder. For purposes of
293 this Agreement, Funds shall be deemed clear funds only after Escrow Agent's bank has notified Escrow Agent in writing
294 or electronically of the availability of such Funds.

295 21. Collection of Loan Proceeds. In accordance with Florida Statutes §494.0043, the Escrow Agent will
296 establish at such Banks as Escrow Agent shall deem proper non-interest bearing escrow accounts for each Loan
297 originated by BMC ("Pre-Closing Escrows"). Escrow Agent will disburse the Funds from such Pre-Closing Escrows
298 only as follows: (i) pursuant to the closing statement in connection with the closing of the Loan for which the Pre-
299 Closing Escrow was established; (ii) to the Lender, if Lender shall cancel its Acceptance Notice as to any particular Loan
300 prior to the issuance of a Funding Completion Notice for the Loan; (iii) in accordance with the joint direction of the
301 Lender and BMC; or (iv) in accordance with the order of a court of competent jurisdiction.

302 22. Post Closing Escrows. As to any Funds delivered to the Escrow Agent for the purpose of funding Interest
303 Reserves, Construction Escrows, Development Escrows or for other escrow purposes ("Post-Closing Escrows"), the
304 Escrow Agent will establish at such Banks as Escrow Agent shall deem proper interest bearing escrow accounts for
305 each Loan originated by BMC, with interest accrued for the benefit of the Borrower ("Post-Closing Escrows").
306 Escrow Agent will disburse the funds from such Post-Closing Escrows only as follows: (i) payments for Interest
307 Reserves will be disbursed in accordance with the terms of the promissory note executed in connection with the Loan;
308 (ii) Construction Escrows shall be disbursed in accordance with a construction loan agreement executed in connection
309 with the Loan; (iii) Development Escrows shall be disbursed in accordance with the Loan Documents executed in
310 connection with the Loan; (iv) other types of escrowed funds shall be disbursed in accordance with supplemental escrow
311 instructions to be executed in connection with the Loan; (v) to M.A.M.C. as servicing agent for the Lender in the event
312 of default under the Loan in accordance with the terms and conditions of the Loan Documents or the orders of a court
313 of competent jurisdiction entered in any foreclosure action; (vi) in accordance with the joint direction of the Borrower
314 and M.A.M.C.; or (iv) otherwise in accordance with the order of a court of competent jurisdiction..

315 23. **Duties of Escrow Agent.** Escrow Agent shall rely upon any written notice provided to Escrow Agent by
316 BMC, M.A.M.C., Lender as to Pre-Closing Escrows and Borrower as to Post-Closing Escrows, pursuant to this
317 Agreement in determining who is entitled to any Funds held by Escrow Agent, and in the event Escrow Agent so relies,
318 each party to whom or which such disbursements are made will indemnify and hold Escrow Agent harmless from any
319 and all claims or liabilities Escrow Agent may incur, including any attorneys' fees. Escrow Agent may act in reliance
320 upon any writing or instrument or signature which it, in good faith, believes to be genuine, may assume the validity and
321 accuracy of any statements or assertion contained in such writing or instrument; and may assume that any person
322 purporting to give any writing or instrument; and may assume that any person purporting to give any writing, notice,
323 advice or instruction in connection with the provisions hereof has been duly authorized to do so. Escrow Agent shall
324 not be liable in any manner for the sufficiency or correctness as to form, manner of execution, or validity of any written
325 instruments delivered to it, nor as to the identity, authority, or rights of any person executing the same. The duties of
326 Escrow Agent shall be limited to the safekeeping of the escrow Funds and to disbursements of same in accordance with
327 this Agreement. Escrow Agent undertakes to perform only such duties as are expressly set forth herein, and no implied
328 duties or obligations shall be read into this Agreement against Escrow Agent. Upon Escrow Agent's full disbursement
329 of any escrow bank account in accordance with the provisions hereof, the escrow shall terminate as regards the Funds
330 which were held in such account, and Escrow Agent shall thereafter be released of all liability hereunder in connection
331 therewith.

332 24. **Provisions Benefitting Escrow Agent.** Escrow Agent may consult with counsel of its own choice and shall
333 have full and complete authorization and protection for any action taken or suffered by it hereunder in good faith and
334 in accordance with the opinion of such counsel. Escrow Agent shall not be liable for any mistakes of fact or error of
335 judgment, or for any acts or omissions of any kind unless caused by its willful misconduct or gross negligence, and all
336 parties agrees to indemnify and hold Escrow Agent harmless from any claims, demands, causes of action, liabilities,
337 damages, or judgments, including the cost of defending any action against it, or prosecuting or defending crossclaims,
338 counterclaims or actions for declaratory relief or inter pleader, together with any reasonable attorneys' fees incurred
339 therewith either in original, appellate or administrative proceedings in connection with Escrow Agent's undertaking
340 pursuant to the terms and conditions of this Agreement, unless such act or omission is a result of the willful misconduct
341 or gross negligence of Escrow Agent.

342 25. **Conflicting Claims for Escrow Funds.** Should Escrow Agent receive conflicting notices or demands for
343 Funds held in escrow on behalf of any party, Escrow Agent shall either promptly seek an adjudication of the matter by
344 interpleader or otherwise. Escrow Agent shall be indemnified by the applicable parties, jointly and severally, for all
345 costs, including reasonable attorneys' and paraprofessional fees, at trial and upon appeal, in connection with the aforesaid
346 arbitration or interpleader action, and shall be fully protected in suspending all or a part of its activities under this
347 Agreement until a final judgment in the interpleader action, if applicable, is received. Escrow Agent shall continue to
348 hold the disputed Funds during the resolution of any conflict by arbitration; provided, however, Escrow Agent may
349 interplead any Funds and not hold the same pursuant to this Agreement at any time. No liability shall attach to Escrow
350 Agent for its act or those of its officers in connection with this Agreement unless the same are done or performed in bad
351 faith.

352 26. **Resignation.** Escrow Agent may resign at any time upon the giving of thirty (30) calendar days' written notice
353 to BMC and M.A.M.C. If a successor escrow agent is not appointed within thirty (30) calendar days after notice of
354 resignation, Escrow Agent may petition any court of competent jurisdiction to name a successor escrow agent and
355 Escrow Agent herein shall be further relieved of all liability under this Agreement to any and all parties, upon the transfer
356 of and due accounting for the escrow Funds to the successor escrow agent either designated by BMC and M.A.M.C.
357 or appointed by the court. All and any ordinary and necessary expenses connected therewith incurred by Escrow Agent,
358 including attorneys' fees shall be paid by BMC and/or M.A.M.C. as applicable.

359 27. **Replacement Escrow Agent.** BMC or M.A.M.C., as applicable, may, at its discretion, replace the Escrow
360 Agent upon no less than sixty (60) days written notice. Escrow Agent agrees that, upon written notice by BMC or
361 M.A.M.C., as applicable,, it will deliver all Funds held by it to the replacement escrow agent, provided the replacement
362 escrow agent is a bank or trust company having trust powers or an attorney who is a member of the Florida Bar. Upon
363 any such transfer of Funds to any such successor escrow agent, Escrow Agent shall be relieved of all liabilities and
364 obligations hereunder and BMC and/or M.A.M.C., as applicable, agrees to indemnify and hold Escrow Agent harmless
365 from and against any and all liabilities, including attorneys' fees in connection with the delivery of Funds to any such
366 successor escrow agent.

367 28. **Deposit of Funds.** Escrow Agent will hold all escrow funds in FDIC insured accounts, which accounts shall
368 not bear interest.

369 29. **Instructions to Escrow Agent.** The following procedure shall be used by the parties concerning instructions
370 to Escrow Agent:

371 a. All instructions to Escrow Agent shall be in writing and signed by the person or persons issuing such
372 instructions. Any instructions which are jointly authorized by all parties shall be signed by all persons.

373 b. Except as may otherwise be set forth herein to the contrary, Escrow Agent shall only take direction
374 by BMC or M.A.M.C., as applicable, and shall not take direction from any Lender or Borrower. The duties of Escrow
375 Agent shall be limited to the safekeeping of the Funds and for disbursements of same in accordance with the written
376 instructions described above.

377 c. BMC or M.A.M.C., as applicable, shall immediately deliver to Escrow Agent copies of any written
378 notice or request from a Lender or Borrower relating to this Agreement.

379 30. **Monthly Statements.** The Escrow Agent will send monthly statements regarding all Escrow Accounts to BMC
380 or M.A.M.C., as applicable, at the address set forth above.

381 **Part Five - Other Provisions**

382 31. **Notices.** For all notices required or permitted to be sent to Lender pursuant to this Agreement, such
383 notices shall be sent to Lender to the address and in accordance with the preferred method of notice set forth at the
384 beginning of this Agreement. For all notices required or permitted to be sent to BMC or M.A.M.C. pursuant to this
385 Agreement, such notices shall be sent to 501 Continental Plaza, 3250 Mary Street, Coconut Grove, Florida. For all
386 notices required or permitted to be sent to Baker Cronig Gassenheimer LLP, such notices shall be sent to 307 Continental
387 Plaza, 3250 Mary Street, Coconut Grove, Florida 33133. Any one of the following methods of delivery shall be
388 sufficient: (i) United States certified mail, return receipt requested, which notice shall be conclusively presumed
389 delivered three business days following mailing; (ii) Federal Express or similar commercial overnight service, which
390 notice shall be conclusively presumed delivered in accordance with the carrier's delivery records, but in no event later
391 than three business days following delivery to the carrier; (iii) by commercial courier with either a receipt for delivery
392 signed by the addressee or a sworn affidavit executed by the courier that delivery was attempted but the addressee was
393 absent or refused to sign or that delivery was refused; or (iv) by telefacsimile, with written confirmation showing the
394 date and time of transmission and the number of pages transmitted.

395 32. **Consent to Assignment by BMC Loan Servicing.** Lender hereby consents and agrees to the assignment
396 of servicing rights of all Loans extended previously by Lender and currently being administered by Berman Mortgage
397 Corporation d/b/a BMC Loan Servicing.

398 33. **Assignment by Lender of Loan Participations.** Lender shall have the right to assign its interests in any
399 Loan, in whole or in part, provided, however, no such assignment shall become effective as to M.A.M.C. until Lender
400 shall have provided M.A.M.C. with at least ten (10) business days notice of each such assignment prior to any particular
401 Lender Payment Date and shall have paid an administrative fee to M.A.M.C. for the modification of M.A.M.C.'s records
402 and disbursement instructions regarding the Loan. All such Assignments must be effected by the recording of an
403 assignment of Lender's undivided interest, signed by Lender and by M.A.M.C. and filed for record in the public records
404 of the County in which the Loan Collateral is located.

405 34. **Miscellaneous**

406 a. This Agreement contains all the terms and conditions agreed upon by the parties with reference to the
407 subject matter and supersedes any and all previous agreements, representations and communications, whether written
408 or oral. This Agreement may not be modified or changed except by written instrument signed by all of the parties, or
409 their respective successors or assigns; provided, however, that BMC and/or M.A.M.C. shall have the right to modify and
410 amend this Agreement upon thirty (30) calendar days written notice sent to Lender and, if Lender shall not object to such

amendment in writing, such amendment shall become effective thirty-one (31) calendar days following notice thereof sent to Lender.

b. This Agreement shall not be assigned or be assignable by either party without the express written consent of the other parties herein, which consent shall not be unreasonably withheld; provided, however, that M.A.M.C. may freely assign its position hereunder to an entity wholly owned or controlled by M.A.M.C. and/or its principal shareholder(s). This Agreement shall inure to the benefit of and be binding upon the parties and their respective successors and assigns. Nothing in this Agreement, expressed or implied, is intended to confer on any person other than the parties and their respective successors and assigns any rights or remedies under or by reason of the Assignment.

c. This Agreement has been entered into in, and shall be governed by, construed, and enforced in accordance with the laws of, the State of Florida. The venue for any litigation regarding this Agreement shall be, for all purposes, the State courts located in Miami-Dade County, Florida, which is the situs of execution of the Agreement, notwithstanding the fact that the Collateral for any particular Loan may be located elsewhere.

d. Each of the parties hereto shall use all reasonable efforts to bring about the transactions contemplated by this Agreement as soon as practicable, including the execution and delivery of all instruments, assignments and assurances. The parties hereto shall take, or cause to be taken, such reasonable further or other actions necessary or desirable in order to carry out the intent and purposes of this Agreement.

e. In the event a lawsuit is brought to enforce or interpret any part of this Agreement or the rights or obligations or any party to this Agreement, the prevailing party shall be entitled to recover its reasonable attorneys' fees and costs incurred in connection with such lawsuit, including any attorneys' fees and costs incurred at the appellate level(s).

f. In the event that any provision(s) of this Agreement shall finally be determined to be unlawful, such provision shall be, to the extent possible, narrowly construed in such manner as to make it lawful, if possible, or, if a narrower construction is not possible, such provision(s) shall be severed from this Agreement, but every other provision of this Agreement shall remain in full force and effect.

g. Each party hereto has been represented (or had the opportunity to be represented) by independent counsel; therefore, no party to this Agreement shall be deemed the drafter of this Agreement, and no provision of this Agreement shall be construed against any party to this Agreement on the ground that such party is the drafter.

h. This Agreement shall not in any respect be interpreted, deemed, or construed as making the parties partners with one another, or as creating or constituting any partnership or joint venture.

IN WITNESS WHEREOF, the parties have executed this Agreement the dated and year first written above at Miami, Miami-Dade County, Florida.

Berman Mortgage Corporation

By: _____
Dana J. Berman, President

[Signature]

_____, Lender / Print

M.A.M.C. Incorporated

By: _____
Dana J. Berman, President

[Signature]

_____, Lender / Print

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File #10057-282:December 1, 2006
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LENDER'S REPRESENTATION

THIS LENDER'S REPRESENTATION is provided by [REDACTED] (the "Lender") to Berman Mortgage Corporation, a Florida corporation, and to M.A.M.C. Incorporated, a Florida corporation (M.A.M.C. Incorporated and Berman Mortgage Corporation are, collectively, referred to herein as the "Company").

1. Reliance Upon Lender's Representations, Warranties and Covenants

By the Lender's signature below, the Lender makes the representations, warranties and covenants set forth herein as an inducement to the Company to enter into that certain Loan Origination and Loan Servicing Agreement by and between the Company and the Lender, and to consider providing the Lender with the opportunity to participate in extending mortgage loan(s) to borrowers who approach Berman Mortgage Corporation for mortgage loan financing (the "Loan(s)"). In addition to the representations, warranties and covenants set forth herein, the Lender affirmatively undertakes to advise the Company, in writing, of any material change in any such representations, warranties and covenants.

2. Lender's Representations, Warranties and Covenants

The Lender hereby represents, warrants and covenants to the Company as follows:

(a) The Lender is an Accredited Investor, as defined under the Securities Act of 1933, as amended (the "Act") (see definitions attached hereto as Exhibit A) and has sufficient knowledge and experience in financial matters, either alone or in conjunction with the Lender's investment and legal advisors, to be capable of evaluating the merits and risks of participating in the Loan(s).

(b) The Lender will be participating in the Loan(s) solely for investment purposes for the Lender's own account and not with a view to the sale, distribution, fractionalization or other disposition of any interest in any Loan;

(c) The Lender is able to bear the economic risks of participating in the Loan(s), including the risk of losing all of the Lender's participation in the Loan(s). The Lender is aware of the limited ability to sell, transfer or otherwise dispose of any interest which the Lender may acquire in any Loan(s);

(d) The Lender and/or the Lender's representative has such knowledge and experience in financial and business matters and can evaluate the merits and risks of participating in any Loan and has obtained, and will obtain prior to participation in any Loan(s), sufficient information to enable the Lender and/or the Lender's representative to evaluate the merits and risks of participating in any Loan(s); and

(e) The Lender understands that the Lender must bear the economic risk of any interest which the Lender may obtain in any Loan for an indefinite period of time.

487 (f) The Lender understands that the Lender should carefully consider the risks
488 of participating in Loan(s) generally, as well as the specific risks related to any particular Loan;
489 and that a determination to participate in any Loan(s) involves a degree of risk and is speculative
490 in nature.

491 (g) The Lender and/or the Lender's representative understand that the Lender
492 and/or the Lender's representative have the opportunity (and the obligation) to make inquiries of
493 the Company through the Company's president and/or authorized representatives to obtain any
494 information regarding any Loan, the terms thereof or any borrower prior to making a decision to
495 participate in any Loan(s). Accordingly the Lender will, directly or through Lender's
496 representative, request, on an on-going basis, such information that the Lender may require with
497 respect to the Lender's decision to participate in any particular Loan; and that, in connection
498 with such inquiry, any documents which the Lender wishes to review (to the extent that the
499 Company possesses such information or can acquire it without unreasonable effort or expense)
500 will be made available for inspection and copying or provided, upon request, subject to the
501 Lender's agreement to maintain such information in confidence and to return the same to the
502 Company if the Lender does not elect to participate in any particular Loan.

503 (h) The Lender will immediately notify the Company, in writing, if the
504 Lender's financial net worth and/or ability to bear the economic risks of participating in any
505 Loan(s) change at any time subsequent to the date hereof.

506 IN WITNESS WHEREOF, the undersigned, with the understanding that the Company
507 will rely upon the accuracy and completeness of the foregoing representations, warranties and
508 covenants, has executed this Lender's Representation on the [redacted] day of [redacted],
509 [redacted].

510 LENDER:

511 [redacted] [Signature]

512 [redacted], Lender / Print

513 [redacted] [Signature]

514 [redacted], Lender / Print

Exhibit A

ACCREDITED INVESTOR RULES

Rule 230.215 Accredited Investor. The term "Accredited Investor" as used in Section 2 (1 5)(ii) of the Securities Act of 1933 shall include the following persons;

Any savings and loan association or other institution specified in Section 3(a)(5)(A) of the Act whether acting in its individual or fiduciary capacity; any broker or dealer registered pursuant to Section 15 of the Securities Exchange Act of 1934; any plan established and maintained by a state, its political subdivisions, or any agency or instrumentality of a state or its political subdivisions, for the benefit of its employees, if such plan has total assets in excess of \$5,000,000; any employee benefit plan within the meaning of Table I of the Employee Retirement Income Security Act of 1974, if the investment decision is made by a plan fiduciary, as defined in Section 3(21) of such Act, which is a savings and loan association, or if the employee benefit plan has total assets in excess of \$5,000,000 or, if a self-directed plan, with investment decisions made solely by persons that are accredited investors;

b. Private business development company as defined in Section 202(a)(22) of the Investment Advisers Act of 1940;

c. Any organization described in Section 501(c)(3) of the Internal Revenue Code, corporation, Massachusetts or similar business trust, or partnership not formed for the specific purpose of acquiring the securities offered, with total assets in excess of \$5,000,000;

d. Any director, executive officer, or general partner of the issuer of the securities being offered or sold, or any director, executive officer, or general partner of a general partner of that issuer;

e. Any natural person whose individual net worth, or joint net worth with that person's spouse, at the time of his purchase exceeds \$1,000,000;

f. Any natural person who had an individual income in excess of \$200,000 in each of the two most recent years or joint income with that person's spouse in excess of \$300,000 in each of those years and has a reasonable expectation of reaching the same income level in the current year;

552 g. Any trust, with total assets in excess of \$5,000,000, not formed for
553 the specific purpose of acquiring the securities offered, whose
554 purchase is directed by a sophisticated person as described in
555 Section 230.505(b)(2)(ii); and

556 h. Any entity in which all of the equity owners are accredited
557 investors.

558 ***Additional Rule 504 Categories:***

559 1. Any natural person who purchases \$10,000 or more and purchaser's total
560 investment does not exceed five (5%) percent of such purchaser's net worth;

561 2. Purchaser has had net income in excess of \$70,000 per year for the preceding two
562 years with a reasonable expectation of earning the same or more in the current year, provided
563 such purchaser's investment cannot exceed ten (10%) percent of purchaser's current year income;

564 ***Section 230.506(b)(2)(ii): Nature of Purchasers.*** Each purchaser who is not an accredited
565 investor either alone or with his purchaser representative(s) has such knowledge and experience
566 in financial and business matters that he is capable of evaluating the merits and risks of the
567 prospective investment, or the issuer reasonably believes immediately prior to making any sale
568 that such purchaser comes within this description.

569 ***Regulation D.*** Section 230.501 incorporates the foregoing as the definition of accredited
570 investor and specifically added: (I) the term "bank" at each reference to savings and loan
571 association; and; (ii) Small Business Investment Companies licensed pursuant to Section 301(c)
572 or (d) of the Small Business Investment Act of 1958; and iii) added the following insurance
573 company, or registered investment adviser to paragraph (a) above to further define "plan
574 fiduciary" therein.

"AS IS" CONTRACT FOR SALE AND PURCHASE

PARTIES: Emerald Cay Investments, LLC ("Seller"), and Cairreig Building Development II, LLC ("Buyer"), hereby agree that Seller shall sell and Buyer shall buy the following described Real Property and Personal Property (collectively "Property") pursuant to the terms and conditions of this Contract for Sale and Purchase and any riders and addenda ("Contract"):

I. DESCRIPTION:

(a) Legal description to follow, see Site Plan of the Real Property located in Osceola County, Florida: Attached Exhibit "A", highlighted.

(b) Street address, city, zip, of the Property: n/a

(c) Personal Property: None

II. PURCHASE PRICE (U. S. currency):

\$ 2,300,000

PAYMENT:

(a) Deposit held in escrow by Carlos J. Bonilla & Associates, PL ("Escrow Agent") in the amount of (checks subject to clearance).

\$ 100,000

Escrow Agent's address: 7901 Kingspointe Parkway,
Suite 8 Orlando, FL 32819

Phone: 407-370-3066

(b) Additional escrow deposit to be made to Escrow Agent within N/A days after Effective Date in the amount of

\$ 0

(c) Financing in the amount of ("Loan Amount") see Paragraph IV below

\$ 0

(d) Other:

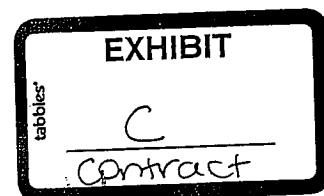
\$

(e) Balance to close by cash, wire transfer or LOCALLY DRAWN cashier's or official bank check(s), subject to adjustments or prorations

\$ 2,200,000

III. TIME FOR ACCEPTANCE OF OFFER AND COUNTEROFFERS; EFFECTIVE DATE:

(a) If this offer is not executed by and delivered to all parties OR FACT OF EXECUTION communicated in writing between the parties on or before June 2, 2009, the deposit(s) will, at Buyer's option, be returned and this offer withdrawn.



(b) The date of Contract ("Effective Date") will be the date when the last one of the Buyer and Seller has signed or initialed this offer or the final counteroffer. If such date is not otherwise set forth in this Contract, then the "Effective Date" shall be the date determined above for acceptance of this offer.

IV. FINANCING:

 X (a) This is a cash transaction with no contingencies for financing;

V. TITLE EVIDENCE: At least 10 days before Closing a title insurance commitment with legible copies of instruments listed as exceptions attached thereto ("Title Commitment") and, after Closing, an owner's policy of title insurance (see Standard A for terms) shall be obtained by:

(CHECK ONLY ONE): X (1) Seller, at Seller's expense and delivered to Buyer or Buyer's attorney; or

 (2) Buyer at Buyer's expense.

(CHECK HERE): If an abstract of title is to be furnished instead of title insurance, and attach rider for terms.

VI. CLOSING DATE: This transaction shall be closed and the closing documents delivered on or before July 15, 2008 ("Closing"), unless modified by other provisions of this Contract.

VII. RESTRICTIONS; EASEMENTS; LIMITATIONS: Seller shall convey marketable title subject to: comprehensive land use plans, zoning, restrictions, prohibitions and other requirements imposed by governmental authority; restrictions and matters appearing on the plat or otherwise common to the subdivision; outstanding oil, gas and mineral rights of record without right of entry; unplatted public utility easements of record; taxes for year of Closing and subsequent years; and assumed mortgages and purchase money mortgages, if any (if additional items, see addendum); provided, that there exists at Closing no violation of the foregoing and none prevent use of the Property for hotel or general commercial purpose(s).

VIII. OCCUPANCY: Seller shall deliver occupancy of Property to Buyer at time of Closing unless otherwise stated herein.

IX. TYPEWRITTEN OR HANDWRITTEN PROVISIONS: Typewritten or handwritten provisions, riders and addenda shall control all printed provisions of this Contract in conflict with them.

X. ASSIGNABILITY: (CHECK ONLY ONE): Buyer may assign and thereby be released from any further liability under this Contract; may assign but not be released from liability under this Contract; or X may not assign this Contract.

XI. DISCLOSURES:

- (a) The Property may be subject to unpaid special assessment lien(s) imposed by a public body ("public body" does not include a Condominium or Homeowners' Association). Such lien(s), if any, whether certified, confirmed and ratified, pending, or payable in installments, as of Closing, shall be paid as follows: by Seller at closing X by Buyer (if left blank, then Seller at Closing). If the amount of any assessment to be paid by Seller has not been finally determined as of Closing, Seller shall be charged at Closing an amount equal to the last estimate or assessment for the improvement by the public body.
- (b) If Seller is a "foreign person" as defined by the Foreign Investment in Real Property Tax Act, the parties shall comply with that Act.
- (g) **BUYER SHOULD NOT EXECUTE THIS CONTRACT UNTIL BUYER HAS RECEIVED AND READ THE HOMEOWNERS' ASSOCIATION/COMMUNITY DISCLOSURE.**
- (h) **PROPERTY TAX DISCLOSURE SUMMARY: BUYER SHOULD NOT RELY ON THE SELLER'S CURRENT PROPERTY TAXES AS THE AMOUNT OF PROPERTY TAXES THAT THE BUYER MAY BE OBLIGATED TO PAY IN THE YEAR SUBSEQUENT TO PURCHASE. A CHANGE OF OWNERSHIP OR PROPERTY IMPROVEMENTS TRIGGERS REASSESSMENTS OF THE PROPERTY THAT COULD RESULT IN HIGHER PROPERTY TAXES. IF YOU HAVE ANY QUESTIONS CONCERNING VALUATION, CONTACT THE COUNTY PROPERTY APPRAISER'S OFFICE FOR INFORMATION.**

XII. MAXIMUM REPAIR COSTS: DELETED

- XIII. INSPECTION PERIOD AND RIGHT TO CANCEL:** (a) Buyer shall have until June 18, 2009, ("Inspection Period") within which to have such inspections of the Property performed as Buyer shall desire and utilities service shall be made available by the Seller during the Inspection Period; (b) Buyer shall be responsible for prompt payment for such inspections and repair of damage to and restoration of the Property resulting from such inspections and this provision (b) shall survive termination of this Contract; and (c) if Buyer determines, in Buyer's sole discretion, that the Property is not acceptable to Buyer, Buyer may cancel this Contract by delivering facsimile or written notice of such election to Seller prior to the expiration of the Inspection Period. If Buyer timely cancels this Contract, the deposit(s) paid shall be immediately returned to Buyer; thereupon, Buyer and Seller shall be released of all further obligations under this Contract, except as provided in this Paragraph XIII. Unless Buyer exercises the right to cancel granted herein, Buyer accepts the Property in its present physical condition, subject to any violation of governmental, building, environmental, and safety codes, restrictions or

requirements and shall be responsible for any and all repairs and improvements required by Buyer's lender.

XIV. "AS IS" STANDARDS FOR REAL ESTATE TRANSACTIONS ("AS IS" Standards): Buyer and Seller acknowledge receipt of a copy of "AS IS" Standards A through Z on the reverse side or attached, which are incorporated as part of this Contract.

THIS IS INTENDED TO BE A LEGALLY BINDING CONTRACT. IF NOT FULLY UNDERSTOOD, SEEK THE ADVICE OF AN ATTORNEY PRIOR TO SIGNING.

THIS "AS IS" FORM HAS BEEN APPROVED BY THE FLORIDA ASSOCIATION OF REALTORS® AND THE FLORIDA BAR.

Approval does not constitute an opinion that any of the terms and conditions in this Contract should be accepted by the parties in a particular transaction. Terms and conditions should be negotiated based upon the respective interests, objectives and bargaining positions of all interested persons.

BUYER:

Canreig Building Development, II, LLC

SELLER:

Emerald Cay Investments, LLC

By: [Signature]

Mr. Dave Ravindra

May 28/09

(Date)

By: [Signature]Daniel E. Harper
Manager

(Date)

NOTICE AND DISCLAIMER: Seller has agreed to execute this agreement, and Buyer has agreed to purchase the Property, based on the release of the personal guarantees of Carlos J. Bonilla, Daniel E. Harper and Ray Smith, who were the "guarantors" of the Berman Mortgage (and "Group of Lenders") loan, made to Emerald Cay Investments, LLC, in the original amount of \$2,500,000, plus interest. The release of guarantees is to be acknowledged by the "lenders" and releases are to be provided to the guarantors as part of the closing of this contract.

BUYER:

Canreig Building Development, II, LLC

SELLER:

Emerald Cay Investments, LLC

By: [Signature]

Mr. Dave Ravindra

May 28/09

(Date)

By: [Signature]Daniel E. Harper
Manager

(Date)

Deposit under Paragraph II(a) received (Checks are subject to clearance):

Carlos J. Bonilla & Associates, PL
Escrow Agent

By: [Signature]Print: Carlos J. Bonilla

BROKERS: The brokers (including cooperating brokers, if any) named below, including listing and cooperating brokers, are the only brokers entitled to compensation in connection with this Contract, which compensation shall be five percent on the sale price of the Contract:

Name: Millenium Executive Realty -- 2%

"AS IS" STANDARDS FOR REAL ESTATE TRANSACTIONS

A. **TITLE INSURANCE:** The Title Commitment shall be issued by a Florida licensed title insurer agreeing to issue Buyer, upon recording of the deed to Buyer, an owner's policy of title insurance in the amount of the purchase price, insuring Buyer's marketable title to the Real Property, subject only to matters contained in Paragraph VII and those to be discharged by Seller at or before Closing. Marketable title shall be determined according to applicable Title Standards adopted by authority of The Florida Bar and in accordance with law. Buyer shall have 5 days from date of receiving the Title Commitment to examine it, and if title is found defective, notify Seller in writing specifying defect(s) which render title unmarketable. Seller shall have 30 days from receipt of notice to remove the defects, failing which Buyer shall, within 5 days after expiration of the 30-day period, deliver written notice to Seller either: (1) extending the time for a reasonable period not to exceed 90 days within which Seller shall use diligent effort to remove the defects; or (2) requesting a refund of deposit(s) paid which shall be returned to Buyer. If Buyer fails to so notify Seller, Buyer shall be deemed to have accepted the title as it then is. Seller shall, if title is found unmarketable, use diligent effort to correct defect(s) within the time provided. If, after diligent effort, Seller is unable to timely correct the defects, Buyer shall either waive the defects, or receive a refund of deposit(s), thereby releasing Buyer and Seller from all further obligations under this Contract. If Seller is to provide the Title Commitment and it is delivered to Buyer less than 5 days prior to Closing, Buyer may extend Closing so that Buyer shall have up to 5 days from date of receipt to examine same in accordance with this "AS IS" Standard.

B. **PURCHASE MONEY MORTGAGE; SECURITY AGREEMENT TO SELLER:**
None

C. **SURVEY:** Buyer, at Buyer's expense, within time allowed to deliver evidence of title and to examine same, may have the Real Property surveyed and certified by a registered Florida surveyor. If the survey discloses encroachments on the Real Property or that improvements located thereon encroach on setback lines, easements, lands of others or violate any restrictions, Contract covenants or applicable governmental regulations, the same shall constitute a title defect.

D. **WOOD DESTROYING ORGANISMS: DELETED**

E. **INGRESS AND EGRESS:** Seller warrants and represents that there is ingress and egress to the Real Property sufficient for its intended use as described herein and title to the Real Property is insurable in accordance with "AS IS" Standard A without exception for lack of legal right of access.

F. **LEASES:** None.

G. **LIENS:** Seller shall furnish to Buyer at time of Closing an affidavit attesting to the absence, unless otherwise provided for herein, of any financing statement, claims of lien or

potential lienors known to Seller and further attesting that there have been no improvements or repairs to the Real Property for 90 days immediately preceding date of Closing. If the Real Property has been improved or repaired within that time, Seller shall deliver releases or waivers of construction liens executed by all general contractors, subcontractors, suppliers and materialmen in addition to Seller's lien affidavit setting forth the names of all such general contractors, subcontractors, suppliers and materialmen, further affirming that all charges for improvements or repairs which could serve as a basis for a construction lien or a claim for damages have been paid or will be paid at Closing of this Contract.

H. PLACE OF CLOSING: Closing shall be held in the county wherein the Real Property is located at the office designated by Buyer.

I. TIME: Calendar days shall be used in computing time periods except periods of less than six (6) days, in which event Saturdays, Sundays and state or national legal holidays shall be excluded. Any time periods provided herein which shall end on a Saturday, Sunday, or a legal holiday shall extend to 5:00 p.m. of the next business day. Time is of the essence in this Contract.

J. CLOSING DOCUMENTS: Seller shall furnish the deed, bill of sale, certificate of title, construction lien affidavit, owner's possession affidavit, assignments of leases, tenant and mortgagee estoppel letters and corrective instruments. Buyer shall furnish funds to close.

K. EXPENSES: Documentary stamps on the deed and recording of corrective instruments shall be paid by Seller. Unless otherwise provided by law or rider to this Contract, charges for related closing services, title search, and closing fees (including preparation of closing statement), shall be paid by the party responsible for furnishing the title evidence.

L. PRORATIONS; CREDITS: Taxes, assessments, rent, interest, insurance and other expenses of the Property shall be prorated through the day before Closing. Buyer shall have the option of taking over existing policies of insurance, if assumable, in which event premiums shall be prorated. Cash at Closing shall be increased or decreased as may be required by prorations to be made through day prior to Closing, or occupancy, if occupancy occurs before Closing. Advance rent and security deposits will be credited to Buyer. Escrow deposits held by mortgagee will be credited to Seller. Taxes shall be prorated based on the current year's tax with due allowance made for maximum allowable discount, homestead and other exemptions. If Closing occurs at a date when the current year's millage is not fixed and current year's assessment is available, taxes will be prorated based upon such assessment and prior year's millage. If current year's assessment is not available, then taxes will be prorated on the prior year's tax.

M. (RESERVED - purposely left blank)

N. INSPECTION AND REPAIR: DELETED

O. RISK OF LOSS: If, after the Effective Date, the Property is damaged by fire or other casualty ("Casualty Loss") before Closing and cost of restoration (which shall include the cost of pruning or removing damaged trees) does not exceed 1.5% of the Purchase Price, cost of restoration shall be an obligation of Seller and Closing shall proceed pursuant to the terms of this Contract and if restoration is not completed as of Closing, restoration costs will be escrowed at Closing. If the cost of restoration exceeds 1.5% of the Purchase Price, Buyer shall either take the Property as is, together with the 1.5% or receive a refund of deposit(s) thereby releasing Buyer and Seller from all further obligations under this Contract. Seller's sole obligation with respect to tree damage by casualty or other natural occurrence shall be the cost of pruning or removal.

P. CLOSING PROCEDURE: The deed shall be recorded upon clearance of funds. If the title agent insures adverse matters pursuant to Section 627.7841, F.S., as amended, the escrow and closing procedure required by this "AS IS" Standard shall be waived. Unless waived as set forth above the following closing procedures shall apply: (1) all closing proceeds shall be held in escrow by the Closing Agent for a period of not more than 5 days after Closing; (2) if Seller's title is rendered unmarketable, through no fault of Buyer, Buyer shall, within the 5-day period, notify Seller in writing of the defect and Seller shall have 30 days from date of receipt of such notification to cure the defect; (3) if Seller fails to timely cure the defect, all deposits and closing funds shall, upon written demand by Buyer and within 5 days after demand, be returned to Buyer and, simultaneously with such repayment, Buyer shall return the Personal Property, vacate the Real Property and reconvey the Property to Seller by special warranty deed and bill of sale; and (4) if Buyer fails to make timely demand for refund, Buyer shall take title as is, waiving all rights against Seller as to any intervening defect except as may be available to Buyer by virtue of warranties contained in the deed or bill of sale.

Q. ESCROW: Any Closing Agent or escrow agent (collectively "Agent") receiving funds or equivalent is authorized and agrees by acceptance of them to deposit them promptly, hold same in escrow and, subject to clearance, disburse them in accordance with terms and conditions of this Contract. Failure of funds to clear shall not excuse Buyer's performance. If in doubt as to Agent's duties or liabilities under the provisions of this Contract, Agent may, at Agent's option, continue to hold the subject matter of the escrow until the parties hereto agree to its disbursement or until a judgment of a court of competent jurisdiction shall determine the rights of the parties, or Agent may deposit same with the clerk of the circuit court having jurisdiction of the dispute. An attorney who represents a party and also acts as Agent may represent such party in such action. Upon notifying all parties concerned of such action, all liability on the part of Agent shall fully terminate, except to the extent of accounting for any items previously delivered out of escrow. If a licensed real estate broker, Agent will comply with provisions of Chapter 475, F.S., as amended. Any suit between Buyer and Seller wherein Agent is made a party because of acting as Agent hereunder, or in any suit wherein Agent interpleads the subject matter of the escrow, Agent shall recover reasonable attorney's fees and costs incurred with these amounts to be paid from and out of the escrowed funds or equivalent and charged and awarded as court costs in favor of the prevailing party. The Agent shall not be liable to any party or person for misdelivery to Buyer or Seller of items subject to the escrow, unless such misdelivery is due to willful breach of the provisions of this Contract or gross negligence of Agent.

R. **ATTORNEY'S FEES; COSTS:** In any litigation, including breach, enforcement or interpretation, arising out of this Contract, the prevailing party in such litigation, which, for purposes of this "AS IS" Standard, shall include Seller, Buyer, and any brokers acting in agency or nonagency relationships authorized by Chapter 475, F.S., as amended, shall be entitled to recover from the non-prevailing party reasonable attorney's fees, costs and expenses.

S. **FAILURE OF PERFORMANCE:** If Buyer fails to perform this Contract within the time specified, including payment of all deposits, the deposit(s) paid by Buyer and deposit(s) agreed to be paid, may be recovered and retained by and for the account of Seller as agreed upon liquidated damages, consideration for the execution of this Contract and in full settlement of any claims; whereupon, Buyer and Seller shall be relieved of all obligations under this Contract; or Seller, at Seller's option, may proceed in equity to enforce Seller's rights under this Contract. If for any reason other than failure of Seller to make Seller's title marketable after diligent effort, Seller fails, neglects or refuses to perform this Contract, Buyer may seek specific performance or elect to receive the return of Buyer's deposit(s) without thereby waiving any action for damages resulting from Seller's breach.

T. **(RESERVED - purposely left blank)**

U. **CONVEYANCE:** Seller shall convey marketable title to the Real Property by statutory warranty, trustee's, personal representative's or guardian's deed, as appropriate to the status of Seller, subject only to matters contained in Paragraph VII and those otherwise accepted by Buyer. Personal property shall, at the request of Buyer, be transferred by an absolute bill of sale with warranty of title, subject only to such matters as may be otherwise provided for herein.

V. **OTHER AGREEMENTS:** No prior or present agreements or representations shall be binding upon Buyer or Seller unless included in this Contract. No modification to or change in this Contract shall be valid or binding upon the parties unless in writing and executed by the parties intended to be bound by it.

W. **SELLER DISCLOSURE:** (1) There are no facts known to Seller materially affecting the value of the Property which are not readily observable by Buyer or which have not been disclosed to Buyer; (2) Seller extends and intends no warranty and makes no representation of any type, either express or implied, as to the physical condition or history of the Property; (3) Seller has received no written or verbal notice from any governmental entity or agency as to a currently uncorrected building, environmental or safety code violation; (4) Seller has no knowledge of any repairs or improvements made to the Property without compliance with governmental regulation which have not been disclosed to Buyer.

X. **PROPERTY MAINTENANCE; PROPERTY ACCESS; ASSIGNMENT OF CONTRACTS AND WARRANTIES:** Seller shall maintain the Property, including, but not limited to lawn, shrubbery, and pool in the condition existing as of Effective Date, ordinary wear and tear and Casualty Loss excepted.

Y. **1031 EXCHANGE:** If either Seller or Buyer wish to enter into a like-kind exchange (either simultaneous with Closing or deferred) with respect to the Property under Section 1031 of the Internal Revenue Code ("Exchange"), the other party shall cooperate in all reasonable respects to effectuate the Exchange, including the execution of documents; provided (1) the cooperating party shall incur no liability or expense related to the Exchange and (2) the Closing shall not be contingent upon, nor extended or delayed by, such Exchange.

Z. **BUYER WAIVER OF CLAIMS:** Buyer waives any claims against Seller and, to the extent permitted by law, against any real estate licensee involved in the negotiation of the Contract, for any defects or other damage that may exist at Closing of the Contract and be subsequently discovered by the Buyer or anyone claiming by, through, under or against the Buyer.

