

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

CASE NO.: 07-43672 CA 09

STATE OF FLORIDA, OFFICE OF FINANCIAL  
REGULATION,

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, et al.,

Relief Defendants.

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**RECEIVER'S MOTION TO APPROVE THE SALE OF PROPERTY  
OWNED BY MAMC SOUTH CHASE, LLC**

Michael I. Goldberg, the receiver (the "Receiver") for Defendants Berman Mortgage Corporation ("BMC"), M.A.M.C. Incorporated ("MAMC"), and Relief Defendants DB Atlanta, LLC, *et al.*, hereby files this Motion to Approve the Sale of Property owned by MAMC South Chase, LLC. In support of this Motion, the Receiver states as follows:

1. On December 11, 2007, this Court entered a *Temporary Injunction and Agreed Order Appointing Receiver* ("Receivership Order") appointing Michael Goldberg as the receiver for BMC and MAMC (the "Defendants") and the Relief Defendants (collectively, the "Receivership Defendants") to prevent the waste and dissipation of the Receivership Defendants'

assets to the detriment of the investors (the "Lenders") who entrusted over \$192 million ("Lender Funds") to the Receivership Defendants.

2. The Lender Funds were secured by mortgages on approximately 40 different real estate projects and properties. As mortgagors defaulted on their loans, the Receiver obtained Orders of this Court adding the projects to the receivership as additional relief defendants.

3. One such project was the South Chase Commerce Center, LLC. MAMC filed a foreclosure suit against South Chase Commerce Center, LLC on behalf of the Lenders and acquired the property at the foreclosure sale under the name MAMC South Chase, LLC ("South Chase").

4. On January 5, 2010, this Court entered an Order expanding the receivership to include South Chase. The collateral consists of real property located at 13250 Blacombe Road, comprising approximately 14.45 acres in Orange County, Florida (the "Property").

5. Pursuant to the Exclusive Sales Listing Agreement ("Agreement") with Terranova Corporation (the "Broker"), which Agreement was previously approved by this Court, the Broker marketed the Property for sale.

6. The Receiver seeks the Court's approval of a Contract for Sale and Purchase of Real Estate ("Agreement") with Kissimmee Chevrolet, LLC ("Buyer") for the sale of the Property for the sum of \$2,100,000.00. A true and correct copy of the Agreement is attached hereto as **Exhibit 1**.

7. The Receiver's Broker and the buyer's broker, Results Real Estate Partners, LLC, shall be paid a commission of six percent (6%), which amount shall be divided evenly by the brokers.

8. The Receiver is authorized to enter into agreements and take such action as he deems advisable or proper for the marshaling, maintenance or preservation of the Receivership Assets. *See* Receivership Order at ¶ 17. The Receiver believes entering into the Agreement is in the best interest of the receivership and is the best opportunity for the Lenders to partially monetize their investment in South Chase.

9. The Receiver has consulted with the lender committee for South Chase,<sup>1</sup> who have advised the Receiver that they approve his entering into the Agreement.

10. A proposed Order is attached hereto as **Exhibit 2**. The terms of the Order have been approved by Buyer's counsel

**WHEREFORE**, Michael I. Goldberg, in his capacity as Receiver of Berman Mortgage, MAMC and related entities, respectfully request this Court to enter an Order approving the sale and to grant such further relief as is just and proper.

Respectfully submitted,  
**AKERMAN SENTERFITT**  
Las Olas Centre II, Suite 1600  
350 East Las Olas Boulevard  
Fort Lauderdale, FL 33301-2229  
Phone: (954) 463-2700/Fax: (954) 463-2224  
Email: [joan.levit@akerman.com](mailto:joan.levit@akerman.com)


By:   
Joan M. Levit, Esquire  
Florida Bar No. 987530

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<sup>1</sup> At the outset of the receivership, the Receiver set up committees comprised of lenders for each loan and one overall committee made up of at least one lender from each loan ("Executive Committee") to advise the Receiver.

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 19 day of December 2012, a true and correct copy of the forgoing was furnished to the parties on the attached Service List by U.S. mail, to the Lenders by e-mail and a copy of this motion will be posted on the receivership web-page.

By:   
Joan M. Levit

**SERVICE LIST**

Pury Santiago  
Assistant General Counsel  
STATE OF FLORIDA  
OFFICE OF FINANCIAL REGULATION  
401 N.W. 2<sup>nd</sup> Avenue, Suite N-708  
Miami, FL 33128

Alan M. Sandler, Esquire  
SANDLER & SANDLER  
117 Aragon Avenue  
Coral Gables, FL 33134

Charles W. Throckmorton, Esquire  
KOZYAK TROPIN THROCKMORTON, P.A.  
2525 Ponce de Leon Boulevard, 9<sup>th</sup> Floor  
Coral Gables, FL 33134

Dean C. Colson, Esquire  
COLSON HICKS EIDSON  
255 Aragon Avenue, Second Floor  
Coral Gables, FL 33134

Mark A. Basurto, Esquire and  
Charles Evans Glausier, Esquire  
BUSH ROSS, P.A.  
Post Office Box 3913  
Tampa, Florida 33601-3913

Maurice Baumgarten, Esquire  
ANANIA, BANDKLAYDER,  
Bank of America Tower — Suite 4300  
100 SE 2<sup>nd</sup> Street  
Miami, FL 33131

Deborah Poore Fitzgerald, Esquire  
WALTON LANTAFF, LLP  
Corporate Center, Suite 2000  
100 East Broward Boulevard  
Fort Lauderdale, FL 33301

James D. Gassenheimer, Esquire  
BERGER SINGERMAN  
1000 Wachovia Financial Center  
200 South Biscayne Boulevard  
Miami, Florida 33131

Christopher S. Linde, Esquire  
BURR FORMAN  
200 S. Orange Avenue, Suite 800  
Orlando, Florida 32801

Charles L. Neustein, Esquire  
CHARLES L. NEUSTEIN, P.A.  
777 Arthur Godfrey Road  
Second Floor  
Miami Beach, FL 33140

Don Rosenberg  
PECKAR & ABRAMSON  
ONE S.E. THIRD AVE., SUITE 3100  
Miami, FL 33131

Peter Valori, Esquire  
DAMIAN & VALORI, LLP  
1000 Brickell Avenue, Suite 1020  
Miami, FL 33131

# EXHIBIT 1

**CONTRACT FOR SALE AND PURCHASE OF REAL ESTATE**

THIS CONTRACT FOR SALE AND PURCHASE OF REAL ESTATE ("Contract"), is entered into as of this \_\_\_\_ day of December, 2012, by and between MAMC SOUTH CHASE LLC, a Florida limited liability company ("Seller"), and KISSIMMEE CHEVROLET, LLC, a Florida limited liability company ("Buyer").

**WITNESSETH:**

WHEREAS, Seller is the fee simple owner of that certain real property located at Orange Blossom Trail and the Central Florida Greenway (417) in Orange County, Florida consisting of approximately 14.45 acres (Orange County Parcel Identification Number: 27-24-29-0000-00-001), as more particularly described and generally depicted on Exhibit "A" attached hereto and incorporated herein (the "Property"); and

WHEREAS, Seller has agreed to sell and Buyer has agreed to buy the Property for the consideration and on the terms and conditions hereinafter set forth.

**AGREEMENT:**

NOW THEREFORE, in consideration of the premises and the mutual covenants and conditions herein contained, Seller hereby agrees to sell and Buyer hereby agrees to buy the Property in accordance with the following terms and conditions:

1. **Recitals.** The above recitals are true and correct and are incorporated herein by referenced.

2. **Purchase Price.** The purchase price for the Property shall be Two Million One Hundred Thousand and 00/100 Dollars (\$2,100,000.00) (the "Purchase Price") payable from Buyer to Seller as follows:

An earnest money deposit (the "Initial Deposit") of One Hundred Fifty Thousand and 00/100 Dollars (\$150,000.00) shall be delivered by Buyer to Shutts & Bowen LLP, whose address is 300 S. Orange Avenue -- Suite 1000, Orlando, Florida 32801 ("Escrow Agent") within two (2) days following the Effective Date (as defined below). Deposit becomes non-refundable after the 60 day Inspection Period. The Initial Deposit and any accrued interest (collectively hereinafter referred to as the "Deposit") shall be credited against the Purchase Price.

At closing, the remainder of the Purchase Price, subject to prorations and adjustments as further set forth herein, shall be payable by wire transfer to a financial institution designated by Seller.

3. **Survey.** Upon execution hereof Seller shall provide Buyer with the most current survey of the Property in Seller's possession, if any. Within forty-five (45) days following the Effective Date of this Contract, Buyer may, at its expense, obtain an updated current record survey of the Property prepared by a Florida land surveyor certified to Buyer, Buyer's lender, Buyer's attorney, Seller, Seller's attorney and to the Title Company (as hereinafter defined) showing the correct legal metes and bounds description, the proper dimensions and actual acreage of the Property; all improvements, any visible encroachments, easements or encumbrances affecting the Property and any other survey exceptions (the "Survey"). Upon receipt of the Survey, the legal description of the Property set forth in Exhibit "A" shall be deemed amended and such land as described on the Survey shall constitute the Property.

4. **Title Evidence.** Within fifteen (15) days following the Effective Date of this Contract, Buyer shall obtain, at Buyer's expense, an owner's title insurance commitment (ALTA Form B-1970) for the Property, together with true and complete copies of all instruments referred to in both Schedule A and Schedule B thereof (the "Commitment") from First American Title Insurance Company (the "Title Company"). At Closing, Buyer shall obtain at Buyer's expense, an updated Commitment showing good and marketable title to the Property, subject to the Permitted Exceptions (hereinafter defined), and after Closing, a satisfactory owner's title insurance policy as to the Property issued pursuant to the Commitment in the amount of the Purchase Price.

Within forty-five (45) days following the Effective Date of this Contract (the "Title Objection Period"), Buyer shall examine the Survey and the Commitment to determine the nature of any defects in title and/or state of facts disclosed by the Survey. If the title to all or part of the Property is subject to liens, encroachments, encumbrances, easements, conditions or restrictions not satisfactory to Buyer, Buyer shall give written notice to Seller prior to expiration of the Title Objection Period; provided, however, that Buyer shall not object to those items listed on Exhibit "B" attached hereto (the "Existing Exceptions"). Seller shall not have any obligation to cure title defects raised by Buyer. If Buyer notifies Seller of any title defects, then notwithstanding anything to the contrary in this Contract, Seller may, at its option, either attempt to cure such defects for a period not to exceed 60 days after receipt of such notification (and the closing date shall be extended accordingly), or Seller may notify Buyer that it does not desire to cure the defects. If Seller does not desire to cure the title defects, Buyer shall have the right to terminate the Contract within 5 business days of receiving such notice and the Deposit shall be refunded to Buyer and the parties shall be released from all liability hereunder. If Buyer fails to terminate the Contract within such 5 day period, then such title defects shall be waived by Buyer, the title shall be conveyed at



Closing subject to such defects and the parties shall proceed to Closing. In no event shall Seller be liable for the failure to cure title defects.

Any defect to which Buyer does not object to on or before the expiration of the Title Objection Period, together with any and all objections which Buyer elects to waive pursuant to the last sentence of this paragraph, and together with the Existing Exceptions, shall be deemed waived (the "Permitted Exceptions"). In the event Seller fails or refuses to remove any such defect as provided above on or before the expiration of the Inspection Period (hereinafter defined), Buyer shall have the option of (a) accepting the title as it then is, or (b) terminating this Contract on or before the expiration of the Inspection Period and receiving a refund of the Deposit, whereupon neither party shall have any further rights or obligations hereunder.

5. Inspection Period. Buyer shall have until the close of business thirty (30) days following the Effective Date of this Contract (the "Inspection Period") to determine whether the Property is suitable for Buyer's intended use as an automobile dealership and other uses related thereto (the "Intended Use"). Determination of the Property's suitability shall include, but not be limited to, Buyer's consideration of the following matters:

(a) Suitability of soils, access, visibility and other physical characteristics of the Property.

(b) Satisfactory results of environmental tests and site investigations regarding the Property.

(c) Availability of permits, licenses, variances and other governmental approvals, including land use and zoning approvals, necessary for Buyer's Intended Use of the Property.

Should Buyer determine in its sole discretion that the Property is not suitable for Buyer's intended use, Buyer shall have the option of terminating this Contract by giving written notice of termination to Seller and Escrow Agent prior to the expiration of the Inspection Period. Upon receipt of such notice of termination, Escrow Agent shall return the Initial Deposit to Buyer and the parties shall thereafter have no further obligations under this Contract.

To assist Buyer's due diligence, Seller shall within five (5) business days following the Effective Date deliver or cause to be delivered to Buyer, to the extent in Seller's possession, copies of the latest property tax bills and value renditions; utility service letters; copies of any environmental reports concerning the Property; civil engineering plans and specifications; permits, maps and approvals; boundary, topographic and/or tree surveys; "jurisdictional" wetland maps; subdivision reports; covenants, conditions and restrictions regarding the Property; development orders; copies of any soils and engineering reports on the Property; and copies of

any governmental zoning letters. Further, Seller shall at all times prior to Closing authorize and release all of Seller's consultants (including, without limitation, architects, engineers, etc.) with knowledge of the Property to discuss any matters related to the Property with Buyer.

6. **Buyer's Entry on Property.** For as long as this Contract is in effect and provided that the Property is not damaged and is left in a clean and safe condition, Seller hereby gives permission to Buyer and its agents, and consultants, with notice to Seller, to enter upon any portion of the Property to conduct, at the sole expense of Buyer, such tests as Buyer may choose to perform, including, but not limited to, engineering feasibility studies, surveys, core borings, soil tests and environmental assessments; provided, however, that prior to performing any Phase II Environmental Site Assessment Buyer shall obtain Seller's written approval, which may be withheld in Seller's sole discretion. In the event Buyer does not complete the purchase of the Property, Buyer shall deliver to Seller copies of all tests, studies or assessments obtained by Buyer without any warranty or representation from Buyer. Buyer shall assume all risks involved in the entry upon the Property for the performance of such activities and shall defend, indemnify and hold Seller harmless from and against any mechanic's liens against the Property or loss or expense incurred due to bodily injury or death to persons or damage to property or parties arising out of or in connection with the exercise of Buyer's rights hereunder. In the event Buyer does not complete the purchase of the Property, Buyer shall fill all wells, borings or other excavations made by Buyer and return the Property to Seller in substantially the same condition as existed prior to Buyer's entry on the Property.

7. **Cooperation on Governmental Approvals.** During the term of this Contract, Seller agrees to reasonably cooperate with Buyer in the application for and processing of all governmental approvals required by Buyer to develop the Property. Such approvals may include, but shall not be limited to, comprehensive policy plan amendments, rezoning, site plan approval, plat approval, building permits, variances, and similar land use and regulatory permits. If necessary, Seller agrees to execute such authorization forms or other applications for governmental permits as may be reasonably requested by Buyer. All expenses associated with governmental permits and reviews shall be the responsibility of Buyer and Buyer shall not incur any costs that would bind the Seller or, prior to Closing, the Property. Buyer shall keep Seller informed as to the status of all governmental approvals requested by Buyer and shall provide Seller with copies of all applications, permits and correspondence regarding such approvals.

8. **Seller's Representations.** Seller represents and warrants to Buyer that:

(a) Seller warrants to Buyer that Seller has no actual knowledge (without any due diligence) and Seller has not received any written notices that the Property is environmentally contaminated.

(b) Seller hereby represents to Buyer that subject to appropriate court approval (as set forth in paragraph 9(e) below), it has the full power and authority to make, deliver, enter into and perform pursuant to this Contract. Seller further warrants and represents that this Contract is valid, binding and enforceable against Seller in accordance with its terms.

The foregoing representations and warranties are true and correct as of the date hereof and shall be true and correct as of the date of Closing.

9. Closing, Possession and Closing Procedure.

(a) The consummation of the transaction contemplated hereby (the "Closing") shall take place on or before thirty (30) days following the expiration of the Inspection Period or, if such date falls on a Sunday or legal holiday, the next regular business day (the "Closing Date"). The Closing shall take place in escrow, with Closing documents sent to the law office of Shults & Bowen, LLP, whose address is 300 S. Orange Avenue - Suite 1000, Orlando, Florida 32801.

(b) Possession of the Property shall be delivered to the Buyer at Closing.

(c) At Closing, Seller shall deliver to Buyer the following documents:

(i) Special Warranty Deed conveying indefeasible and insurable title to the Fee Parcel subject only to Permitted Exceptions.

(ii) Copy of such documents and resolutions as may be acceptable to the Title Company to evidence the authority of the person signing the deed and other documents executed by Seller at closing to convey the Property to Buyer in accordance with this Contract.

(iii) Non-Foreign Affidavit.

(iv) Owner's Affidavit acceptable to the Title Company without exception for possible mechanic's liens or other claims against the Property and without an Indemnity from Seller.

(v) Closing Statement setting forth the allocation of closing costs, purchase proceeds, etc.

(vi) A "marked-up" copy of the Title Commitment for purposes of insuring the "gap period" between the last effective date of the Title Commitment and the recording of the Special Warranty Deed.

(vii) A valid quit-claim assignment of all of Seller's right, title and interest in and to any development rights, concurrency reservations, approvals, impact fee credits, licenses, permits, utilities, etc. benefiting the Property.

(viii) To the extent assignable by their terms, a valid quit-claim assignment of Seller's rights to any studies, designs, construction plans, surveys or related materials associated with the property.

(d) At Closing, Buyer shall deliver to Seller:

(I) the balance of the Purchase Price;

(II) the Closing Statement

(III) Assumption Agreement in connection with Proportionate Share Agreement (see paragraph 29 below); and

(IV) evidence of authority, copy of such documents and resolutions as may be acceptable to Title Company to evidence authority of the Buyer to consummate this transaction.

(e) Court Approval. This Contract and the Closing are subject to the approval by the Court ("Approval") in that certain action entitled STATE OF FLORIDA, OFFICE OF FINANCIAL REGULATION, CASE NO.: 07-43672 CA 09 as 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, et al., Relief Defendants (the "Court Order"). In the event the Approval is not received within ~~forty five (45)~~ **Sixty (60)** days after a request for the Approval is submitted to the Court by Seller (regardless of whether the Court Order has been issued at that time), then either Buyer or Seller shall have the right to cancel this Contract by the delivery of written notice thereof to the other, whereupon this Contract shall be deemed terminated and, notwithstanding any other provision in this Contract to the contrary, the Deposit shall be returned to Buyer and the parties shall be thereafter relieved of any and all further obligations each to the other hereunder, except as otherwise expressly provided herein. Seller shall not be liable or in default of this Contract if Seller requests the Court Order and this Contract or the sale is not approved by the Court. Seller shall submit this Contract for approval by the Court within fifteen (15) business days after the Effective Date. A draft of the proposed Court Order shall be forwarded to Buyer for review and comment by the Buyer's legal counsel and the title insurer prior to the Closing Date.

10. Closing Costs and Prorations. Closing costs and prorations of this transaction shall be paid as follows:

(a) Seller shall pay the cost of curing any title defects Seller is required to cure, the cost of documentary stamps on the deed and Seller's attorneys fees.

(b) Buyer shall pay the costs of recording the deed, recording fees and taxes associated with any financing for the Property, expenses associated with any due diligence and inspection studies relating to the Property, the cost of the Survey and Buyer's attorneys fees, and the cost of Owner's Title Insurance Commitment and Policy.

(c) Real estate taxes and assessments, both general and special, shall be prorated as of the date of the Closing Date based on the amount of taxes due for the year of the Closing. There shall be no re-proration of taxes after Closing. If the Property is assessed as part of a larger tract of land, taxes for the Property shall be calculated and prorated based upon the total tax bill for such larger tract multiplied by a fraction, the numerator of which shall be the acreage of the Property and the denominator of which shall be the total acreage of the larger tract.

11. Condition of Property. On the Closing Date, Buyer shall accept the Property in its as-is condition. If any portion of the Property or access thereto shall be taken by public authority, or if Seller receives notice of any such proposed condemnation or taking, or if the Property is otherwise damaged prior to the Closing Date, Seller shall promptly give written notice to Buyer of such occurrence and Buyer shall have the option of either terminating this Contract upon notice to Seller or consummating the sale of the Property in its then-current condition. If Buyer chooses to consummate the sale of the Property, Buyer shall pay the full Purchase Price and Seller will assign to Buyer all claims and rights of recovery as a result of such taking or damage to the Property.

12. Real Estate Commission. Each party represents to the other that no broker has been involved in this transaction, except Torranova Corporation ("Seller's Broker") and Results Real Estate, Inc. ("Buyer's Broker"). (Seller's Broker and Buyer's Broker are hereinafter referred to collectively as "Brokers".) At Closing, a commission shall be paid by Seller to the Brokers in an amount capped at 6% of the Purchase Price in the aggregate (the "Commission") upon the Closing and payment of the closing proceeds to Seller as full settlement of any and all obligations that Seller or Buyer may have to the Brokers. Upon request of Seller and payment of the Commission by Seller to Brokers, Brokers agree to execute a written release, acknowledging release of any and all brokerage and commission claims either has with respect to Seller, Buyer and the Property. Brokers have executed this Contract for the purposes of acknowledging the foregoing agreement. It is agreed that any party to this Contract who knowingly takes actions or knowingly makes commitments forming the basis of any additional claim for a brokerage commission, agrees to indemnify and hold harmless the other party hereto from and against any and all such claims or demands with respect to any

(and which amount shall be divided evenly by the Brokers)

brokerage fees or agent's commissions or other compensation asserted by any person, firm or corporation in connection with this Contract or the transaction contemplated hereby.

13. Notices. Any notices required or permitted under this Contract shall be in writing and shall be deemed delivered when mailed, postage prepaid, by registered or certified mail, return receipt requested, or when deposited with a nationally recognized overnight delivery service, e.g., FedEx, UPS, etc., or when sent by facsimile transmission addressed to the respective parties at the respective addresses set forth below:

To Buyer:	Kissimmee Chevrolet, LLC P.O. Box 700867 St. Cloud, Florida 34769 Attention: Alan C. Starling Phone: (407) 892-5144 E-Mail: acstarling@gmail.com
With copy to:	Shutts & Bowen LLP Attention: J. Gregory Humphries, Esq. 300 S. Orange Avenue -- Suite 1000 Orlando, Florida 32801 Phone: (407) 423-3200 E-Mail: jhumphries@shutts.com
To Seller	Michael Goldberg -- Receiver MAMC SOUTH CHASE LLC Akerman Senterfitt LLP 350 East Las Olas Boulevard, Suite 1600 Fort Lauderdale, FL 33301 Telephone: 954-468-2444 Fax: 954-463-2224 Email: michael.goldberg@akerman.com
With copy to:	Theresa M. McLaughlin Akerman Senterfitt LLP 350 East Las Olas Boulevard, Suite 1600 Fort Lauderdale, FL 33301 Telephone: 954-468-2441 Fax: 954-463-2224 Email: theresa.mclaughlin@akerman.com
To Escrow Agent:	Shutts & Bowen LLP Attention: Andrew S. Ellington, Esq. 300 S. Orange Avenue -- Suite 1000

Orlando, Florida 32801  
Phone: (407) 423-3200  
E-Mail: aeitingon@shutts.com

14. **Default and Remedies.** Time is of the essence for the purposes of this Contract. If any obligation of Buyer set forth herein is not performed by Buyer at or before Closing, then this Contract, at Seller's option, may be terminated and the Escrow Agent shall deliver the Deposit to Seller as Seller's sole remedy and both parties will thereafter be released from all obligations hereunder. The parties agree that the retention of the Deposit by Seller in the event of Buyer's default represents a bona fide provision for liquidated damages and not a penalty and such provision is incorporated herein for the benefit of both parties. The Seller expressly waives the right of specific performance against the Buyer.

In the event the Seller fails to perform any covenant, agreement or condition hereof, or if Seller's representations herein are untrue, then Buyer may, at Buyer's election, either terminate this Contract and receive from Seller (or the Escrow Agent, as the case may be) the return of the Deposit or, alternatively, Buyer may treat this Contract as continuing in full force and effect and pursue an action for specific performance against Seller.

15. **Conditions of Buyer's Obligation.** The obligations of the Buyer under this Contract are subject to the satisfaction at the time of Closing of each of the following conditions (any one of which may be waived in whole or in part by the Buyer at or prior to Closing):

(a) All of the representations of the Seller set forth in this Contract shall be true and correct at and as of the Closing Date in all respects.

(b) No representation of the Seller contained in this Contract shall contain any untrue statement or shall omit a material fact that causes the representation or warranty to be misleading.

(c) The Seller shall have performed all covenants, agreements and conditions required by this Contract to be performed by the Seller prior to or as of the Closing Date.

(d) Intentionally omitted.

(e) Intentionally omitted.

In the event any of the foregoing conditions are not satisfied as of the Closing Date, the Buyer shall have the right, in addition to all other rights and remedies available to the Buyer, to terminate this Contract, whereupon this Contract shall be and become null and void, the Deposit shall be returned to the

Buyer, and neither party shall have any further rights or obligations under this Contract.

16. **Escrow Agent.** Escrow Agent shall hold the Deposit in an interest bearing account with the interest accruing to the benefit of the party ultimately receiving the Deposit. In the event Escrow Agent is in doubt as to its duties under this Contract, Escrow Agent may interplead the Deposit into a court of competent jurisdiction in the county wherein the Property is situated and the cost of such action, including Escrow Agent's attorneys' fees, shall be borne by the non-prevailing party in such interpleader action. Escrow Agent shall have no duties or obligations under this Contract other than to hold and disburse the Deposit in accordance with the terms hereof. Buyer acknowledges that Escrow Agent is the attorney for Seller and agrees that in the event of a dispute between the parties regarding this Contract, Escrow Agent shall be entitled to represent Seller without claim of conflict of interest by Buyer due to the service by Seller's counsel as Escrow Agent hereunder.

17. **Successors in Interest.** All provisions of this Contract are binding upon and shall inure to the benefit of, and are enforceable by and against, the successors and assigns of each party hereto.

18. **Governing Law; Venue.** The terms and conditions of this Contract shall be construed and controlled in accordance with the laws of Florida; venue for any action arising hereunder shall be in Orange County.

19. **Entire Agreement.** This Contract contains the entire agreement between the parties with respect to the subject matter hereof and no statement or representation of any party, their agents or employees, shall form any part hereof or be binding upon the other party. This Contract shall not be changed or modified except by written instrument signed by the parties hereto.

20. **Captions; Gender.** Captions used in this Contract are for convenience of reference only and shall not affect the construction of any provision hereof. Whenever used, the singular shall include the plural, the plural shall include the singular and gender shall include all genders.

21. Intentionally omitted.

22. **Effective Date.** The term "effective date" or "date of this Contract" shall mean the date the last of either Seller or Buyer has executed this Contract.

23. **Radon Gas.** Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities may present health risks to persons who are exposed to it over time. Levels of radon that exceed federal and state guidelines have been found in buildings in Florida. Additional



Information regarding radon and radon testing may be obtained from your county health department.

24. **Counterparts and Facsimile Signatures.** The parties hereto acknowledge that this Contract may be executed in counterparts each being deemed to be originals, and facsimile/emailed signatures shall also be deemed as originals.

25. **Assignment.** Buyer may assign its rights under this Contract to any entity in which Alan Starling holds an ownership interest, provided that Buyer provides the name of such entity to Seller prior to the date that Seller files for the Court Order, and such new entity executes an assignment and assumption of this Contract. Otherwise, Buyer may not assign its rights under this Contract without the prior written consent of Seller, which consent shall not be unreasonably withheld or delayed.

26. Intentionally omitted.

27. Intentionally omitted.

28. **Tax-Deferred (or Like-Kind) Exchange.** Upon the request of either party (the "Requesting Party"), the other party agrees to reasonably cooperate and assist the Requesting Party any tax-deferred (or like-kind) exchange in accordance with Section 1031 of the Internal Revenue Code at no cost, expense or liability to the other party; and the other party further agrees to execute any and all documentation that may be reasonably necessary to effectuate such tax-deferred (or like-kind) exchange subject to the reasonable approval of the other party's counsel provided the other party does not incur any additional expenses.

29. **DRI Proportionate Share Obligation.** Buyer acknowledges that the Property is encumbered by the Southchase Transportation Proportionate Share Agreement recorded in O.R. Book 8712, Page 502 of the Public Records of Orange County, Florida, as amended (the "Proportionate Share Agreement"), ~~which Seller hereby represents is in full force and effect.~~ Buyer agrees to be responsible for payment of all fees and charges to which the Property is subject under the Proportionate Share Agreement ~~as specifically set forth on Exhibit "C".~~ Buyer will sign an assumption agreement in form reasonably acceptable to the parties memorializing same at Closing.

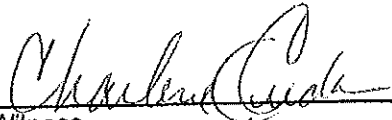



[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties hereto have executed this Contract in counterparts as of the day and year first set forth above.

**SELLER:**

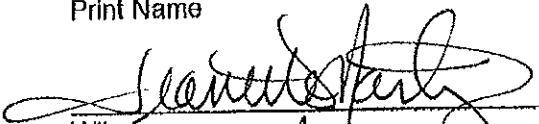
**MAMC SOUTH CHASE LLC**, a Florida limited liability company

  
Witness  
CHARLENE CERDA  
Print Name

By:   
Printed M. Charles Golding  
Title: Receiver

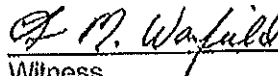
DATED: 12/7/12, 2012


**SUBJECT TO COURT APPROVAL**

  
Witness  
Jeanette Martinez  
Print Name

**BUYER:**

**KISSIMMEE CHEVROLET, LLC**, a Florida limited liability company

  
Witness  
Lean M. Wanfield  
Print Name

By:   
Printed Name: Adam Q. Starling  
Title: PRESIDENT

DATED: December 5, 2012

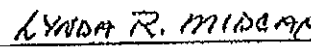
  
Witness  
Lynda R. Midcap  
Print Name

EXHIBIT "A"

LEGAL DESCRIPTION OF PROPERTY

A tract of land lying in Section 27, Township 24 South, Range 29 East, Orange County, Florida, being more particularly described as follows:

COMMENCE at the Southeast corner of Lot 1, HOME DEPOT – SOUTH ORLANDO, according to the Plat thereof, as recorded in Plat Book 43, Page 13, of the Public Records of Orange County, Florida (the "POINT OF BEGINNING"), said corner lying on the Westerly right-of-way line of Balcombe Road South, as depicted on the Plat of SOUTHCHASE PHASE 1A, PARCELS 14 AND 15, according to the Plat thereof, as recorded in Plat Book 40, Pages 132 through 138, inclusive, of the Public Records of Orange County, Florida, and also lying on a curve concave Northeasterly;

THENCE run Southeasterly along said Westerly right-of-way line and said curve, having a radius of 1035.00 feet, a central angle of  $06^{\circ} 31' 48''$ , an arc length of 117.96 feet, a chord length of 117.90 feet, and a chord bearing of South  $10^{\circ} 04' 12''$  East, to the point of tangency;

THENCE run South  $13^{\circ} 19' 35''$  East along said Westerly right-of-way line, a distance of 779.37 feet to a point lying on the Northerly limited access right-of-way line of State Road No. 417 (Eastern Beltway – Southern Connector), as per the Orlando – Orange County Expressway Authority Right-of-Way Map, Section 75301-6445-451;

THENCE run along said Northerly limited access right-of-way line, the following courses: North  $61^{\circ} 58' 16''$  West, a distance of 17.94 feet; North  $77^{\circ} 32' 13''$  West, a distance of 101.98 feet; North  $65^{\circ} 04' 53''$  West, a distance of 500.10 feet; North  $23^{\circ} 46' 23''$  East, a distance of 45.00 feet; North  $65^{\circ} 42' 22''$  West, a distance of 550.02 feet; North  $46^{\circ} 56' 13''$  West, a distance of 105.95 feet; North  $68^{\circ} 30' 36''$  West, a distance of 132.27 feet; North  $00^{\circ} 03' 59''$  West, a distance of 240.90 feet to the Southwest corner of the aforesaid Lot 1, HOME DEPOT – SOUTH ORLANDO;

THENCE departing said Northerly limited access right-of-way line, run North  $89^{\circ} 46' 28''$  East along the South line of said Lot 1, HOME DEPOT – SOUTH ORLANDO, a distance of 1052.64 feet to the POINT OF BEGINNING.

## EXHIBIT "B"

### EXISTING EXCEPTIONS

1. Taxes and assessments for the year 2013 and subsequent years, which are not yet due and payable.
2. Rights or claims of parties in possession not shown by the public records.
3. Order of Taking in favor of the City of Orlando, Petitioner, under Case No. 69-1887, for right of way for electrical transmission lines, recorded in O.R. Book 1838, Page 953; Final Judgment recorded in O.R. Book 2008, Page 343.
4. Development Order for Southchase Development of Regional Impact ("DRI"), recorded in O.R. Book 3908, Page 4380; as affected by Notice of Correction of Legal Description recorded in O.R. Book 4040, Page 4302; by First Amendment recorded in O.R. Book 4109, Page 3812; Amendment recorded in O.R. Book 4182, Page 4372; Second Amended Development Order recorded in O.R. Book 4214, Page 1338; Third Amended Development Order recorded in O.R. Book 4336, Page 3533; Fourth Amended Development Order recorded in O.R. Book 4426, Page 656; Fifth Amended Development Order recorded in O.R. Book 4498, Page 119; Sixth Amended Development Order recorded in O.R. Book 4872, Page 2023; Seventh Amended Development Order recorded in O.R. Book 5063, Page 4050; Eighth Amended Development Order recorded in O.R. Book 5194, Page 3757; Ninth Amended Development Order recorded in O.R. Book 6498, Page 992, as affected by Notice of Correction of Legal Description recorded in O.R. Book 6604, Page 96; Tenth Amended Development Order recorded in O.R. Book 8882, Page 1295; and Eleventh Amended Development Order recorded in O.R. Book 10053, Page 5402.
5. Southchase Transportation Impact Agreement by and between Orange County, Florida, and Southchase, Ltd., recorded in O.R. Book 4032, Page 1965.
6. Utility Easement in favor of Orange County recorded in O.R. Book 4848, Page 4549.
7. Balcombe Phase II Construction Agreement by and between Southchase, Ltd., and Centex Homes, recorded in O.R. Book 5471, Page 3412.
8. Master Declaration of Covenants, Conditions, Easements and Restrictions for Southchase Parcels 11, 11A and 13, Complying with the Requirements of the South Florida Water Management District, recorded in O.R. Book

5509, Page 4087.

9. Declaration of Reciprocal Easements, Rights and Construction and Maintenance Covenants for Stormwater Drainage and Retention for Southchase Parcels 11, 11A and 13, recorded in O.R. Book 5509, Page 4105, as modified by First Amendment recorded in O.R. Book 5718, Page 4197.
10. Drainage Easement recorded in O.R. Book 5710, Page 4341, and re-recorded in O.R. Book 5782, Page 2176.
11. Easement Agreement for Access, Utilities and Signage by and between Home Depot, USA, and Southchase, Ltd., recorded in O.R. Book 5718, Page 4240.
12. Sewer Easement Agreement by and between Deerfield/OBT Partners Joint Venture and Southchase, Ltd., recorded in O.R. Book 5718, Page 4257.
13. Development Agreement by and between Southchase, Ltd., and Southchase Commerce Center, LLC, recorded in O.R. Book 7822, Page 1873.

## **EXHIBIT 2**

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

**CASE NO.: 07-43672 CA 09**

STATE OF FLORIDA, OFFICE OF FINANCIAL  
REGULATION,

Plaintiff,

v.

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

Defendants,

and

DB ATLANTA, LLC, a Florida limited liability  
company, et al.,

Relief Defendants.

**ORDER GRANTING RECEIVER'S MOTION TO APPROVE THE  
SALE OF REAL PROPERTY OWNED BY MAMC SOUTH CHASE, LLC**

THIS MATTER came before the Court on \_\_\_\_\_, 2013 for consideration of the receiver, Michael I. Goldberg's (the "Receiver") Motion to Approve the Sale of Property owned by MAMC South Chase, LLC (the Motion"). The Court, having reviewed the Motion, being advised that notice was provided to all interested parties, each of whom have no opposition to the entry of this Order and being otherwise fully advised in the premises, makes the following findings:

1. All Defendants and other interested parties in this action have received notice of the Motion.

2. The sale set forth in the Contract for Sale and Purchase of Real Estate on behalf of MAMC South Chase, LLC for the sale of the real property located at 13250 Blacombe Road, comprising approximately 14.45 acres in Orange County, Florida to Kissimmee Chevrolet, LLC (and as more specifically set forth in the Agreement attached as Exhibit 1 to the Motion) is in the best interests of all parties hereto, including the Defendants and Relief Defendants.

3. The Property (as that term is defined in the Motion) was marketed by Receiver or those acting at his direction in a commercially reasonable manner.

4. The sale price reflected in the Agreement is more than what is likely to be realized at a public auction of the Property pursuant to Section 45.031, F.S..

5. That the Receiver is not connected with the proposed purchaser under the Agreement through any employment or ownership interest nor familial affiliation with any principal of the Plaintiff.

1. Based upon these findings, it is therefore **ORDERED AND ADJUDGED** that: The Receiver's Motion to Approve the Sale of Property Owned by MAMC South Chase, LLC is GRANTED.

2. The Receiver is authorized to execute the Contract for Sale and Purchase of Real Estate on behalf of MAMC South Chase, LLC, for the sale of the real property located at 13250 Blacombe Road, comprising of approximately 14.45 acres in Orange County, Florida to Kissimmee Chevrolet, LLC (the "Agreement"). The Receiver is further authorized to execute any documents and take any actions reasonably necessary to consummate the transactions contemplated therein.



3. Upon receipt of the consideration set forth in the Agreement, and delivery of the deed and other documents called for in the Agreement by the Receiver, the sale shall stand as confirmed, without further Order of the Court.

**DONE AND ORDERED** in Chambers in Miami-Dade County, Florida on this \_\_\_\_ day of \_\_\_\_\_, 2012.

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**THE HONORABLE JERALD BAGLEY**  
**CIRCUIT COURT JUDGE**

**Conformed copies to:**

All counsel of record

Posted to the Receiver's Web Site