

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

**COMPLEX BUSINESS LITIGATION  
DIVISION**

CASE NO: 2021-015089-CA-01  
SECTION: CA43  
JUDGE: MICHAEL HANZMAN

**In re:**

**Champlain Towers South Collapse Litigation**

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**RECEIVER’S EXPEDITED MOTION FOR ENTRY OF ORDER  
(A) APPROVING PURCHASE AND SALE AGREEMENT; (B) APPROVING  
COMPETITIVE BIDDING AND SALE PROCEDURES; (C) SCHEDULING DATES TO  
CONDUCT AUCTION AND HEARING TO CONSIDER FINAL APPROVAL OF SALE;  
AND (D) GRANTING RELATED RELIEF**

Michael I. Goldberg (the “**Receiver**”), pursuant to Rule 4 of the Complex Business Litigation Rules, files this *Expedited Motion for Entry of Order (A) Approving Purchase and Sale Agreement, (B) Approving Competitive Bidding and Sale Procedures; (C) Scheduling Dates to Conduct Auction and Hearing to Consider Final Approval of Sale; and (D) Granting Related Relief* (the “**Motion**”). In support of the Motion, the Receiver states:

1. At a hearing conducted on July 2, 2021 (the “**Commencement Date**”), in the captioned cases, the Court ordered the appointment of Michael I. Goldberg as Receiver for the Champlain Towers South Condominium Association (the “**Association**”).

2. On the same day, the Court issued its *Agreed Order Appointing Receiver* (the “**Receivership Order**”). The Receivership Order vests in the Receiver, among other rights, the

sole authority to exercise the rights and powers vested in the Association pursuant to Florida Statutes Chapter 718.

3. This receivership is the result of multiple lawsuits that were filed after the tragic collapse of a portion of the real property with a physical address of 8777 Collins Avenue, Surfside, Florida 33154 (the “**Property**”).

4. The Property consists of approximately 1.88 acres of oceanfront land.

5. Consistent with the directives of this Court, the Receiver with assistance of his real estate advisors, Avison Young, and other professionals, has been marketing the availability of the Property for sale. The Receiver’s efforts in this regard include the following:

- Preparation and distribution of an Offering Memorandum regarding the proposed sale;
- Establishing an on-line site advertising the sale that includes information on the Property. As of the date hereof, the site has been visited 4,800 times;
- Promulgating weekly “eblasts” both domestically and internationally to over 5,500 recipients; and
- Providing information directly to over 160 prospective purchasers.

6. The Receiver's marketing efforts are ongoing.

7. The Receiver has received an offer from East Oceanside Development, LLC (“**Purchaser**”) to purchase the Property for \$120,000,000 in cash, upon the terms set forth in the *Purchase and Sale Agreement* attached hereto as Exhibit A (the “**Agreement**”).

8. The material terms<sup>1</sup> of the Agreement are:

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<sup>1</sup> This information contained in this Motion is only a summary of some of the terms of the Agreement. Parties are encouraged to read the Agreement in its entirety. In the event of any conflict between the provisions of this Motion and the provisions of the Agreement, the Agreement shall control.

- a. Purchase Price: \$120,000,000 in cash;
- b. Good Faith Deposit: An initial deposit of \$16,000,000, of which \$150,000 is non-refundable to Purchaser except as otherwise set forth in the Agreement. Upon satisfactory completion of due diligence, the entire deposit amount shall be non-refundable to Purchaser except as otherwise set forth in the Agreement;
- c. Due Diligence: Purchaser shall have 60 days from the date on which the Receiver grants it access to the Property in order to perform its due diligence and other investigations regarding the Property (the "**Inspection Period**"). Purchaser may terminate the Agreement for any reason, or no reason, during the Inspection Period. Purchaser shall provide to Seller copies of all due diligence reports and other materials obtained by or provided to Purchaser, and Seller may share all such due diligence reports and materials with other prospective purchasers;
- d. Closing: Purchaser's obligation to close is conditioned upon the performance or waiver of the Conditions Precedent (as defined in the Agreement), including, but not limited to, the following: (i) entry of a final, non-appealable order or judgment terminating the Champlain Towers South Condominium (the "**Condominium**"); (ii) entry of a final non-appealable order authorizing the sale of the Property to Purchaser; and (iii) the Title Company (as defined in the Agreement) being committed to issue an owner's title insurance policy in favor of Purchaser subject only to the Permitted Exceptions (as defined in the Agreement). The Closing shall occur five (5) business days following the final approval order authorizing the Sale (defined below) or the date the Court specifies in such approval order, subject to the satisfaction of the Conditions Precedent.

9. The Agreement authorizes the Receiver to continue to market the Property and to solicit higher and better offers for the Property pursuant to the Bidding Procedures (as defined

below). If the Court approves the sale of the Property to another bidder pursuant to the terms of a Competing Agreement (as defined below), then the Purchaser shall receive reimbursement of its actual, verifiable, reasonable costs and expenses incurred by Purchaser in performing its inspections and investigations of the Property and in anticipation of consummating the transaction contemplated by the Agreement in an amount up to but not exceeding \$200,000.00 (the "**Expense Reimbursement**") payable from the proceeds of the sale.

#### **Relief Requested**

10. By this Motion, the Receiver seeks the entry of an Order: (i) approving the Receiver's entry into the Agreement; (ii) approving the Sale of the Property to Purchaser pursuant to the Agreement, should the Receiver not receive a Competing Agreement (as defined below) by the Bid Deadline, as hereinafter defined, or (iii) in the event that the Receiver receives a Competing Agreement on or before the Bid Deadline, authorizing the Receiver to conduct an auction in accordance with the competitive bidding and sale procedures proposed herein (the "**Bidding Procedures**"); (iv) scheduling a hearing (the "**Sale Hearing**") to approve the sale to Purchaser pursuant to the Agreement if no Competing Agreement is timely received, or to conduct an auction sale (the "**Auction**") and consider final approval of the sale of the Purchaser (the "**Sale**"); and (v) granting related relief.

11. The Receiver has determined that in order to maximize the value of the Property, it is in the best interests of the receivership estate and its creditors to complete a sale of the Property through an orderly auction process (the "**Auction**"). The Receiver submits that the Auction would be conducted before the Court and requests that the Court conduct a hearing to approve the Sale to the Successful Bidder (as defined below) immediately following the completion of the Auction.

12. The Receiver has determined that the sale of the Property to the Purchaser under the Agreement as a "stalking horse" and an Auction governed by the procedures proposed herein will enable the Receiver to obtain the highest and best offer for the Property.

**A. Proposed Bidding Procedures**

13. To participate in the Auction, the Receiver proposes that all interested persons comply with the Bidding Procedures set forth below, including the requirement that all bids be submitted in writing so as to be received by no later than 5:00 p.m., prevailing Eastern Time, on the date which is forty-five (45) days following expiration of the Inspection Period (the "**Bid Deadline**"). If the Receiver does not receive a Competing Agreement that constitutes a Qualified Bid, then at the Sale Hearing the Receiver will request approval of the sale to the Purchaser pursuant to the Agreement. If the Receiver receives one or more Qualified Bids on or before the Bid Deadline, then at the Sale Hearing the Receiver will conduct the Auction and immediately thereafter seek approval of the highest bid as the winning bid and the next highest bid as the back-up bid.

**B. Qualified Bids and Bidders**

14. Pursuant to the Bidding Procedures, only qualified bidders (the "**Qualified Bidders**") may participate in the Auction. Qualified Bidders are the Purchaser and those entities which (a) deliver an executed purchase agreement which shall be for the purchase of all of the Property (the "**Competing Agreement**"), containing an unqualified, non-contingent cash purchase price of at least \$ 120,300,000; and (b) a cash deposit in the amount of \$16,000,000 to the trust account of the Escrow Agent (as defined in the Agreement). The Competing Agreement must (a) provide for cash payment to the estate of the amount of the bid; (b) include a purchase price of not less than \$120,300,000; (c) not be conditioned on the ability of the bidder to obtain financing or

the outcome of unperformed due diligence by the bidder; (d) provide for the closing of the Sale on a date no later than the date set forth in the Agreement; and (f) be accompanied by a "red-line" of the Competing Agreement showing changes in it from the Agreement. Additionally, a Qualified Bid must include a letter stating the identity of the bidder and the contact information for such bidder, with full disclosure of all parties participating with such bidder. The foregoing materials must be delivered to the Receiver on or before the Bid Deadline.

15. If the Receiver receives one or Qualified Bids by the Bid Deadline, the Receiver will conduct the Auction at the Sale Hearing. Bidding at the Auction will commence with the highest and best Qualified Bid, determined by the Receiver, in his discretion, and continue in increments of not less than \$100,000 until all Qualified Bidders have made their final offers. At the conclusion of the Auction, the Receiver shall determine, in his discretion, which of the Qualified Bid(s) or increased Qualified Bid(s) constitutes the highest and best offer for the Property and which of the Qualified Bids or increased Qualified Bids constitutes the second highest and best bid for the Property. The bidder making the bid that is selected as the highest and best bid by the Receiver shall be considered the "Successful Bidder," and the bidder that is selected as the second highest and best bid by the Receiver shall be considered the "Second Highest Bidder." The Receiver shall then immediately move for approval of the Sale to the Successful Bidder at the second stage of the Sale Hearing to be conducted on the same day as the Auction.

16. Following the Closing (as defined in the Agreement), the Receiver shall retain the net proceeds of the Sale pending further order of the Court.

17. The Receiver shall provide notice of the proposed Sale to all parties who hold liens on or security interests in any portion of the Property.

**C. Condominium Termination.**

18. On September 23, 2021, certain of the unit owners commenced an action in this Court seeking a judicial termination of the Condominium, *Diane Cole, Raysa M. Rodriguez, Steven Rosenthal and ZYR, LLC v. Michael I. Goldberg, as Receiver for Champlain Towers South Condominium Association, Inc., et al.*, Case No. 2021-021726-CA-01 (the “**Termination Proceeding**”). For convenience in drafting, this Motion references the Receiver being authorized to sell the Property; however, as provided in the Agreement, it is anticipated that the Receiver will be appointed as Termination Trustee following adjudication of the Termination Proceeding, and that the Termination Trustee will be vested with title to the Property and will be authorized by the Court to sell the Property, pursuant to the terms of the Agreement.

**WHEREFORE**, the Receiver respectfully requests the Court to enter an order granting this Motion, approving the Agreement, authorizing the sale of the Property to the Purchaser or, in the event that the Receiver conducts an Auction, to the Successful Bidder; together with all such other and further relief as the Court deems just and proper.

Dated: September 24, 2021

Respectfully submitted.

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**CERTIFICATE OF SERVICE**

I **HEREBY CERTIFY** that on September 24, 2021, the foregoing was electronically filed with the Clerk of Court by using the Florida Courts E-Filing Portal, which furnished a copy of same to all counsel of record through the Florida Court's E-Filing Portal. I further certify that a true and correct copy of the foregoing was served by electronic transmission upon all parties on the attached E-Mail Service List.

By: *s/ Paul Steven Singerman*  
Paul Steven Singerman

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# Exhibit A

## PURCHASE AND SALE AGREEMENT

THIS PURCHASE AND SALE AGREEMENT (the "Agreement") is entered into as of the \_\_\_\_ day of \_\_\_\_\_, 2021 (the "Effective Date"), between MICHAEL I. GOLDBERG, SOLELY IN HIS CURRENT CAPACITY AS COURT APPOINTED RECEIVER OF CHAMPLAIN TOWERS SOUTH CONDOMINIUM ASSOCIATION, INC., AND THEREAFTER UPON FURTHER COURT APPROVAL, AS TERMINATION TRUSTEE, AND NOT INDIVIDUALLY (the "Seller"), and EAST OCEANSIDE DEVELOPMENT, LLC, a Delaware limited liability company (the "Purchaser").

1. Purchase and Sale. In consideration of their mutual covenants set forth in this Agreement, Seller agrees to sell to Purchaser, and Purchaser agrees to purchase from Seller, for the Purchase Price (as hereinafter defined) and on the terms and conditions set forth herein, that certain real property more particularly described on Exhibit A, attached hereto and made a part hereof, and generally described as approximately 1.88 acres of land located at 8777 Collins Avenue, Surfside, Miami-Dade County, Florida, together with all access rights, privileges, easements and appurtenances pertaining thereto and any improvements located thereon in as-is condition (the "Property").

2. Purchase Price; Earnest Money. Subject to the terms of this Agreement and the sale of the Property pursuant to the Bid Procedures (defined below) attached hereto as Exhibit C, as may be modified in the manner required by the Court in the Cases (as such terms are defined in Section 27 below), the purchase price for the Property shall be ONE HUNDRED TWENTY MILLION AND NO/100 DOLLARS (\$120,000,000.00) (the "Purchase Price"). The Purchase Price shall be payable as follows:

(a) SIXTEEN MILLION AND NO/100 DOLLARS (\$16,000,000.00) (the "Earnest Money") shall be paid by Purchaser to First American Title Insurance Company, as escrow agent (the "Escrow Agent"), located at First American Title Insurance Company 13450 West Sunrise Boulevard, Suite 300, Sunrise, Florida 33323, Attention: Nancy Cotto ([ncotto@firstam.com](mailto:ncotto@firstam.com)), Len Prescott ([lprescott@firstam.com](mailto:lprescott@firstam.com)), and Jennifer Bloodworth ([jbloodworth@firstam.com](mailto:jbloodworth@firstam.com)), within five (5) business days after the Effective Date. A portion of the Earnest Money in the amount of ONE HUNDRED FIFTY THOUSAND AND NO/100 DOLLARS (\$150,000.00) (the "Non-Refundable Deposit") shall immediately be non-refundable to Purchaser, except as otherwise expressly set forth in this Agreement which, for convenience, is summarized in Section 28. The Non-Refundable Deposit shall be deemed to be and treated as, inter alia, independent consideration to induce Seller to grant to Purchaser the right to conduct its investigation of the Property as provided herein and to grant to Purchaser the right to terminate this Agreement on or before the expiration of the Inspection Period. The Non-Refundable Deposit is applicable to, and will be credited against, the Purchase Price.

(b) The Earnest Money shall be held in escrow and applied against the Purchase Price of the Property as provided for in this Agreement. The Earnest Money shall be maintained by Escrow Agent in an interest-bearing account (if elected by Purchaser and otherwise in a non-interest-bearing account), and all interest earned on said account, if any, shall be deemed to be a part of and included in the Earnest Money and shall be disbursed in the same manner as the Earnest Money, in accordance with the terms hereof. Escrow Agent shall hold, invest, and disburse the Earnest Money as provided in this Agreement. Upon receipt of any written certification from Seller or Purchaser claiming the Earnest Money pursuant to the provisions of this Agreement (other than receipt of Purchaser's Termination Notice prior to the end of the final day of the Inspection Period in which case there shall be no opportunity for Seller to object), Escrow Agent shall promptly forward a copy thereof to the other party hereto and, unless such party within seven (7) days after delivery thereof objects, by written notice to Escrow Agent, to such disbursement, Escrow Agent shall disburse the Earnest Money to the party demanding the same and shall thereupon be released and discharged from any duty or obligation hereunder. Escrow Agent is acting as a stakeholder only with

respect to the Earnest Money and if there is any dispute as to whether Escrow Agent is obligated to deliver the Earnest Money or as to whom the Earnest Money is to be delivered, Escrow Agent may refuse to make delivery and may continue to hold the Earnest Money until receipt by Escrow Agent of an authorization in writing, signed by the Seller and Purchaser, directing the disposition of the Earnest Money; in the absence of any such written authorization, Escrow Agent may hold the Earnest Money until a final determination of the rights of the parties in an appropriate proceeding or may bring an appropriate action or proceeding for leave to deposit the Earnest Money in a court of competent jurisdiction pending such determination. Seller and Purchaser recognize that Escrow Agent's duties hereunder are only as specifically provided herein and are purely ministerial in nature; and Seller and Purchaser therefore agree that Escrow Agent shall, so long as it acts in good faith, have no liability to either party except for its willful misconduct or gross negligence. Seller and Purchaser do hereby indemnify Escrow Agent against, and agree to hold, save, and defend Escrow Agent harmless from, any costs, liabilities, and expenses incurred by Escrow Agent in discharging its duties hereunder.

(c) Purchaser shall pay the balance of the Purchase Price, subject to a credit for the Earnest Money and subject to the prorations and credits described below, in cash by wire transfer of immediately available federal funds to Escrow Agent in accordance with the terms and conditions of this Agreement no later than 12:00 P.M. (Eastern Time) on the Closing Date (as hereinafter defined).

(d) In all events, \$100.00 of the Earnest Money (the "Independent Consideration") shall be deemed to be and treated as, inter alia, independent consideration to induce Seller to grant to Purchaser the right to conduct its investigation of the Property as provided herein and to grant to Purchaser the right to terminate this Agreement on or before the expiration of the Inspection Period. The Independent Consideration is applicable to, and will be credited against, the Purchase Price. The Independent Consideration shall be retained by Seller in all events whether or not there is any Closing or any termination of this Agreement.

### 3. Closing.

(a) The consummation of the purchase and sale of the Property (the "Closing") shall occur by overnight courier service or "mail away" structure pursuant to a mutually agreeable escrow arrangement, on the later of (i) the date that is five (5) business days following the final non-appealable Approval Order (as defined in Section 27(a) below) authorizing the sale, and (ii) the date for Closing that the Court specifies in the Approval Order, and subject to the satisfaction of the Conditions Precedent (the "Closing Date"), unless such date is extended according to the express provisions of this Agreement or by written agreement signed by the parties. Additionally, the Closing Date shall be automatically extended if the Conditions Precedent have not yet been satisfied; provided, however, that if the Conditions Precedent have not yet been satisfied by the termination option dates set forth below (the "Termination Option Dates"), then the parties shall each have the right to terminate this Agreement by written notice to the other party, and if this Agreement is so terminated, the Earnest Money (including the Non-Refundable Deposit but minus the Independent Consideration) shall be returned to Purchaser, this Agreement shall terminate and neither party shall have any further obligations pursuant to this Agreement, except as to items that expressly survive the termination hereof. The Termination Option Dates shall be as follows: (x) ten (10) months after the Effective Date for Purchaser; and (y) eighteen (18) months after the Effective Date for Seller.

(b) If Seller has obtained the Approval Orders, but nonetheless the Condition Precedent set forth in Section 5(c)(ii) has not been satisfied by the Termination Option Date applicable to Seller, and if Seller thereafter exercises its right to terminate, Purchaser can void such termination by delivering written notice to Seller within five (5) business days after receipt of Seller's termination notice, provided Purchaser's notice expressly states that (i) Purchaser has agreed to accept title as it then is without any reduction in the

Purchase Price, and (ii) the applicable title defects will be deemed to be Permitted Exceptions, in which case this Agreement shall remain in full force and effect and the parties will proceed to Closing.

(c) The Purchase Price shall be paid and all documents necessary for the consummation of this transaction shall be executed and delivered on or prior to the Closing Date, and Seller shall deliver possession of the Property to Purchaser on the Closing Date.

(d) At Closing, Seller shall deliver the following documents:

(i) A Trustee's Deed in recordable form properly executed on behalf of Seller in the form attached hereto and made a part hereof as Exhibit B, conveying to Purchaser the Property described on Exhibit A in fee simple, free and clear of liens and encumbrances except the Permitted Exceptions, as hereinafter defined.

(ii) Evidence of Seller's authority to sell and convey the Property as evidenced by the Approval Orders (and Purchaser shall deliver at Closing evidence of Purchaser's formation, existence, and authority to purchase the Property).

(iii) A Closing Statement executed by Seller (and Purchaser shall likewise deliver at Closing the Closing Statement executed by Purchaser).

(iv) Such other reasonable and customary documents and instruments required by the Title Company to consummate the transactions contemplated by this Agreement (and Purchaser shall likewise deliver such other reasonable and customary documents and instruments requested by the Title Company to consummate the transactions contemplated by this Agreement and insure Purchaser's fee simple title to the Property subject only to the Permitted Exceptions).

(v) A certified copy of the Approval Orders.

#### 4. Inspection Period.

(a) In addition to all other conditions to the completion of the transaction described in this Agreement, Seller and Purchaser agree that Purchaser's obligation to purchase the Property hereunder is expressly made subject to the satisfaction or waiver by Purchaser, in Purchaser's sole and absolute discretion, within the time period set forth below, of the following condition precedent:

Purchaser shall have inspected the Property and shall have verified and ascertained, on or before sixty (60) days after the later of (a) Effective Date or (b) the date that Seller provides notice to Purchaser that Purchaser may access the Property for the purposes of conducting physical inspections and provides Purchaser with the Site Access and Destructive Testing Protocols, as hereafter defined, that the Property is satisfactory to Purchaser in Purchaser's sole and absolute discretion (the "Inspection Period").

(b) For the purpose of conducting physical inspections, Seller agrees to provide Purchaser and its authorized agents, accompanied by a representative of Seller, reasonable access to the Property at all reasonable times on business days during the Inspection Period upon at least one (1) business days' prior written notice to Seller and, if Purchaser is the prevailing bidder at the Auction, thereafter until the Closing Date should Purchaser not terminate this Agreement during the Inspection Period. After each such entry, Purchaser shall promptly repair any damage caused by Purchaser or its agents and shall restore the Property to its condition immediately prior to such entry, provided, however, Purchaser shall not be obligated to remedy any pre-existing conditions at the Property (except to the extent Purchaser exacerbates any such pre-existing conditions at the Property), and Purchaser's agreement to repair and restore shall survive any

termination of this Agreement. Purchaser hereby agrees to indemnify Seller and to hold Seller, Seller's agents and employees, and the Property harmless from and against any and all losses, costs, damages, claims, or liabilities including, but not limited to, construction liens and attorneys' fees, arising out of or in connection with Purchaser's access to or entry upon the Property under this Section 4. Purchaser's indemnity and hold harmless pursuant to this Section 4 shall survive the termination or expiration of this Agreement by Closing or otherwise. Any information supplied to or made available to Purchaser by Seller shall not be released or disclosed to any other parties without the prior written consent of Seller unless and until this transaction has closed. However, as may be necessary to consummate this transaction, Purchaser may disclose such information to Purchaser's attorneys, accountants, and other professionals retained by Purchaser, and to Purchaser's potential lender, provided that Purchaser notifies its attorneys, accountants, other professionals, and lender that any and all such information is the confidential property of Seller and shall remain as such. If this transaction is not closed for any reason, then Purchaser shall refrain, and shall cause the persons to whom such information was so disclosed to refrain, from disclosing all such information to any other party. Purchaser shall defend, indemnify, and hold harmless Seller (which indemnification shall survive the closing of this transaction or the termination or expiration of this Agreement, whichever shall occur) from and against all actual loss, damage, or expense sustained or incurred by Seller by reason of any unauthorized disclosure of such information.

(c) Before entering the Property, Purchaser shall obtain and maintain in effect until Closing a commercial general liability insurance policy, issued by an insurer with a Best's "A-" rating, which provides coverage of not less than \$2,000,000.00 per occurrence, combined single-limit bodily injury and property damage. Such insurance policy shall insure Purchaser against any and all demands, claims, suits, causes of action, whether at law or in equity, and/or liability to anyone for any injuries to their person and/or property arising out of, resulting from, or incident to the negligent acts or omissions of Purchaser. The insurance policy shall provide coverage for, without limitation, personal injury, contractual liability, products and completed operations liability, property damage, and automobile liability. Seller and Seller's employees, agents, representatives, heirs, successors and assigns shall be named as additional insured parties under Purchaser's insurance policy. The insurance policy shall provide for advance written notice in accordance with the policy terms to Seller of a cancellation or termination of the policy, of a reduction of policy limits, or of any other material change in the policy (and in any case Purchaser shall notify Seller immediately upon any cancellation or termination of the policy, reduction of policy limits, or any other material change). Before entering the Property, Purchaser shall deliver to Seller a certificate of insurance confirming the existence or issuance of Purchaser's insurance policy.

(d) If the condition set forth in this Section 4 is not satisfied or waived by Purchaser, in Purchaser's sole and absolute discretion, within the Inspection Period, Purchaser shall notify Seller and Escrow Agent in writing of the termination of this Agreement ("Purchaser's Termination Notice") prior to the end of the final day of the Inspection Period. Upon receipt of Purchaser's Termination Notice, the Earnest Money (minus the Non-Refundable Deposit, which shall be paid to Seller by Escrow Agent) shall be refunded to Purchaser by Escrow Agent, both Seller and Purchaser shall be released and discharged from all further obligations under this Agreement, and neither Seller nor Purchaser shall be subject to any claim by the other for damages of any kind except for the indemnity and hold harmless agreements as provided in this Section 4 and in other indemnity provisions of this Agreement, if any. If Purchaser so terminates this Agreement, then, within five (5) business days after the date of Purchaser's Termination Notice, Purchaser shall deliver to Seller copies of any due diligence materials provided to Purchaser by Seller in connection with this transaction. If no Purchaser's Termination Notice has been served upon Seller and Escrow Agent within the time provided in this Section 4, then the right of termination pursuant to this Section 4 shall be deemed to have been satisfied or waived and Purchaser's obligations to close shall be firm, subject to the other provisions of this Agreement.



(e) During the Inspection Period, Purchaser may, at its expense as part of its inspections, cause to be performed a Phase I environmental assessment of the Property. Any invasive testing shall not be performed without Seller's prior written consent; provided, however, Purchaser shall be permitted to conduct Phase II testing and geotechnical investigation in accordance with a reasonably detailed written plan approved by (i) Seller, such approval not to be unreasonably withheld, and (ii) if applicable, the Court.

(f) Purchaser shall provide to Seller, at Purchaser's sole cost and expense, copies of all inspection reports and other items of due diligence including, without limitation, soil tests, environmental audits, surveys and engineering and traffic studies obtained by Purchaser in connection with its investigation of the Property within five (5) business days after Purchaser's receipt of same ("Inspection Reports"). Seller shall be permitted to share all Inspection Reports with other third parties interested in bidding on the Property at the Auction, including by posting all Inspection Reports on a due diligence drop box, website or shared by other electronic means. The provisions of this Section 4(f) shall survive the Closing and any termination of this Agreement.

(g) As of the Effective Date, the Property is under the control of governmental authorities, including law enforcement, and is being investigated as a crime scene. In order for Purchaser to conduct inspections, Purchaser will be required to strictly comply with "Site Access and Destructive Testing Protocols" that are being prepared in conjunction with law enforcement and will be subject to Court approval, and which will be provided to Purchaser promptly upon Court approval. Subject to the Site Access and Destructive Testing Protocols, at Purchaser's request, Seller, at no cost or liability to Seller, shall reasonably cooperate with Purchaser regarding the inspections. In addition, Seller agrees to join in any reasonable request for information regarding zoning and inspections when and only to the extent that such joinder is legally required to obtain such information, so long as Seller shall not incur any costs or liability whatsoever as a result of such joinder and provided that Seller is approved to do so by the Court.

#### 5. Evidence of Title and Survey; Conditions Precedent.

(a) Title Commitment. Within ten (10) days after the Effective Date, Seller, at its expense, shall obtain and deliver to Purchaser a title insurance commitment (the "Commitment") for the issuance of an ALTA owner's policy of title insurance in the amount of the Purchase Price issued by Escrow Agent (the "Title Company"). Purchaser, within ten (10) days after Purchaser receives the Commitment (the "Title Review Period"), shall deliver to Seller written notice of Purchaser's bona fide objections, if any, to the Commitment (the "Title Objections"). If Purchaser fails to deliver such written notice or objection to Seller within the Title Review Period, Purchaser shall be deemed to have waived its right to object to the Commitment, and all exceptions therein shall thereafter be deemed "Permitted Exceptions." If Purchaser shall deliver such Title Objections, Seller shall notify Purchaser within five (5) business days following the date of Purchaser's notice of such Title Objections that either (i) the Title Objections have been, or will be at or prior to Closing, cured and removed from the Commitment, and in such event, if reasonably required to allow the parties to prepare for Closing, the Closing Date shall be deferred to a date mutually agreed upon by the parties or (ii) Seller has failed to arrange to have the Title Objections cured and removed. If Seller does not notify Purchaser that it has arranged to have the Title Objections cured and removed within said five (5) business day period, Purchaser may elect either (A) to terminate this Agreement by written notice to Seller no later than the expiration of the Inspection Period, in which event the Earnest Money (minus the Non-Refundable Deposit) shall be returned to Purchaser as Purchaser's sole remedy hereunder; or (B) to take title as it then is, which election must be made by the earlier of (x) five (5) business days following expiration of said five (5) business day period, or (y) the expiration of the Inspection Period.

If Purchaser does not elect to so terminate this Agreement, then: (1) Purchaser shall be deemed to have agreed to accept title as it then is without any reduction in the Purchase Price; (2) all Title Objections

not removed from the Commitment will thenceforth be deemed Permitted Exceptions; and (3) this Agreement shall remain in full force and effect.

Anything to the contrary in this Agreement notwithstanding, Seller shall have no affirmative obligation hereunder to expend any funds or incur any liabilities in order to cause any title exceptions to be removed from the Commitment or insured over other than (i) the Declaration of Condominium for Champlain Towers South Condominium recorded on August 19, 1981 in Official Records Book 11191, at Page 35, of the Public Records of Miami-Dade County, Florida and all amendments thereto (collectively, the "Condominium Declaration"), which Condominium Declaration created upon the Property a condominium known as Champlain Towers South Condominium (the "Condominium"), and (ii) that Seller shall pay or discharge any (x) mortgage of the Property created by Seller and (y) lien or encumbrance arising after the date hereof and voluntarily created or assumed by Seller and not created by or resulting from the acts of Purchaser or third parties unrelated to Seller.

At least five (5) business days prior to the Closing Date, Seller's counsel shall cause the Title Company to deliver to Purchaser a pro-forma title policy or a marked-up Commitment in the form to be issued by the Title Company at Closing insuring Purchaser's fee simple interest in and to the Property subject only to the Permitted Exceptions. Purchaser, at its expense, shall pay for any endorsements to the owner's policy and any loan title policies and endorsements.

(b) Survey. Prior to the execution of this Agreement, Seller has provided Purchaser with a copy of Seller's existing boundary survey of the Property ("Seller's Existing Survey"). Purchaser, at its expense prior to the expiration of the Title Review Period, may obtain an update to Seller's Existing Survey or obtain a new survey (the "Survey"), and deliver to Seller written notice of those survey defects to which it objects, or Purchaser will be deemed to have waived any right to such objection. Survey defects shall be treated in the same manner as Title Objections as described above. Purchaser reserves the right to object to any new material title or survey matter that first arises after Purchaser's initial review or objection of the title and survey matters and which were not shown in the Commitment or Purchaser's Survey, and any such objections shall be treated in the same manner as Title Objections as described above.

(c) Condominium Termination; Sale Approval; Title Policy. Notwithstanding anything to the contrary contained in this Agreement, the parties' obligations to close this transaction are subject to satisfaction of the following conditions precedent (the "Conditions Precedent"):

(i) Seller has obtained the Approval Orders specified in Section 27(a) of this Agreement, including a final non-appealable order or orders from the Court evidencing termination of the Condominium, such that the Condominium Declaration and any related agreements with the Condominium Association shall no longer constitute a lien or encumbrance against any portion of the Property, and authorizing the sale of the Property to Purchaser pursuant to this Agreement free and clear of all liens and encumbrances except for Permitted Exceptions. (For the avoidance of doubt, in no event shall the Condominium Declaration be deemed a Permitted Exception.)

(ii) The Title Company, at Purchaser's expense, shall be committed to issue an owner's title insurance policy insuring fee simple title in Purchaser as of the Closing Date, in accordance with the Commitment subject only to the Permitted Exceptions, unless due to the acts or omissions of Purchaser or any parties claiming by, through, or under Purchaser.

Seller will diligently pursue satisfaction of the Conditions Precedent using commercially reasonable efforts.

6. Representations and Warranties. Seller makes no representations or warranties with regard to the Property or the transaction described in this Agreement whatsoever.

Purchaser represents and warrants to Seller that as of the date hereof and as of the Closing Date, Purchaser is a limited liability company, organized under the laws of Delaware. The execution, delivery, and performance of this Agreement by Purchaser have been duly authorized and no consent of any other person, court, or other entity to such execution, delivery, and performance is required to render this Agreement a valid and binding instrument enforceable against Purchaser in accordance with its terms, except for any consents which have been obtained by Purchaser prior to its execution hereof. Neither the execution of this Agreement or the consummation of the transactions contemplated hereby will result in a breach of, or cause a default or acceleration under, any agreement to which Purchaser is a party (unless such agreement is being terminated or satisfied at Closing) or by which Purchaser is bound. To induce Seller to enter into this Agreement, and as material consideration therefor, Purchaser acknowledges and agrees that Seller shall have no obligations or liability whatsoever regarding the title to, or encumbrances on, the Property and that, in the event of any claims, demands, damages or disputes with respect thereto following the Closing, Purchaser shall look solely to the Title Company.

7. As Is. PURCHASER REPRESENTS AND WARRANTS TO SELLER THAT PURCHASER SHALL HAVE EXAMINED AND INVESTIGATED TO PURCHASER'S FULL SATISFACTION THE PROPERTY, AND THAT EXCEPT IF OTHERWISE EXPRESSLY SET FORTH IN THIS AGREEMENT OR THE DOCUMENTS EXECUTED AT CLOSING, SELLER HAS NOT MADE ANY WARRANTIES OR REPRESENTATIONS CONCERNING THE PROPERTY OR ANY PORTION THEREOF. PURCHASER ACKNOWLEDGES AND AGREES THAT EXCEPT IF OTHERWISE EXPRESSLY SET FORTH IN THIS AGREEMENT OR THE DOCUMENTS EXECUTED AT CLOSING, THE PROPERTY IS BEING TRANSFERRED "AS IS" AND EXCEPT FOR THE REPRESENTATIONS AND WARRANTIES SET FORTH IN THIS AGREEMENT OR THE DOCUMENTS EXECUTED AT CLOSING (IF ANY), SELLER HAS NOT MADE, DOES NOT MAKE, AND SPECIFICALLY NEGATES AND DISCLAIMS ANY OTHER REPRESENTATIONS, WARRANTIES, PROMISES, COVENANTS, AGREEMENTS, OR GUARANTIES OF ANY KIND OR CHARACTER WHATSOEVER, WHETHER EXPRESS OR IMPLIED, ORAL OR WRITTEN, PAST, PRESENT, OR FUTURE, OF, AS TO, CONCERNING, OR WITH RESPECT TO (A) THE VALUE, NATURE, QUALITY, OR CONDITION OF THE PROPERTY, INCLUDING, WITHOUT LIMITATION, THE WATER, SOIL, AND GEOLOGY, (B) THE INCOME TO BE DERIVED FROM THE PROPERTY, (C) THE SUITABILITY OF THE PROPERTY FOR ANY AND ALL ACTIVITIES AND USES WHICH PURCHASER MAY CONDUCT THEREON, (D) THE COMPLIANCE OF OR BY THE PROPERTY OR ITS OPERATION WITH ANY LAWS, RULES, ORDINANCES, OR REGULATIONS OF ANY APPLICABLE GOVERNMENTAL AUTHORITY OR BODY, INCLUDING, BUT NOT LIMITED TO, COMPLIANCE WITH ANY SPECIAL USE PERMITS OR DEVELOPMENTS OF REGIONAL IMPACT, (E) THE HABITABILITY, MERCHANTABILITY, MARKETABILITY, PROFITABILITY, OR FITNESS FOR A PARTICULAR PURPOSE OF THE PROPERTY, (F) THE MANNER OR QUALITY OF THE CONSTRUCTION OR MATERIALS INCORPORATED INTO THE PROPERTY, (G) THE MANNER, QUALITY, STATE OF REPAIR, OR LACK OF REPAIR OF THE PROPERTY, (H) THE EXISTENCE OF HAZARDOUS MATERIALS OR GOVERNMENTAL REQUIREMENTS AT THE PROPERTY, (I) THE EXISTENCE, QUALITY, NATURE, ADEQUACY, OR PHYSICAL CONDITION OF ANY UTILITIES SERVING THE PROPERTY, (J) THE DEVELOPMENT POTENTIAL OF ALL OR ANY PART OF THE PROPERTY, OR (K) ANY OTHER MATTER WITH RESPECT TO THE PROPERTY, AND SPECIFICALLY, THAT SELLER HAS NOT MADE, DOES NOT MAKE AND SPECIFICALLY DISCLAIMS ANY REPRESENTATIONS REGARDING CONCURRENCY, OR COMPLIANCE WITH ANY SPECIAL USE PERMITS, DEVELOPMENTS OF REGIONAL IMPACT, ENVIRONMENTAL PROTECTION,

POLLUTION, OR LAND USE LAWS, RULES, REGULATIONS, ORDERS, OR REQUIREMENTS, INCLUDING THE EXISTENCE IN OR ON THE PROPERTY OF HAZARDOUS MATERIALS.

EXCEPT FOR THE REPRESENTATIONS AND WARRANTIES SET FORTH IN THIS AGREEMENT OR THE DOCUMENTS EXECUTED AT CLOSING (IF ANY), PURCHASER FURTHER ACKNOWLEDGES AND AGREES THAT HAVING BEEN GIVEN THE OPPORTUNITY TO INSPECT THE PROPERTY, PURCHASER IS RELYING SOLELY ON ITS OWN INVESTIGATION OF THE PROPERTY AND NOT ON ANY INFORMATION PROVIDED OR TO BE PROVIDED BY SELLER AND AT THE CLOSING PURCHASER SHALL ACCEPT THE PROPERTY AND WAIVE ALL OBJECTIONS OR CLAIMS AGAINST SELLER OR SELLER'S PARTNERS, SHAREHOLDERS, OFFICERS, DIRECTORS, EMPLOYEES, AND AGENTS (INCLUDING, BUT NOT LIMITED TO, ANY RIGHT OR CLAIM OF CONTRIBUTION) ARISING FROM OR RELATED TO THE PROPERTY OR TO ANY HAZARDOUS MATERIALS ON THE PROPERTY AND ANY CLAIM IT HAS, MIGHT HAVE HAD, OR MAY HAVE AGAINST SELLER WITH RESPECT TO THE CONDITION OF THE PROPERTY, EITHER PATENT OR LATENT. PURCHASER FURTHER ACKNOWLEDGES AND AGREES THAT ANY INFORMATION PROVIDED OR TO BE PROVIDED WITH RESPECT TO THE PROPERTY WAS OBTAINED FROM A VARIETY OF SOURCES AND THAT SELLER HAS NOT MADE ANY INDEPENDENT INVESTIGATION OR VERIFICATION OF SUCH INFORMATION AND, EXCEPT IF OTHERWISE EXPRESSLY SET FORTH IN THIS AGREEMENT OR THE DOCUMENTS EXECUTED AT CLOSING, MAKES NO REPRESENTATIONS AS TO THE ACCURACY OR COMPLETENESS OF SUCH INFORMATION. EXCEPT IF OTHERWISE EXPRESSLY SET FORTH IN THIS AGREEMENT OR THE DOCUMENTS EXECUTED AT CLOSING, SELLER IS NOT LIABLE OR BOUND IN ANY MANNER BY ANY VERBAL OR WRITTEN STATEMENTS, REPRESENTATIONS, OR INFORMATION PERTAINING TO THE PROPERTY, OR THE OPERATION THEREOF, FURNISHED BY ANY REAL ESTATE BROKER, AGENT, EMPLOYEE, SERVANT, OR OTHER PERSON. PURCHASER FURTHER ACKNOWLEDGES AND AGREES THAT, EXCEPT AS OTHERWISE EXPRESSLY SET FORTH IN THIS AGREEMENT OR THE DOCUMENTS EXECUTED AT CLOSING, TO THE MAXIMUM EXTENT PERMITTED BY LAW, THE SALE OF THE PROPERTY AS PROVIDED FOR HEREIN IS MADE ON AN "AS IS" CONDITION AND BASIS WITH ALL FAULTS. IT IS UNDERSTOOD AND AGREED THAT THE PURCHASE PRICE HAS BEEN ADJUSTED BY PRIOR NEGOTIATION TO REFLECT THAT ALL OF THE PROPERTY IS SOLD BY SELLER AND PURCHASED BY PURCHASER SUBJECT TO THE FOREGOING. THE PROVISIONS OF THIS SECTION SHALL SURVIVE THE CLOSING.

8. Seller's Covenants. Between the date of the execution of this Agreement and the Closing, Seller shall refrain from entering into any new lease, easement, agreement or contract for the Property that would extend beyond Closing, unless approved by Purchaser in writing and by the Court after notice to Purchaser and a hearing.

9. Taxes. Accrued general real estate taxes for the year of Closing not yet due and payable shall be prorated as of the Closing Date on the basis of the actual taxes for the year, if known, or if unknown, on the basis of the most recent ascertainable taxes taking into account only the value of the underlying land and excluding any value allocated to improvements on the land. In either case the taxes shall be prorated based on the maximum allowable discount for early payment. Purchaser shall pay all such taxes when they become due and payable and, promptly thereafter, the parties shall re-prorate taxes with, if any amount is due, an appropriate payment from one party to the other on the basis of the amount of taxes then due and payable. This agreement to re-prorate shall survive Closing. Special assessments which are confirmed or become a lien prior to Closing and pending assessments for work substantially completed as of Closing shall be credited to Purchaser at Closing. Purchaser shall receive no credit for other pending special

assessments. All other assessments levied against the Property as of the Closing Date shall be shared by the parties prorata on the Closing Date.

10. Transfer Taxes; Title Charges; Miscellaneous Costs and Fees. Seller and Purchaser agree to execute any real estate transfer declarations required by the state, county, or municipality in which the Property is located. Purchaser shall pay the cost of any state or county deed or transfer tax, including documentary stamp tax and surtax. Purchaser shall pay the cost of recording the instruments of conveyance, and all mortgage registration taxes, if any. Each party shall pay its own attorneys' fees except as otherwise provided in this Agreement.

11. Condemnation. If between the Effective Date and the Closing Date, any condemnation or eminent domain proceedings are initiated which might result in the taking of a substantial portion of the Property which would materially adversely affect the development of the Property, Purchaser may (a) terminate this Agreement by written notice to Seller in which event the Earnest Money (minus the Non-Refundable Deposit) shall be returned to Purchaser, or (b) proceed with the Closing with no reduction in the Purchase Price, in which event Seller shall assign to Purchaser all of Seller's right, title, and interest in and to any award made in connection with such condemnation or eminent domain proceedings. Seller shall notify Purchaser in writing of the commencement or occurrence of any condemnation or eminent domain proceedings. If such proceedings would result in any such taking, Purchaser shall then notify Seller, within ten (10) days of Purchaser's receipt of Seller's notice, whether Purchaser elects to exercise its rights under subparagraph (a) or subparagraph (b) of this Section 11. Closing shall be delayed, if necessary, until Purchaser makes such election. If Purchaser fails to make an election within such ten (10) day period, Purchaser shall be deemed to have elected to exercise its rights under subparagraph (b) and Closing shall be delayed, if necessary, until the later to occur of (i) the Closing Date or (ii) five (5) days after the expiration of the ten (10) day period.

12. Default.

(a) If the transaction contemplated herein is not consummated because of a default of Purchaser under the terms of this Agreement, as Seller's only available remedy, Escrow Agent shall promptly pay the Earnest Money, plus interest earned thereon if any, to Seller and Seller shall be entitled to retain the Earnest Money as liquidated damages and in full settlement of any claims or damages, whereupon this Agreement shall become null and void and of no further force or effect, except with respect to those indemnities and obligations of Purchaser set forth in this Agreement which survive termination. It is hereby agreed that Seller's damages may be difficult to ascertain and that the Earnest Money constitutes reasonable liquidation thereof and is intended not as a penalty, but as liquidated damages. Seller shall have no right to seek specific performance of this Agreement or to seek damages from Purchaser (other than the liquidated damages referred to above) as a result of any default by Purchaser under this Agreement.

(b) If the transaction contemplated herein is not consummated because of a default on the part of Seller, Purchaser, as Purchaser's sole and exclusive remedies, may (i) terminate this Agreement by written notice to Seller thereof, and then the Earnest Money (including the Non-Refundable Deposit but minus the Independent Consideration), plus interest if any, shall be refunded to Purchaser by Escrow Agent upon demand, or (ii) seek specific performance of this Agreement. In no event shall Purchaser be entitled to seek specific performance of this Agreement if the Court approves the sale of the Property to a different purchaser in accordance with the Bid Procedures.

(c) Notwithstanding anything to the contrary contained in this Agreement, neither party shall be deemed to be in default of this Agreement unless the defaulting party fails to cure the default within five (5) business days after written notice of such default from the non-defaulting party (except no notice and opportunity to cure is required for a party's failure to close on the Closing Date).

13. Notice. All notices required or permitted hereunder shall be in writing and shall be served on the parties at the following address:

If to Seller: Michael I. Goldberg, as Receiver and/or Termination Trustee  
Akerman LLP  
201 East Las Olas Boulevard, Suite 1800  
Fort Lauderdale, Florida 33301  
E-mail: michael.goldberg@akerman.com

with a copy to: Berger Singerman  
1450 Brickell Avenue, Suite 1900  
Miami, Florida 33131  
Attention: Paul Steven Singerman, Esq.  
E-mail: singerman@bergersingerman.com

and to: Akerman LLP  
201 East Las Olas Boulevard, Suite 1800  
Fort Lauderdale, Florida 33301  
Attention: Eric D. Rapkin, Esq.  
E-mail: eric.rapkin@akerman.com

If to Purchaser: East Oceanside Development, LLC  
c/o Damac Properties PJSC  
20<sup>th</sup> Floor, Executive Heights by Damac  
Barsha Heights  
Dubai, PO Box - 2195  
United Arab Emirates  
Attn: Chairman Office  
Legal Department  
Investment & Acquisition Department  
E-mail: [Danish.Nayar@damacgroup.com](mailto:Danish.Nayar@damacgroup.com)  
[Henry.Shatwell@damacgroup.com](mailto:Henry.Shatwell@damacgroup.com)

With a copy to: Kapp Morrison LLP  
7900 Glades Road, Suite 550  
Boca Raton, Florida 33434  
Attention: Stuart T. Kapp, Tony Morrison and Lance Aker  
E-mail: skapp@kappmorrison.com, tmorrison@kappmorrison.com,  
laker@kappmorrison.com

If to Escrow Agent: First American Title Insurance Company  
13450 West Sunrise Boulevard, Suite 300  
Sunrise, Florida 33323  
Attention: Nancy Cotto, Len Prescott, and Jennifer Bloodworth  
E-mail: [ncotto@firstam.com](mailto:ncotto@firstam.com), [lprescott@firstam.com](mailto:lprescott@firstam.com), and  
[jbloodworth@firstam.com](mailto:jbloodworth@firstam.com)

Any such notices shall be sent by U.S. certified mail, return receipt requested, or by nationally recognized overnight courier service, or by e-mail, and notices shall be deemed delivered upon actual receipt, provided, however, that if delivery is refused or a notice is unclaimed, notice shall be deemed received (i) if mailed, three (3) days after mailing, or (ii) if overnight courier service, one (1) business day

after deposit with the courier service. The above addresses may be changed by written notice to the other party; provided, however, that no notice of a change of address shall be effective until actual receipt of such notice.

14. No Offer. This Agreement has been submitted for discussion purposes only and shall not be deemed to be an offer by either party to the other to enter into this Agreement or deemed to be a binding agreement. This Agreement shall not be effective in any manner until a fully signed copy or an original executed by both Seller and Purchaser is delivered to Purchaser and is approved by the Court.

15. Time of the Essence; Governing Law. Time is of the essence of this Agreement. If any date on which either party's performance hereunder is to occur falls on a Saturday, Sunday, or national holiday, then the time for such performance shall be extended until the next following business day. The validity, meaning, and effect of this Agreement shall be determined in accordance with the laws of the State of Florida.

16. Broker. Seller and Purchaser hereby represent each to the other that, except as set forth below, they have not disclosed this Agreement, or the transactions contemplated hereby or the subject matter hereof, to any real estate broker, agent, or salesperson so as to create any legal right or claim in any such broker, agent, or salesperson for a real estate brokerage commission or compensation with respect to the negotiation or consummation of this Agreement. Purchaser hereby indemnifies Seller against, and agrees to hold and save Seller harmless from, any claims (or expenses related thereto, including, but not limited to, expenses for its reasonable attorneys' fees incurred in defending any such claims or enforcing this indemnity) for any real estate brokerage commissions or similar fees arising out of a breach of the foregoing representation and warranty. The parties recognize Avison Young – Florida, LLC (the "Seller's Broker") (representing Seller) and Brown Harris Stevens (the "Purchaser's Broker") (representing Purchaser) as the sole brokers in this transaction. Seller shall pay any commissions payable to Seller's Broker pursuant to separate agreement or as permitted or directed by the Court. Purchaser shall pay (and shall indemnify and hold harmless Seller from and against) any commissions payable to Purchaser's Broker pursuant to separate agreement. This Section shall survive the Closing or any termination of this Agreement.

17. Assignment. Purchaser may assign its rights under this Agreement to an entity affiliated with or controlled by Purchaser, without Seller's consent; provided, however, that (a) the original Purchaser shall remain liable for the performance of all Purchaser's obligations hereunder accruing through the Closing Date (whether Seller seeks to enforce such obligations prior to Closing, or after Closing, as to obligations that survive Closing); (b) Seller shall incur no additional expenses on account of such assignment; (c) Purchaser shall disclose the identity of such assignee to Seller, and shall supply to Seller all information regarding such assignee as may be reasonably requested by Seller, and (d) the Approval Order approving the sale of the Property pursuant to this Agreement shall approve the sale to Purchaser's assignee. Any assignment to an entity not affiliated with or controlled by Purchaser shall be subject to Seller's prior written consent, in Seller's sole discretion, and to Court approval as specified in clause (d) above.

18. Survival. No representations, warranties, covenants, agreements, and other obligations of Seller in this Agreement shall survive the Closing of this transaction and no action based thereon shall be commenced after the Closing of this transaction. However, the obligations of Seller and Purchaser in Sections 9 and 16 of this Agreement and any other indemnity provisions by Purchaser in this Agreement shall survive the Closing of this transaction or the termination of this Agreement.

19. Effective Date. For purposes of this Agreement, the "Effective Date" shall be deemed to be the date set forth in the preamble on page 1 of this Agreement.

20. Prevailing Party. In connection with any litigation arising out of this Agreement, the prevailing party shall be entitled to recover all costs incurred by such party, including, but not limited to, reasonable attorneys' fees and court costs, before, during, and after trial, and at appellate levels.

21. No Third Party Rights. Nothing in this Agreement, express or implied, is intended to confer upon any person, other than the parties hereto and their respective successors and assigns, any rights or remedies under or by reason of this Agreement.

22. OFAC Compliance. All funds to be used by Purchaser as payment of the Purchase Price at Closing are from sources operating under, and in compliance with, all federal, state and local statutes and regulations relating to the laundering of money and terrorism and are free of all liens and claims of lien. Neither Purchaser nor any of its affiliates, nor any of their respective partners, members, shareholders or other equity owners, and none of their respective employees, officers, directors, representatives or agents is, nor will they become prior to Closing, a person or entity with whom United States persons or entities are restricted from doing business under regulations of the OFAC of the Department of the Treasury (including those named on OFAC's Specially Designated and Blocked Persons List) or under any statute, executive order (including the September 24, 2001, Executive Order Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism), or other governmental action, and is not and will not engage in any dealings or transactions or be otherwise associated with such persons or entities prior to Closing.

23. Miscellaneous. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. This Agreement may be executed by e-mail or other electronic means which shall, for all purposes, serve as an original executed counterpart of this Agreement upon delivery of an executed copy hereof by e-mail or other electronic means. The captions in this Agreement are inserted for convenience of reference and in no way define, describe, or limit the scope or intent of this Agreement or any of the provisions hereof. No waiver, modification, amendment, discharge, or change of this Agreement shall be valid unless the same is in writing and signed by the party against which the enforcement of such modification, waiver, amendment, discharge, or change is sought. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective legal representatives, successors, and permitted assigns. This Agreement contains the entire agreement between the parties relating to the transactions contemplated hereby and all prior or contemporaneous agreements, understandings, representations, or statements, oral or written, are superseded hereby. Any provision of this Agreement which is unenforceable or invalid or the inclusion of which would adversely affect the validity, legality, or enforcement of this Agreement shall be of no effect, but all the remaining provisions of this Agreement shall remain in full force and effect. Each and every Exhibit referred to in this Agreement is attached to and made a part of this Agreement.

24. Radon Notice. 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.

25. Coastal Construction Control Line. Purchaser is aware that the entire Property or portions of the Property may be located in coastal areas partially or totally seaward of the coastal construction control line as defined in Section 161.053, Florida Statutes. The property being purchased may be subject to coastal erosion and to federal, state, or local regulations that govern coastal property, including the delineation of the coastal construction control line, rigid coastal protection structures, beach nourishment, and the protection of marine turtles. Additional information can be obtained from the Florida Department of Environmental Protection, including whether there are significant erosion conditions associated with the



shoreline of the property being purchased. Purchaser is fully apprised of the character of the regulation of property in such coastal areas and Purchaser hereby waives and releases any right to receive at closing a survey delineating the location of the Coastal Construction Control Line with respect to the Property in accordance with Section 161.57, Florida Statutes.

26. PROPERTY TAX DISCLOSURE. PURCHASER SHOULD NOT RELY ON THE SELLER'S CURRENT PROPERTY TAXES AS THE AMOUNT OF PROPERTY TAXES THAT THE PURCHASER 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.

27. Court Approval.

(a) Approval. Purchaser and Seller understand, acknowledge and agree that this Agreement and the sale of the Property are subject to the Circuit Court of the Eleventh Judicial Circuit in and for Miami-Dade County (the "Court"), which is presiding over the Consolidated Amended Class Action Complaint filed August 16, 2021 in the matter of In Re: Champlain Towers South Collapse Litigation (Case No. 2021-015089-CA-01) and is presiding or will be presiding over the Action for Judicial Termination of Condominium filed or to be filed with the Court for terminating the Condominium currently encumbering the Property (the "Condominium Termination Case" and, collectively, the "Cases") rendering the following non-appealable Orders (each such order an "Approval Order" and collectively, the "Approval Orders"): (i) order appointing Seller as Termination Trustee with authority to sell the Property, (ii) order holding that Seller, as Termination Trustee, is vested with title to the Property (the unit owners being the beneficiaries of the proceeds realized from the plan of termination, including the sale of the Property), (iii) order approving the sale by the Termination Trustee of the Property to the Purchaser pursuant to this Agreement, (iv) order holding that all liens against the units will automatically upon sale of the Property be transferred to the proceeds of sale and other distribution of association assets attributable to that unit, in their same priority, and (v) order terminating the Condominium.

(b) Bid Procedures. Purchaser and Seller also understand, acknowledge and agree that the sale of the Property is subject to higher and better offers in accordance with procedures in substantially the form attached as Exhibit C to this Agreement, with such changes as may be required by the Court (the "Bid Procedures"), and such Bid Procedures are explicitly incorporated into this Agreement by this reference. If Purchaser is not the successful bidder after bidding as herein contemplated, Purchaser shall be entitled to a reimbursement payment from Seller to reimburse Purchaser for actual, verifiable, reasonable costs and expenses incurred by Purchaser in performing its inspections and investigations of the Property and in anticipation of consummating the transaction contemplated hereby in an amount up to but not exceeding Two Hundred Thousand and No/100 Dollars (\$200,000.00), on the terms set forth in the Bid Procedures.

(c) Bidding Matter. Purchaser and Seller understand, acknowledge and agree that Seller may seek or entertain one or more bids for the purchase of the Property in accordance with the Bid Procedures and that the Bid Procedures will provide that Seller retain the right at Auction to reject all bids, excluding the bid reflected by this Agreement, subject to the terms of the Bid Procedures. Nothing contained in this Agreement shall prohibit Purchaser from participating in the Auction as a bidder.

28. Non-Refundable Deposit. For the avoidance of doubt, the Non-Refundable Deposit shall be non-refundable to Purchaser in all events except as otherwise expressly set forth in Sections 3(a) and 12(b) of this Agreement and Section 5 of the Bid Procedures.

[signatures on next page]

The parties hereto have executed this Agreement as of the day and year first above written.

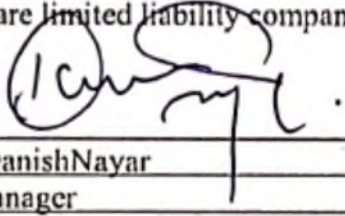
**SELLER:**

MICHAEL I. GOLDBERG, SOLELY IN HIS  
CURRENT CAPACITY AS COURT  
APPOINTED RECEIVER OF CHAMPLAIN  
TOWERS SOUTH CONDOMINIUM  
ASSOCIATION, INC., AND THEREAFTER  
UPON FURTHER COURT APPROVAL, AS  
TERMINATION TRUSTEE, AND NOT  
INDIVIDUALLY

Date: \_\_\_\_\_, 2021

**PURCHASER:**

**EAST OCEANSIDE DEVELOPMENT, LLC,**  
a Delaware limited liability company

By:   
Name: Danish Nayar  
Title: Manager

Date: September 22, 2021

Escrow Agent acknowledges receipt of the Earnest Money (subject to clearance) and agrees to hold the Earnest Money pursuant to the Agreement.

FIRST AMERICAN TITLE INSURANCE COMPANY

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Date: \_\_\_\_\_, 2021

## **EXHIBIT "A"**

### **LEGAL DESCRIPTION OF PROPERTY**

Block Four (4) of SECOND AMENDED PLAT OF NORMANDY BEACH, according to the Plat thereof, as recorded in Plat Book 16, at Page 44, and recorded in the Public Records of Miami-Dade County, Florida; together with that certain parcel of land conveyed by Town of Surfside by Deed dated August 16, 1962, and recorded in Official Records Book 3565 at Page 167 of the Public Records of Miami-Dade County, Florida; and Less and Except that portion of said Block 4 conveyed to Town of Surfside for widening of Collins Avenue by Deed dated June 28, 1962 and recorded in Official Records Book 3565 at page 165 of the Public Records of Miami-Dade County, Florida.

**EXHIBIT "B"**

**DEED**

**PREPARED BY:**

**Andrew J. Wamsley, Esq.**  
**Akerman LLP**  
**201 East Las Olas Boulevard, Suite 1800**  
**Ft. Lauderdale, Florida 33301**

**RECORD AND RETURN TO:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Property Appraiser's No.: Tax Folio No. \_\_\_\_\_

**TRUSTEE'S DEED**

This TRUSTEE'S DEED, made as of this \_\_\_\_ day of \_\_\_\_\_, 202\_\_, between MICHAEL I. GOLDBERG SOLELY IN HIS CAPACITY AS TERMINATION TRUSTEE, AND NOT INDIVIDUALLY, PURSUANT TO THAT CERTAIN CASE STYLED \_\_\_\_\_ V. \_\_\_\_\_, FILED IN \_\_\_\_\_, CASE NO. \_\_\_\_\_ (the "Grantor"), whose address is c/o Akerman LLP, 201 East Las Olas Boulevard, Suite 1800, Fort Lauderdale, Florida 33301, and \_\_\_\_\_, a \_\_\_\_\_ (the "Grantee"), whose address is \_\_\_\_\_.

**W I T N E S S E T H:**

That the Grantor, for and in consideration of the sum of Ten and No/100 (\$10.00) Dollars to it in hand paid by Grantee, the receipt whereof is hereby acknowledged, has granted, bargained, sold, and conveyed to the Grantee, and by these presents does hereby grant, bargain, sell, and convey unto Grantee, its successors and assigns forever, that certain real property lying and being in Miami-Dade County, Florida, as more particularly described in Exhibit "A," attached hereto and made a part hereof (the "Property").

SUBJECT TO taxes and assessments for the year 202\_\_ and subsequent years, all conditions, restrictions, limitations and easements of record, and all zoning and other governmental regulations, without reimposing same.

To have and to hold the same in fee simple forever, without covenant, representation, or warranty whatsoever.

Grantee or anyone claiming by, through, or under Grantee, hereby fully releases Grantor, its employees, officers, directors, representatives, and agents from any and all claims, costs, losses, liabilities, damages, expenses, demands, actions, or causes of action that it may now have or hereafter acquire, whether direct or indirect, known or unknown, suspected or unsuspected, liquidated or contingent, arising from or related to the Property in any manner whatsoever. This covenant releasing Grantor shall be a covenant running with the Property and shall be binding upon Grantee, its successors and assigns.

[signature and acknowledgement on next page]

IN WITNESS WHEREOF, the Grantor has caused this Trustee's Deed to be executed as of the day and year first above written.

WITNESSES:

\_\_\_\_\_  
MICHAEL I. GOLDBERG SOLELY IN HIS  
CAPACITY AS TERMINATION TRUSTEE,  
AND NOT INDIVIDUALLY, PURSUANT TO  
THAT CERTAIN CASE STYLED  
\_\_\_\_\_ V. \_\_\_\_\_, FILED IN  
\_\_\_\_\_, CASE NO. \_\_\_\_\_

\_\_\_\_\_  
Print Name: \_\_\_\_\_

\_\_\_\_\_  
Print Name: \_\_\_\_\_

STATE OF \_\_\_\_\_ )  
) ss:  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me by means of  physical presence  
or  online notarization, this \_\_\_\_\_ day of \_\_\_\_\_, 202\_\_ by Michael I. Goldberg, as  
Termination Trustee. He is  personally known to me or  produced a valid driver's license as  
identification.

\_\_\_\_\_  
Notary Public  
Print name: \_\_\_\_\_

My commission expires:

## EXHIBIT "A" TO TRUSTEE'S DEED

### LEGAL DESCRIPTION

Block Four (4) of SECOND AMENDED PLAT OF NORMANDY BEACH, according to the Plat thereof, as recorded in Plat Book 16, at Page 44, and recorded in the Public Records of Miami-Dade County, Florida; together with that certain parcel of land conveyed by Town of Surfside by Deed dated August 16, 1962, and recorded in Official Records Book 3565 at Page 167 of the Public Records of Miami-Dade County, Florida; and Less and Except that portion of said Block 4 conveyed to Town of Surfside for widening of Collins Avenue by Deed dated June 28, 1962 and recorded in Official Records Book 3565 at page 165 of the Public Records of Miami-Dade County, Florida.

## EXHIBIT "C"

### BID PROCEDURES

[NOTE TO DRAFT: BID PROCEDURES REMAIN SUBJECT TO THE REVIEW OF ALL PARTIES AND THE COURT]

#### Preliminary Statement

MICHAEL I. GOLDBERG, SOLELY IN HIS CURRENT CAPACITY AS COURT APPOINTED RECEIVER OF CHAMPLAIN TOWERS SOUTH CONDOMINIUM ASSOCIATION, INC., AND THEREAFTER UPON FURTHER COURT APPROVAL, AS TERMINATION TRUSTEE, AND NOT INDIVIDUALLY ("Seller"), and [\_\_\_\_\_], or its permitted assigns ("Purchaser"), have entered into a Purchase and Sale Agreement (the "Agreement") dated as of \_\_\_\_\_, 2021 (the "Effective Date").

By virtue the various orders emanating from the Circuit Court of the Eleventh Judicial Circuit in and for Miami-Dade County (the "Court") presiding over the Consolidated Amended Class Action Complaint filed August 16, 2021, in the matter of In Re: Champlain Towers South Collapse Litigation (Case No. 2021-015089-CA-01) and the Action for Judicial Termination of Condominium filed \_\_\_\_\_, 2021 (Case No. 2021-\_\_\_\_\_) (the "Condominium Termination Case" and, collectively, the "Cases"), Seller is or will be vested with title to approximately 1.88 acres of land located at 8777 Collins Avenue, Surfside, Miami-Dade County, Florida, as more particularly described on Exhibit A attached to the Agreement, and collectively referred to as the Property.

Seller desires to sell, and Purchaser desires to purchase, the Property upon the terms and conditions set forth below.

Subject to the Court's entry of an Order approving the sale of the Property in the Case or Cases in form and substance acceptable to Seller and Purchaser, the Property is or will be conveyed at Closing (as defined below).

### BID PROCEDURES

#### 1. Marketing Period; Acceptance of Bids.

(a) *Marketing Period.* The Seller shall have until the Bid Deadline (the "Marketing Period") to market the Property to third parties and solicit and accept Qualified Bids (as defined below) for the purchase of the Property.

(b) *Potential Bidder.* Before submitting a Qualified Bid Packet (as defined below), every potential bidder other than Purchaser must deliver to Seller (i) an executed confidentiality agreement in form and substance satisfactory to Seller (the form of confidentiality agreement may be obtained from Seller upon request), and (ii) evidence acceptable to Seller establishing, in the business judgment of Seller, that the potential bidder has the financial ability to close the potential sale.



(c) *Qualified Bid Packet.* A "Qualified Bid Packet" shall comply with and/or include all of the following items:

(i) A deposit (the "Bidder Deposit") in an amount equal to Sixteen Million and 00/11 Dollars (\$16,000,000.00) payable by cashier's check or wire transfer (or other form acceptable to Seller in its sole discretion). The Bidder Deposit shall be deposited with and held in trust by First American Title Insurance Company (the "Escrow Agent");

(ii) An executed purchase and sale agreement that substantially conforms to the Agreement (except without any inspection or due diligence period and without any right to object to title and survey matters except for new matters arising or first revealed subsequent to the Auction (as defined below)) that includes a purchase price equal to or greater than One Hundred Twenty Million Three Hundred Thousand and 00/100 Dollars (\$120,300,000.00), and a redline version showing any changes from the Agreement, which executed purchase and sale agreement Seller will file with the Court prior to the Bid Deadline (as defined below);

(iii) Any bid must not contain any contingencies to the validity, effectiveness, and/or binding nature of the offer, including without limitation, contingencies for financing or due diligence;

(iv) Financial information sufficient for Seller to assess the financial wherewithal of the bidder to close on the sale of the Property in the event that the bidder is the successful bidder; such information shall include, at a minimum, financial statements, bank account statements, or other documents of such entity (including information on any third-party funding required to consummate and perform under the purchase agreement) establishing the ability to timely close the transaction by the Auction; and

(v) A letter setting forth the identity of the potential bidder, the contact information for such potential bidder, and full disclosure of all parties participating with the potential bidder.

(d) The Qualifying Bid Packet must be delivered with the items described above on or before the Bid Deadline (as defined below) to: (i) Michael I. Goldberg, Akerman LLP, 201 East Las Olas Blvd., Ste. 1800 Fort Lauderdale, Florida 33301, Telephone: (954) 468-2224, E-mail: [michael.goldberg@akerman.com](mailto:michael.goldberg@akerman.com); (ii) Paul Steven Singerman, Esq., Berger Singerman, 1450 Brickell Avenue, Suite 1900, Miami, Florida 33131, Telephone: (305) 714-4343, E-mail: [singerman@bergersingerman.com](mailto:singerman@bergersingerman.com); and (iii) Eric Rapkin, Esq., Akerman LLP, 201 East Las Olas Blvd., Ste. 1600 Fort Lauderdale, Florida 33301, Telephone: (954) 759-8962, E-mail: [eric.rapkin@akerman.com](mailto:eric.rapkin@akerman.com).

(e) *Bid Deadline.* The deadline for submitting bids by a Qualified Bidder shall be forty-five (45) days following the expiration of the Inspection Period set forth in the Agreement, at 5:00 p.m. (prevailing Eastern Time) (the "Bid Deadline").

(f) *Qualified Bidder.* Before the Auction, Seller shall evaluate each Qualifying Bid Packet and may then identify a person, persons, entity, or entities from among those who submitted a

Qualifying Bid Packet and deem those person(s) "Qualified Bidders" with "Qualifying Bids." By participating in the Auction, each Qualified Bidder consents to its bid being designated as a back-up bid in the event its bid is designated as the second highest and best offer to purchase the Property. A Qualified Bid will be valued based upon the following factors: (a) the purchase price relating to the Qualified Bid; (b) the ability to close the sale transaction without delay and by the Auction; and (c) any other factors Seller may deem relevant, including, without limitation, execution risk presented by a Qualified Bidder's bid and transaction structure. Seller reserves the right to make the final determination of who is a Qualified Bidder. Purchaser shall be deemed to be a Qualified Bidder. Seller shall notify all Qualified Bidders no later than 5:00 p.m. Eastern Time one business day before the Auction that they may participate in the Auction and shall also provide a summary of the Qualified Bids to the Court and all Qualified Bidders. All Qualified Bidders and Purchaser shall be bound by their bids until conclusion of the Auction. Bidders do not have standing to dispute the determination as to whether or not a bid is a Qualified Bid.

## **2. Auction.**

(a) *No Qualified Bids.* If no Qualified Bid (other than Purchaser's bid) is received by the Bid Deadline, Seller shall report the same to the Court. Seller may deem Purchaser's bid the highest or otherwise best offer for the Property and may proceed with the transaction contemplated by the Agreement.

(b) *Time and Location of Auction.* If one or more Qualified Bids (other than Purchaser's bid) are received, Seller will conduct an auction (the "Auction") with respect to the Property. The Auction, if required, will occur fifteen (15) days following the Bid Deadline ("Auction Date"). The Auction will be conducted via Zoom or similar video or electronic format and all Qualified Bidders will be provided login credentials to participate. Alternatively, the Auction may be held at such later time or other place as agreed upon by both Purchaser and Seller, and of which Seller will notify all Qualified Bidders who have submitted Qualified Bids. The date of the Auction is subject to Court Approval. The Auction may be adjourned from time to time at the discretion of Seller. Only Purchaser, Seller, and any Qualified Bidders (and such parties' representatives and professionals) will be entitled to participate and be heard at the Auction. The Auction shall be transcribed and creditors, equity holders and parties in interest shall be allowed to attend but shall not be allowed to: (i) bid, unless they have been deemed to be a Qualified Bidder, or (ii) object, in any manner, at the Auction proceeding, which shall not impact the right(s) of any creditor, equity holder and/or party in interest to file an objection to the sale with the Court.

(c) *Bidding Increments.* The Auction shall be conducted as an "open cry" auction. Bidding will begin at the purchase price stated in the Agreement or if higher, highest purchase price stated by one or more Qualified Bids for the Property. Bidding will subsequently continue in additional minimum increments of One Hundred Thousand and 00/100 Dollars (\$100,000.00) in cash. Purchaser is not required to participate in the bidding but shall have the right to bid at any time during the Auction.

(d) *Prevailing Bid.* The Auction shall conclude when the Seller receives what is determined by Seller to be the highest and best offer for the Property (the "Prevailing Bid") (the Prevailing Bid being submitted by the "Prevailing Bidder"). Subject only to the subsequent approval of the Court, the Seller shall have the unfettered discretion to determine whether the bid reflected in the Agreement, or any Qualifying Bid, constitutes the highest and best bid for the Property, or that none of them does, based on, among other things, the form of consideration being offered and the likelihood of the bidder's ability to close a transaction and the timing thereof. Seller shall then designate the Back-Up Bidder.

(e) *Prevailing Bid Deposit.* Within twenty-four (24) hours following the conclusion of the Auction, the Prevailing Bidder shall increase its Bidder Deposit so that the increased Bidder Deposit equals 15% of the Prevailing Bid. If there are no Qualified Bids or if Purchaser's bid is the Prevailing Bid, within two (2) business days following the Auction, Purchaser shall increase its Earnest Money so that Purchaser's increased Earnest Money equals 15% of the Purchase Price or the Prevailing Bid, as applicable. The Bidder Deposit shall be deposited with and held in trust by the Escrow Agent.

(f) *Auction Proceeds.* Seller agrees that the proceeds of the sale shall be deposited into an escrow account designated by Seller and held pending further order of the Court.

**3. Sale Order and Assumption/Assignment Order.** As soon as the Court's schedule permits after the Auction is concluded, the Court shall conduct a hearing to approve the sale of the Property to the Prevailing Bidder and enter an order approving the sale in form and substance reasonably acceptable to Seller and the Prevailing Bidder (the "Sale Order"). The Sale Order shall specifically provide that the Prevailing Bidder shall take the Property in AS-IS WHERE-IS condition, free and clear of all liens, claims, interests, and encumbrances, with the exception of the Permitted Exceptions (as defined in the Agreement); that the Closing of the sale of the Property shall be conditioned upon the Court having rendered all of the other Approval Orders (as defined in the Agreement); that the Prevailing Bid represents a fair market value of the Property; and that the Prevailing Bidder shall have no liability for any obligations of Seller except as expressly provided herein.

**4. Back-Up Bidder.** If any Prevailing Bidder fails to consummate the purchase of the Property within seven (7) business days of the required closing date because of a breach or failure to perform on the part of such Prevailing Bidder, the Prevailing Bidder shall forfeit its Bidder Deposit to Seller and the next highest or otherwise best Qualified Bid or Qualified Bids for the Property will be deemed to be the Prevailing Bid, and Seller will be authorized to consummate the sale with the applicable Qualified Bidder submitting such bid without further order of the Court (other than the Approval Orders) (the "Back-Up Bidder"). The closing of the Sale to a Backup Bidder shall take place within ten (10) days after such Back-Up Bidder receives notice from Seller that the Prevailing Bidder failed to close and that Seller has elected to proceed to close with one or more Back-Up Bidders. If the Back-Up Bidder is unable or unwilling to close the sale in the time permitted, the Back-Up Bidder shall forfeit its Bidder Deposit to Seller.

**5. Expense Reimbursement.** If (i) the Court approves the sale of the Property to a third party Qualified Bidder unaffiliated with Purchaser pursuant to a higher or better offer for the Property (an "Alternative Offer"), (ii) the sale of the Property pursuant to the Alternative Offer actually closes, and, (iii) in either such case, Purchaser (x) is not in material breach of the Agreement beyond the period allowed for cure of such breach if any, and (y) has provided Seller with all diligence reports it has procured in the advancement of its due diligence efforts, Purchaser shall be paid by Seller from the sale proceeds of such Alternative Offer a reimbursement for actual, verifiable, reasonable costs and expenses incurred by Purchaser in performing its inspections and investigations of the Property and in anticipation of consummating the transaction contemplated hereby in an amount up to but not exceeding Two Hundred Thousand and No/100 Dollars (\$200,000.00) (the "Expense Reimbursement"). Anything contained in the Agreement to the contrary notwithstanding, if the Property is sold and closed pursuant to an Alternative Offer, the Agreement shall be deemed terminated and Purchaser shall have the right to receive a prompt

return of the Earnest Money (including the Non-Refundable Deposit but minus the Independent Consideration), and the Expense Reimbursement shall be paid to Purchaser as specified in these Bid Procedures and as approved by the Court. No bidder other than Purchaser shall be entitled to have a reimbursement, break-up or any other termination fee paid to them or to anyone they so designate, expense reimbursement, or similar payment.

**6. Return of Deposits.** Each Bidder Deposit shall be maintained in a non-interest bearing account and subject to the jurisdiction of the Court. Within five (5) business days after the entry of the Sale Order, Seller shall return all Bidder Deposits to all Qualified Bidders except (i) the Bidder Deposit submitted by the Prevailing Bidder, whose Bidder Deposit shall be applied by Seller against the purchase price at the closing, and (ii) the Bidder Deposit submitted by the Back-Up Bidder. In the event that the Prevailing Bidder closes the sale, Seller shall return to the Back-Up Bidder its Bidder Deposit within five (5) business days after the closing. In the event the Back-Up Bidder closes on the purchase of the Property, its Bidder Deposit shall be applied by Seller against the purchase price.

**7. Modifications to Bid Procedures.** Seller reserves all rights to impose, at or before the Auction, additional terms and conditions on the sale of the Property, to extend or adjourn any deadlines set forth in these Bid Procedures, and to take any other actions with respect to the Auction, the Bid Procedures or the sale of the Property which in his business judgment are reasonably necessary to maximize the value of the Property that are not inconsistent with these Bid Procedures, the Agreement, or any order of the Court. Any modifications to the terms or conditions of the Auction shall be announced on the record at the commencement of the Auction.

**8. Court Jurisdiction.** The Court shall retain exclusive jurisdiction over any matter or dispute relating to the sale, the Bid Procedures, the Agreement, the Auction, and/or any other matter that in any way relates to the foregoing. Any party disputing the sale, the Bid Procedures, the Agreement, the Auction and/or any other matter that in any way relates to the foregoing shall file an objection with the Court as soon as practicable to facilitate resolution of the objection.

**9. Miscellaneous.** All Qualified Bidders shall be deemed to have waived any right to a jury trial in connection with any disputes relating to the Auction and/or the sale of the Property and/or termination of the Condominium. All purchase agreements shall be governed by and construed in accordance with the laws of the State of Florida.

*[End of Bid Procedures]*