

**1. Requested Motion:**

**Meeting Date: 10-15-12**

Motion to approve release of lien against the property located at 4545 Estero Blvd. conditioned upon payment of \$16,027.50 within thirty days of 10/15/12, and further that the unsafe structures on that property be demolished and removed within thirty days of 10/15/12 and further, if all conditions are not met within thirty days of 10/15/12, the original lien will remain in full affect with the continuing daily fines.

**Why the action is necessary:**

To facilitate the removal of unsafe structure and encourage the redevelopment of the property.

**What the action accomplishes:**

Enables the town to collect a fair fine for noted code violations and to enable correction of a long standing community blight.

**2. Agenda:**

Consent  
 Administrative

**3. Requirement/Purpose:**

Resolution  
 Ordinance  
 Other

**4. Submitter of Information:**

Council  
 Town Staff  
 Town Attorney

**5. Background:**

There are two outstanding code violations against this property. Code case HE2005-050F with a daily fine of \$25.00 per day that will total \$60,675 as of 10/15/12 and case 10-0168 with a daily fine of \$150.00 per day that will total \$99,600 as of 10/15/12. Total fines will be \$160,275 as of 10/15/12

All conditions to qualify for consideration of lien reduction as set forth within ordinance 12-05 have been met, with one exception. The violations have not yet been corrected. However final release of these liens is conditioned upon violation correction within thirty (30) days of 10/15/12.

The Town manager recommends a reduction in the amount of the liens to \$16,027.50. See memo dater 10/4/12

**6. Alternative Action:**

None

**7. Management Recommendations:**

Approve the recommended motion.

**8. Recommended Approval:**

Town Manager	Town Attorney	Finance Director	Public Works Director	Community Development Director	Parks & Recreation Director	Town Clerk
						

**9. Council Action:**

Approved  Denied  Deferred  Other



*Town of Fort Myers Beach*

# **MEMORANDUM**

To: Mayor and Town Council

From: Terry Stewart, Town Manager

Date: October 4, 2012

Re: 4545 Estero Boulevard Lien

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The Town has received a lien reduction request asking for relief of Code Enforcement Liens legally imposed upon the property located at 4545 Estero Boulevard. In a letter dated September 5, 2012, the property owner, Mr. Derrick Christy presents a request for a total abatement of all outstanding lien amounts. He asserts the bank holding the current loan has agreed to short sell it for an amount substantially below the current loan balance. Mr. Christy has authorized Mr. Clay Cason to act on his behalf. This authorization is supported by a notarized letter from Mr. Christy.

This memo shall serve to certify that Mr. Cason has provided all documents and information necessary to qualify for lien reduction consideration as per the rules established within ordinance 12-05. The lone exception to this is that the violations on the property are not yet corrected. This should be acceptable with a conditional approval from the Town Council; the conditions being two fold: First, the amount of any lien the Council determines shall be paid in full within thirty (30) days of October 15, 2012, and secondly, that the already condemned structures on the property must be demolished and thoroughly removed within thirty (30) days of October 15, 2012. Should either of these conditions fail to be met, the original lien amounts will remain in effect. Further, per the rules established within ordinance 12-05, the subject property will not be eligible for any future lien reduction action with regard to the current liens.

The property at 4545 Estero Boulevard is a property that has sat vacant for several years. There are currently two uncorrected Code Violation Cases against the property with fines that are accruing on a daily basis. Code case HE 2005-050F will have an existing balance of \$60,675.00 as of the date of October 15, 2012. Code case 10-0168 will have an existing balance of \$99,600.00 as of the date of October 15, 2012. The Total amount for both cases will be \$160,275.00 on

To: Mayor and Council

Date: October 4, 2012

Page 2.

October 15, 2012. The Code Enforcement Division has validated the accuracy of these lien amounts.

I hereby attest that this lien request does not fall within any of the three circumstances described within Section 2-432(a)(5). In determining whether to recommend approval of a lien reduction, all factors, as provided within the governing ordinance were taken into consideration. The lien accruing under case HE 2005-050F was ordered on 2/22/2006 and that under case 10-0168 since 12/21/2010. This is a very long period of time for the surrounding neighbors to be subjected to the eyesore created by the deteriorated structures. The gravity of the violation is significant as is supported by the designation of the structures as unsafe buildings that must be demolished.

There is a legally recorded mortgage on the property and it is in significant default with an outstanding principal balance of \$601,001.36, accrued interest of \$102,767.21 and late charges of \$31,575.00 for an outstanding due amount of \$735,343.57. A copy of a Sale and Purchase contract for the subject property was provided and includes a sale price of \$340,000. The proposed purchaser of the property, Torrin Brauch has presented a copy of a contract with Honc Industries covering the demolition and asbestos abatement for the unsafe structures on the property. As previously noted, demolition must be completed within thirty (30) days of 10/15/12. The cost of this demolition work is \$24,240.

Due to the severity of the violations, the extended periods the violations have existed and the high amounts of the Liens, I cannot justify recommending a total forgiveness of all liens. However, the desire to finally achieve correction of the violations and removal of the unsafe structures is a compelling reason to recommend a significantly reduced payment to satisfy these liens. When coupled with the recognition of the mortgage holder's short sale loss and the cost to demolish the structures, I recommend a ninety percent (90%) reduction in the lien amount to be paid, leaving a lien payment in the amount of \$16,027.50.

4545 Estero Lien Reduction Request

Date of Calculation:	10/15/2012		
<b><u>Code Case</u></b>	<b><u>Date of Order</u></b>	<b><u>\$ per day</u></b>	<b><u>Accrued Lien</u></b>
HE 2005-050F	2/22/2006	\$25	-\$60,675.00
10-0168	12/21/2010	\$150	-\$99,600.00
<b>Total Liens Amount</b>			<b>-\$160,275.00</b>

PARCEL #: 29-46-24-W3-0080F.0010

THIS SPACE FOR RECORDING

BEFORE THE HEARING EXAMINER OF  
LEE COUNTY, FLORIDA IN AND FOR  
THE TOWN OF FORT MYERS BEACH, FLORIDA

TOWN OF FORT MYERS BEACH, FLORIDA	:	
Petitioner,	:	CASE NO.: HE 2005-050F
vs.	:	
DERRICK CHRISTY/BELLA BEACH VILLAS, LLC:	:	
Respondent	:	

(10)

CODE ENFORCEMENT ORDER

THIS CASE was first heard by the undersigned Lee County Hearing Examiner at a public hearing on DECEMBER 8, 2005, after which an Order was entered which found that a violation existed on the subject property and required the Respondent, DERRICK CHRISTY/BELLA BEACH VILLAS, LLC, as the responsible person or entity, to complete certain actions that would abate the violation by a date certain or face the imposition of a specified fine.

On, FEBRUARY 22, 2006, the Hearing Examiner received competent evidence that the violation had not been abated in accord with the above Order, and therefore finds and decides:

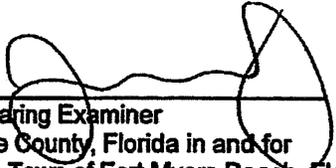
1. That the above-noted Order has not been complied with; and
2. That the violation still exists on the subject property; and
3. That the Respondent not paid the prosecution costs in the amount of \$100.00 which are due and owing to the Petitioner per Chapter 162, Florida Statutes.

It is ORDERED that Respondent pay a fine of \$25.00 per day, beginning on FEBRUARY 22, 2006, and continuing for each and every day that the aforesaid violation exists and continues on the property located, as reported by the Petitioner, at 4545 ESTERO BLVD. FORT MYERS BEACH, FL 33931.

Upon recording in the public records, this Order shall constitute a lien for the fine amount against all real and personal property of Respondent, including but not limited to the property described on

the attached exhibit, and subsequent foreclosure of such lien may result in the loss of such property. The prosecution costs awarded herein may also become a lien against Respondent, upon said recording, pursuant to Chapter 162, Florida Statutes.

DONE AND ORDERED at 1500 Monroe Street, Second Floor, Fort Myers, Lee County, Florida on February 28, 2006.

  
Hearing Examiner  
Lee County, Florida in and for  
the Town of Fort Myers Beach, Florida

**APPEAL:** An aggrieved party may appeal an Order of the Hearing Examiner of Lee County to the Circuit Court. The appeal shall be limited to appellate review of the record created before the Hearing Examiner. An appeal shall be filed within thirty (30) days of the execution of the Order to be appealed.

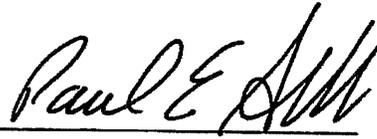
**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing has been sent by U.S. Mail to RESPONDENT, and to ANNE DALTON, Esquire, Town of Fort Myers Beach, 2523 Estero Blvd., Ft. Myers Beach, FL 33931; and by interoffice mail or hand delivery to Lee County Development Services Division (Code Enforcement), on February 28, 2006.

  
SECRETARY  
LEE COUNTY HEARING EXAMINER'S OFFICE

FOR RECORDING ONLY

I hereby certify that as an agent of the Lee County Development Services Division, the Office to whose custody the original is entrusted, this is a true and correct copy of the document maintained on file in the Code Enforcement records of Lee County, Florida.

A handwritten signature in black ink, appearing to read "Paul E. Smith", is written over a horizontal line.

Paul E. Smith  
Senior Code Enforcement Officer  
Development Services Division

Please return to:      LAW OFFICE OF JOSEPH M. MADDEN, JR., LLC  
JOSEPH M. MADDEN, JR. ESQUIRE  
2222 SECOND ST.  
Fort Myers, Fl. 33901

PROPERTY DATA FOR PARCEL 29-46-24-W3-0080F.0010  
TAX YEAR 2005

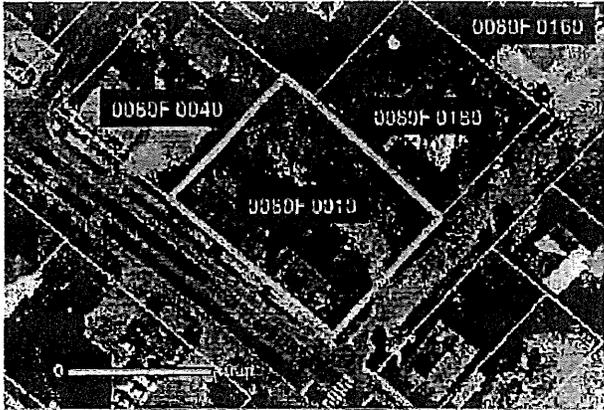
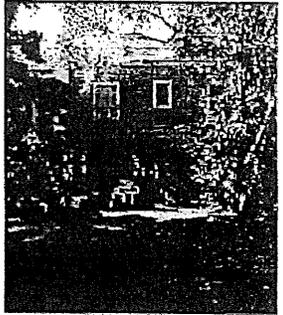
Parcel data is available for the following tax years:

[ 2001 | 2002 | 2003 | 2004 | 2005 ]

[ [Next Lower Parcel Number](#) | [Next Higher Parcel Number](#) | [Display Tangible Accounts on this Parcel](#)  
| [Display Tax Bills on this Parcel](#) | **NEW!** [Tax Estimator](#) ]

OWNERSHIP, LEGAL, SALES AND DISTRICT DATA ARE FROM THE CURRENT DATABASE.  
LAND, BUILDING, VALUE AND EXEMPTION DATA ARE FROM THE 2005 ROLL.

### PROPERTY DETAILS

<p><b>OWNER OF RECORD</b>          BELLA BEACH VILLAS LLC          107 N STATE RD          135 STE 301          GREENWOOD IN 46142</p> <p><b>SITE ADDRESS</b>          4545 ESTERO BLVD          FORT MYERS BEACH FL 33931</p> <p><b>LEGAL DESCRIPTION</b>          HYDE PARK BLK F PB 7 PG 20          LOTS 1 2 + 3 LESS BEG.SE</p>	<p>[ <a href="#">VIEWER</a> ] TAX MAP [ <a href="#">PRINT</a> ]</p>  <p>[ <a href="#">PICTOMETRY</a> ]</p>	<p><b>IMAGE OF STRUC</b></p>  <p>Photo Date: Februar</p>
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<p><b>TAXING DISTRICT</b> 033 - TOWN OF FT MYERS BEACH</p>	<p><b>DOR CODE</b> 08 - MULTI-FAMILY LESS THAN 10</p>	
<p><b>PROPERTY VALUES (TAX ROLL 2005)</b> [ <a href="#">NEW!</a> <a href="#">HISTORY CHART</a> ]</p>	<p><b>EXEMPTIONS</b></p>	<p><b>ATTRIBUTES</b></p>

<b>JUST</b>	548,560 HOMESTEAD	<b>0 UNITS OF MEASURE</b>	<b>UT</b>
<b>ASSESSED</b>	548,560 AGRICULTURAL	<b>0 NUMBER OF UNITS</b>	<b>3.00</b>
<b>ASSESSED SOH</b>	548,560 WIDOW	<b>0 FRONTAGE</b>	<b>0</b>
<b>TAXABLE</b>	548,560 WIDOWER	<b>0 DEPTH</b>	<b>0</b>
<b>BUILDING</b>	75,070 DISABILITY	<b>0 BEDROOMS</b>	<b>6</b>
<b>LAND</b>	473,490 WHOLLY	<b>0 BATHROOMS</b>	<b>4</b>
<b>BUILDING FEATURES</b>	<b>0 SOH DIFFERENCE</b>	<b>0 TOTAL BUILDING SQFT</b>	<b>3,092</b>
<b>LAND FEATURES</b>	990	<b>YEAR IMPROVED</b>	<b>1942</b>
		<b>HISTORIC DISTRICT</b>	<b>No</b>

### SALES/TRANSACTIONS

SALE PRICE	DATE	OR NUMBER	TYPE	TRANSACTION DETAILS DESCRIPTION	VACANT / IMPROVED
825,000	4/1/2005	<u>4701/2298</u>	06	Qualified (Fair Market Value / Arms Length / One STRAP #)	I
639,900	1/7/2004	<u>4183/2452</u>	06	Qualified (Fair Market Value / Arms Length / One STRAP #)	I
116,900	4/1/1999	<u>3119/680</u>	01	Disqualified (Doc Stamp .70 / SP less th \$100 / Other DisQ)	I
100	9/1/1993	<u>2439/3159</u>	03	Disqualified (Interest Sales / Court Docs / Government)	I
117,000	9/1/1989	<u>2100/4328</u>	03	Disqualified (Interest Sales / Court Docs / Government)	I

### PARCEL NUMBERING HISTORY

PRIOR STRAP	RENUMBER REASON	RENUMBER DATE
29-46-24-08-0000F.0010	Reserved for Renumber ONLY	Thursday, January 12, 1995

### SOLID WASTE (GARBAGE) ROLL DATA

SOLID WASTE DISTRICT	ROLL TYPE	CATEGORY	UNIT/AREA	TAX AMOUNT
001 - Service Area 1	R - Residential Category		4	825.22
<b>COLLECTION DAYS</b>				
<b>GARBAGE</b>	<b>RECYCLING</b>	<b>HORTICULTURE</b>		
Tuesday	Tuesday	Wednesday		

THIS INSTRUMENT PREPARED BY AND RETURN TO:  
WILLIAM E. SHENKO, JR.  
WILLIAM E. SHENKO, JR., P.A.  
1661 ESTERO BOULEVARD, SUITE 24  
FORT MYERS BEACH, FLORIDA 33931

INSTR # 6781297  
OR BK 84781 Pg 2298; (1pg)  
RECORDED 05/09/2005 02:12:58 PM  
CHARLIE GREEN, CLERK OF COURT  
LEE COUNTY, FLORIDA  
RECORDING FEE 18.00  
DEED DOC 5,775.00  
DEPUTY CLERK K Cartwright

Property Appraisers Parcel Identification (Folio) Numbers: 29-46-24-W3-0080F004  
Grantee SS #: \_\_\_\_\_ and \_\_\_\_\_

SPACE ABOVE THIS LINE FOR RECORDING DATA

THIS WARRANTY DEED, made the \_\_\_\_ day of April, 2005 by

WHITE CAP BEACH COTTAGES III, LLC, a Florida limited liability company, herein called the grantor, to

BELLA BEACH VILLAS LLC, an Indiana limited liability company, whose post office address is 107 North State Road 135, #301, Greenwood, IN 46142, hereinafter called the Grantee:  
*(Whoever used herein the terms "grantor" and "grantee" include all the parties to this instrument and the heirs, legal representatives and assigns of individuals, and the successors and assigns of corporations)*

**WITNESSETH:** That the grantor, for and in consideration of the sum of TEN AND 00/100'S (\$10.00) Dollars and other valuable considerations, receipt whereof is hereby acknowledged, hereby grants, bargains, sells, aliens, remises, releases, conveys and confirms unto the grantee all that certain land situate in LEE County, State of Florida, viz:

Lots 1, 2 and 3, Block F, HYDE PARK, according to the Plat thereof as recorded in Plat Book 7, Page 20, in the office of the Clerk of the Circuit Court of Lee County, Florida. EXCEPTING THEREFROM a triangular piece described as follows: Beginning at the Southeast corner of Lot 19 of said Block F, which is the common corner to Lots 1 and 19 on the West side of Strandview Avenue, thence run Southerly along the Westerly side of Strandview Avenue a distance of 6 feet; thence run in a Northwesterly direction to the Southwesterly corner of said Lot 19, which said corner is 125 feet Westerly to Strandview Avenue; thence run in an Easterly direction along the Southerly side of said Lot 19 a distance of 125 feet to Strandview Avenue and Point of Beginning.

TOGETHER, with all the tenements, hereditaments and appurtenances thereto belonging or in anywise appertaining.

TO HAVE AND TO HOLD, the same in fee simple forever.

AND, the grantor hereby covenants with said grantee that the grantor is lawfully seized of said land in fee simple; that the grantor has good right and lawful authority to sell and convey said land, and hereby warrants the title to said land and will defend the same against the lawful claims of all persons whomsoever; and that said land is free of all encumbrances, except taxes accruing subsequent to December 31, 2004.

IN WITNESS WHEREOF, the said grantor has signed and sealed these presents the day and year first above written.

Signed, sealed and delivered in the presence of:

*Susan Boback*  
Witness #1 Signature for Thomas W. Brueggemann  
SUSAN BOBACK  
Witness #1 Printed Name

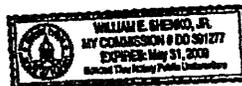
*[Signature]*  
Witness #2 Signature for Thomas W. Brueggemann  
Witness #2 Printed Name

WHITE CAP BEACH COTTAGES III,  
LLC, a Florida limited liability company  
By: *[Signature]*  
Thomas W. Brueggemann, Managing Member  
1674 West Smith Valley Road, #A  
Greenwood, IN 46142

STATE OF FLORIDA  
COUNTY OF LEE

The foregoing instrument was acknowledged before me this 6 day of April, 2005, by Thomas W. Brueggemann, Managing Member of WHITE CAP BEACH COTTAGES III, LLC, a Florida limited liability company, who executed on behalf of the limited liability company. Thomas W. Brueggemann is (X) personally known to me or has ( ) produced \_\_\_\_\_ as identification.

Signature of Notary *[Signature]*  
Type/Print Name of Notary William E. Shenko, Jr.  
Commission Number \_\_\_\_\_  
Commission Expiration Date \_\_\_\_\_



PARCEL #: 29-46-24-W3-0080F.0010

THIS SPACE FOR RECORDING

BEFORE THE SPECIAL MAGISTRATE OF  
FOR  
THE TOWN OF FORT MYERS BEACH, FLORIDA

TOWN OF FORT MYERS BEACH, FLORIDA :

Petitioner,

CASE NO.: 10-0168

vs.

BELLA BEACH VILLAS, LLC,

Respondent.

CODE ENFORCEMENT ORDER

THIS CASE was first heard by the undersigned Lee County Hearing Examiner at a public hearing on SEPTEMBER 22, 2010, after which an Order was entered which found that a violation existed on the subject property and required the Respondent, BELLA BEACH VILLAS, LLC, as the responsible person or entity to complete certain actions that would abate the violation by a date certain or face the imposition of a specified fine.

On DECEMBER 22, 2010, written competent and convincing evidence was provided that the violation had not been abated in accord with the above Order, and the Special Magistrate therefore finds and decides:

1. That the above-noted Order has not been complied with; and
2. That the violation of the Town of Fort Myers Beach Land Development Code (LDC) Sections 6-2 still exists on the subject property; and
3. That the Respondent has not paid the prosecution costs in the amount of \$150.00 which are now due and owing to the Petitioner per Chapter 162, Florida Statutes.

IT IS ORDERED that Respondent pay to the Town of Fort Myers Beach a fine of \$150.00 per day, beginning on DECEMBER 21, 2010 and continuing for each and every day that the aforesaid violation exists and continues on the property locate, as reported by the Petitioner at 4545 ESTERO BLVD, Fort Myers Beach, FL 33931.

Upon recording in the Public Records, this Order shall constitute a lien for the fine amount against all real and personal property of Respondent, including, but not limited to, the above-referenced property and subsequent foreclosure of such lien may result in the loss of

such property. The prosecution costs awarded herein may also become a lien against Respondent, upon recording, pursuant to Chapter 162, Florida Statutes.

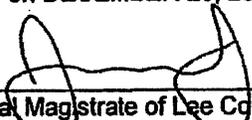
**RESPONDENT MUST CONTACT TOWN OF Fort Myers BEACH CODE ENFORCEMENT AT 239-765-0202 TO REQUEST A REINSPECTION FOR DETERMINATION OF COMPLIANCE. RESPONDENT IS ADVISED THAT NUMEROUS PHONE CALLS MAY BE NECESSARY TO ENSURE CONTACT WITH THE CODE ENFORCEMENT OFFICER.**

**Payment of administrative costs and fines:** Checks should be made payable to "Town of Fort Myers Beach" and mailed to:

Town of Fort Myers Beach  
Attention: Code Enforcement  
2523 Estero Boulevard  
Fort Myers Beach, FL 33931

Please include a case number on the check.

**DONE AND ORDERED** at Town of Fort Myers Beach Town Hall, 2523 Estero Boulevard, Fort Myers Beach, Lee County, Florida on **DECEMBER 29, 2010.**

  
\_\_\_\_\_  
Special Magistrate of Lee County, Florida  
in and for the Town of Fort Myers Beach

**REHEARING:** If the property owner disagrees with the Special Magistrate's finding herein that the violation has not been properly abated, the property owner has twenty (20) days from the date of this Order to request a rehearing. The request must be made in writing to the Town of Fort Myers Beach Code Enforcement Office and will be scheduled, if possible, on the next regularly scheduled hearing. Evidence and testimony presented at the hearing will be limited to the facts and arguments necessary to prove the violation was abated in accordance with the requirements of the Order finding the first violation. Any Order resulting from the rehearing may be appealed to the Circuit Court as set out below.

**APPEAL:** An aggrieved party may appeal an Order of the Special Magistrate of the Town of Fort Myers Beach. The appeal must be limited to appellate review of the record created before the Special Magistrate and filed within thirty (30) days of the execution of the Order to be appealed.

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing has been sent by interoffice mail or hand delivery to the Town of Fort Myers Beach and Attorney for the Town of Fort Myers Beach and by U.S. mail to:

BELLA BEACH VILLAS, LLC  
107 N. State Road 135, Suite 301  
Greenwood, IN 46142

  
\_\_\_\_\_  
Assistant to the Special Magistrate for the Town of  
Fort Myers Beach, Florida

FOR RECORDING ONLY

I HEREBY CERTIFY that as agent of the Town of Fort Myers Beach Code Enforcement Division, the office to whose custody the original is entrusted, this is a true and correct copy of the document maintained on file in the Code Enforcement Records of the Town of Fort Myers Beach, Florida.

  
Shane Hidle  
Code Enforcement Officer  
Town of Fort Myers Beach

September 5, 2012

Attention: Town of Fort Myers Beach

Re: 4545 Estero Boulevard

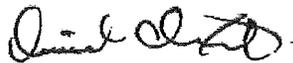
I am asking for the satisfaction or release of lien to be granted because the subject property is being sold well below the current outstanding loan balance and any additional costs or penalties would keep the sale transaction from closing with a new buyer that has made a commitment to demolish the subject property. The town has incurred no substantial actual hard costs related to such a repair violation and could justify the abatement of penalties to meet the town's objective of improvement by the demolition of the subject property.

There was an orange tag posted on the property the day we purchased it which required the stairs and hand railings to be repaired or replaced along with siding and securing the property. We provided plans and drawings and completed all the work requested within the time frame required. Then the code enforcement officer stating the plans were not acceptable as well as the work. After much discussion with the town back and forth along with documentation, we were unable to meet the town requirements. After several months, thousands of dollars and hours of work on the issue, we focused our time on the redevelopment of the property which we also met even more resistance from the town council by refusing to approve our redevelopment plans.

We are requesting an abatement of penalties that we believe is in the best interest of all parties that will achieve the town's objective to demolish the property that would be a major improvement for the Town and give opportunity for this project to be recast in a sale to allow for a new construction redevelopment that meets the Town's approval.

I have also forwarded an application fee in the amount of \$200 to reimburse the town for its administrative costs associated with handling the application and recording the order imposing a penalty or fine and the requested release of lien.

Sincerely,



Derrick Christy  
Managing Member  
Bella Beach Villas

9-14-12  
Jerry,  
New letter and  
notarized

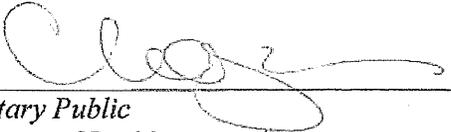
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STATE OF INDIANA

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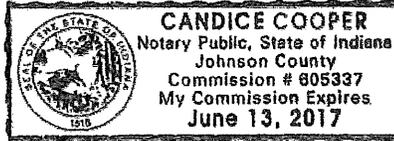
COUNTY OF Johnson

Before me, on 5<sup>th</sup> day of September, 2012 a Notary Public in and for said County and State, personally appeared **Derrick Christy, managing member of Bella Beach Villas** who acknowledged the execution of the foregoing statement, and who, having been duly sworn, stated that any representations therein contained are true.



*Notary Public*

County of Residence: Johnson  
My Commission Expires: 6/13/17



(SEAL)

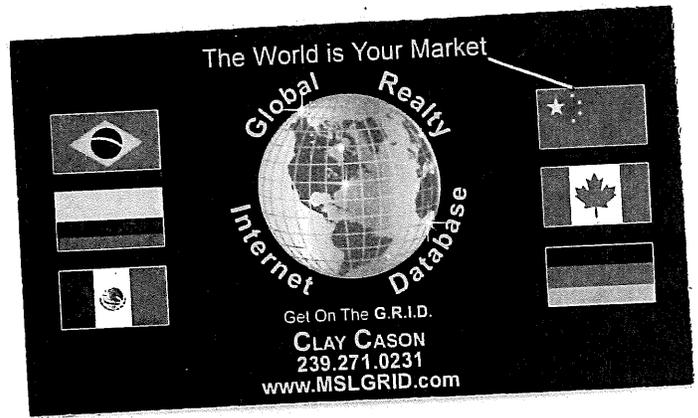
TOWN OF  
FORT MYERS BEACH

AUG 16 2012

August 16, 2012

RECEIVED BY

Terrance Stewart  
Town Manager  
2523 Estero Blvd  
Fort Myers Beach, FL 33931



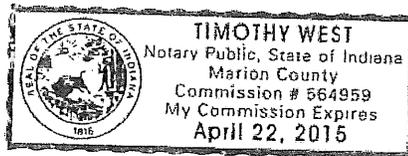
Mr. Stewart:

Please accept this letter as authorization for Joe Jamieson and Clay Cason to act upon my behalf to mitigate the fines against the property at 4545 Estero Blvd. I reserve the right to accept or decline the final judgment.

Sincerely,

Derrick Christy  
Managing Member

Subscribed + sworn before me a notary  
Public this 16<sup>th</sup> day of August, 2012



September 19, 2012

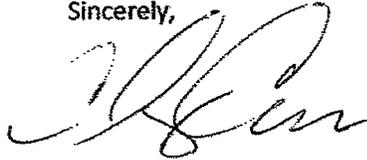
Terrance Stewart Town Manager  
2523 Estero Blvd.  
Fort Myers Beach, FL 33931

Re: 4545 Estero Lien Satisfaction Application Dated September 11, 2012

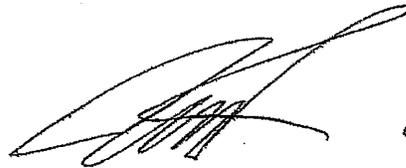
Mr. Stewart:

Per our Notarized letter from the Seller attached, I am authorized to state and swearby all information furnished in our packet is true according to all parties involved.

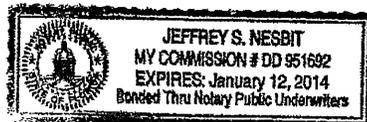
Sincerely,



Clay Cason  
Realtor  
Nesbit Real Estate, Inc.



9/19/2012





#2

August 29, 2012

Terrance Stewart, MPA  
Town Manager  
Town of Fort Myers Beach  
2523 Estero Boulevard  
Fort Myers Beach FL, 33931

Dear Mr. Stewart:

As requested, on Friday August 16th, I furnished you the notarized letter from the Owner of 4545 Estero Blvd. allowing me to initiate Lien mitigation on the property so it may convey to a new Owner contracted to close on September 21, 2012.

The new prospective Owner, Torrin Brauch, contracted the property in July and would like to offer a solution which would set in compliance all Code Violations that have compounded into the present Lien and will save the Town the cost of condemning and demolishing the structure which would only increase the Lien with real Tax Payers money being used and needed then to be recouped. From my understanding, the current Lien is only a compounded Code Violation and the Town has yet to incur any real cost.

The new prospective Owner, Mr. Brauch, will upon a written resolution with the Town:

- **Apply for the Demolition Permit within 7 days of the written accepted Town's resolution position which assures quick action without the Town needing to further pursue legally condemning the Buildings.**
- **Commit in writing to Demolish and remove all debris of structure within 30 days of his closing at 4545 Estero Blvd., thus eliminating the Town's need to incur the real cost and expenses of a Demolition Contractor and Crew in hopes of one day collecting should the property Foreclose.**

In all, a very old eye soar will be removed from our Town's main Boulevard, the Town will not have to incur any real cost, as well as risk, and every resident will benefit here on our Island from the economic allowance that the new housing construction opportunity brings to its neighborhoods.

Sincerely,

A handwritten signature in black ink, appearing to read 'Clay Cason', written over the word 'Sincerely,'.

Clay Cason  
Realtor  
Nesbit Real Estate

This instrument prepared by and after recording return to:  
First Financial Bank, N.A.  
Sundra Boggs / Loan Operations  
500 Washington Street  
Columbus, IN 47201

Street Address:  
4545 Estero Blvd, Fort Myers, FL 33931

#### ASSIGNMENT OF MORTGAGE

701729000L Loan number

FOR VALUE RECEIVED, FEDERAL DEPOSIT INSURANCE CORPORATION, AS RECEIVER FOR IRWIN UNION BANK AND TRUST COMPANY, COLUMBUS, IN AND IRWIN UNION BANK, F.S.B. - LOUISVILLE, KY with an office at 1601 Bryan Street, Suite /91700, Dallas, Texas 75201 ("Assignor"), by its Attorney-in-Fact pursuant to the Limited Power of Attorney executed by the Federal Deposit Insurance Corporation (the "FDIC") on September 25, 2009, and April 23, 2010, recorded in Lee County, on May 17, 2010, as number 2010000123753, hereby sells, assigns, transfers and sets over unto FIRST FINANCIAL BANK, N. A., a national banking association, with an office at 300 High Street, Hamilton, Ohio 45011 ("Assignee"), all of its right, title and interest in and to the MORTGAGE from Bella Beach Villas LLC, dated April 15, 2005 and recorded by the Lee County, FL Recorder of Deeds on May 9, 2005 as INSTR #6781298, Pages 2299-2388, which MORTGAGE encumbers the real estate, together with: (i) the promissory note(s) (whether one or more, the "Note") secured by the MORTGAGE and the monies due and to become due thereon; (ii) all of the other documents, agreements and certificates evidencing, governing, guarantying or securing, or executed in connection with, the loan made pursuant to the Note and MORTGAGE (COLLECTIVELY, THE "TRANSACTION Documents" and each, individually, a "Transaction Document"); and (iii) all assignable rights, titles, benefits, privileges, liens, security interests, and assignments owned, held, accruing, and to accrue to, and for the benefit of, the Assignor under the Note, the MORTGAGE and the Transaction Documents.

**RECORDATION REQUESTED BY:**

Irwin Union Bank and Trust Co.  
Greenwood  
107 N. State Road 135 Suite 201  
Greenwood, IN 46142

**WHEN RECORDED MAIL TO:**

Irwin Union Bank and Trust Co.  
Greenwood  
107 N. State Road 135 Suite 201  
Greenwood, IN 46142

INSTR # 6781298  
OK BK 04701 Pgs 2299 - 2308; (10pgs)  
RECORDED 05/09/2005 02:12:50 PM  
CHARLIE GREEN, CLERK OF COURT  
LEE COUNTY, FLORIDA  
RECORDING FEE 86.50  
MTG DOC 2,210.25  
INTANGIBLE 1,263.00  
DEPUTY CLERK K Cartwright

This Mortgage prepared by:

Name: Scott Hines, Commercial Lender  
Company:  
Address: ,

**MORTGAGE  
FUTURE ADVANCES**

**MAXIMUM LIEN.** The total amount of indebtedness secured by this Mortgage may decrease or increase from time to time, but the maximum amount of principal indebtedness which may be outstanding at any one time shall not exceed \$2,631,500.00, plus interest, and amounts expended or advanced by Lender for the payment of taxes, levies or insurance on the Property, and interest on such amounts.

**THIS MORTGAGE** dated April 15, 2005, is made and executed between Bella Beach Villas LLC, whose address is 107 North State Road 135, Suite 301, Greenwood, IN 46142 (referred to below as "Grantor") and Irwin Union Bank and Trust Co., whose address is 107 N. State Road 135 Suite 201, Greenwood, IN 46142 (referred to below as "Lender").

**GRANT OF MORTGAGE.** For valuable consideration, Grantor mortgages to Lender all of Grantor's right, title, and interest in and to the following described real property, together with all existing or subsequently erected or affixed buildings, improvements and fixtures; all easements, rights of way, and appurtenances; all water, water rights, watercourses and ditch rights (including stock in utilities with ditch or irrigation rights); and all other rights, royalties, and profits relating to the real property, including without limitation all minerals, oil, gas, geothermal and similar matters, (the "Real Property") located in Lee County, State of Florida:

See Exhibit "A", which is attached to this Mortgage and made a part of this Mortgage as if fully set forth herein.

The Real Property or its address is commonly known as 4545 Estero Blvd., Fort Myers, FL 33931.

**CROSS-COLLATERALIZATION.** In addition to the Note, this Mortgage secures all obligations, debts and liabilities, plus interest thereon, of Grantor to Lender, or any one or more of them, as well as all claims by Lender against Grantor or any one or more of them, whether now existing or hereafter arising, whether related or unrelated to the purpose of the Note, whether voluntary or otherwise, whether due or not due, direct or indirect, determined or undetermined, absolute or contingent, liquidated or unliquidated whether Grantor may be liable individually or jointly with others, whether obligated as guarantor, surety, accommodation party or otherwise, and whether recovery upon such amounts may be or hereafter may become barred by any statute of limitations, and whether the obligation to repay such amounts may be or hereafter may become otherwise unenforceable.

Grantor presently assigns to Lender all of Grantor's right, title, and interest in and to all present and future leases of the Property and all Rents from the Property. In addition, Grantor grants to Lender a Uniform Commercial Code security interest in the Personal Property and Rents.

**FUTURE ADVANCES.** In addition to the Note, this Mortgage secures all future advances made by Lender to Grantor whether or not the advances are made pursuant to a commitment. Specifically, without limitation, this Mortgage secures, in addition to the amounts specified in the Note, all future amounts Lender in its discretion may loan to Grantor within twenty (20) years of the date of this Mortgage, together with all interest thereon; however, in no event shall such future advances (excluding interest) exceed in the aggregate \$2,000,000.00.

**THIS MORTGAGE, INCLUDING THE ASSIGNMENT OF RENTS AND THE SECURITY INTEREST IN THE RENTS AND PERSONAL PROPERTY, IS GIVEN TO SECURE (A) PAYMENT OF THE INDEBTEDNESS AND (B) PERFORMANCE OF ANY AND ALL OBLIGATIONS**



Fort Myers Beach Community Development  
Code Compliance Division  
2523 Estero Blvd Fort Myers Beach, FL 33931  
Tel 239-765-0202 Fax 239-765-0591

Date: April 9, 2012

Name: Bella Beach Villas LLC  
C/o Derrick K. Christy (MGR)

Address: 107 N State Rd 135 Ste 301  
Greenwood In 46142

CASE NUMBER: CE11-0137
Certified Mail:
POSTED PROPERTY

DBA:

SITE ADDRESS: 4545 Estero Blvd  
Fort Myers Beach, FL 33931

PARCEL STRAP NO: 29-46-24-W3-0080F.0010

### **NOTICE OF CODE VIOLATION (UNSAFE BUILDING)**

Dear Property Owner/Agent,

This letter serves as notice that the structure on the above-referenced property is in violation of the Fort Myers Beach, FL Land Development Code:

**Chapter 6, Article II, Div 3, Section 6-111 of the Land Development Code which adopts the Florida Building Code as amended, Florida Building Code Section 103.5 (Unsafe buildings or Systems); and Chapter 6, Article I, Div 3, Section 6-36 which adopts the 1985 Standard Unsafe Building Abatement Code, as amended.**

**The structure is hereby declared an unsafe building in its present condition. The items causing the building to be determined unsafe are set forth in the inspector's report which is attached hereto.**

Permits for **Repair or Demolition** are hereby directed to be obtained and work begun to either demolish or repair within sixty **(60)** days of receipt of this notice or from the date of posting of this notice. In the event permits have not been obtained and work does not begin within sixty **(60)** days of service of this notice, the Fort Myers Beach Building Official may proceed to have the building demolished. Moreover, if permits are obtained within sixty **(60)** days and the owner fails to **Repair or Demolish** the structure within one hundred-twenty **(120)** days, the Fort Myers Beach Building Official may cause the building to be demolished with all costs to be charged to the property owner of record. Should you fail to pay the invoice, the Town of Fort Myers Beach will impose a lien

Page 2  
4545 Estero Blvd Unsafe Building  
CE11-0137

against the subject property which will be recorded in the public records. Said lien will be superior to all others, including any prior recorded mortgage. If the lien is not satisfied, the Town may file a foreclosure suit against the lien property.

Any person having a legal interest in the above-referenced property may appeal this notice as provided in Section 6-36 of the Land Development Code which adopts the 1985 Standard Unsafe Building Abatement Code. Failure to appeal in the time specified above will result in a waiver of all rights to a hearing.

Should you have any questions regarding this matter, please contact Ken Miller at 765-0202 Ext 113.

Respectfully,

A handwritten signature in black ink, appearing to read 'B. Stewart', written over a horizontal line.

Bob Stewart  
Building Official  
Town of Fort Myers Beach, FL  
[Ken@FortMyersBeachFL.gov](mailto:Ken@FortMyersBeachFL.gov)



Diversified Construction Services

# Proposal

Date	Proposal #
9/28/2012	1688

10101 Mallory Parkway, East  
 St. James City, FL 33956  
 (239) 772-HONC (4662) Fax (239) 283-7977  
 License CGC1515047 & CUC1224528 &  
 CFC1427789

Name / Address
Bella Beach Villas, LLC 107 N. State Rd, Suite 301 Greenwood, IN 46142

Site Address
4545 Estero Blvd Fort Myers Beach, FL 33931

Description	Qty	Cost	Total
OWNER MUST REMOVE ALL PERSONAL ITEMS BEFORE DEMOLITION AND HONC HAS RIGHTS TO ALL SALVAGE.			
Demolition of Existing Two (2) Duplexes to Include: Pull Demo Permit from Town of Fort Myers Beach and File Notice to FDEP Utility Disconnects - Sewer, Water, Electric, Cable & Telephone Water Demo for Dust Control Demolish, Haul and Legally Dispose of all Concrete, Adjacent Vegetation & Construction Debris Level Site with Existing Material		8,515.00	8,515.00
Asbestos Abatement		10,975.00	10,975.00
Clear Lot of All Vegetation & Stumps		4,750.00	4,750.00
If Required: Pump and Abandon Septic Tank with Permit from FDEP @ \$525/EA			
If Requested: Hay and Seed all Disturbed Areas @ \$200			
* This Price Does Not Include Silt Fence, Work in the Right-of-Way, MOT or Piling Removal Deeper than 5' Below Existing Grade.			

Terms
1/2 Down - Bal when done

<b>Total</b>	<b>\$24,240.00</b>
--------------	--------------------

THIS PROPOSAL IS VALID FOR 30 DAYS

CUSTOMER ACCEPTANCE AND WORK AUTHORIZATION: This proposal, including the standard terms of contract on the reverse side which constitute a part of this proposal, is accepted. Honc is hereby authorized to proceed with this work. I also certify that I represent the following company or person and am authorized to do so.

REPRESENTED \_\_\_\_\_ DATE \_\_\_\_\_ HONC ACCEPTANCE \_\_\_\_\_ DATE \_\_\_\_\_

SIGNATURE \_\_\_\_\_ PRINTED \_\_\_\_\_ DATE \_\_\_\_\_

# FIRST

first financial bank

Another step on the path to success

September 6, 2012

#4  
Adrienne C. Graeber  
Agent Title Services, LLC  
1104 S.E. 46th Lane, Suite 4  
Cape Coral, FL 33904

RE: Payoff Request – Bella Beach Villas, LLC  
#701729000

Dear Ms. Graeber:

Per your request, following is the payoff quote for the above referenced property to be applied to commercial loan #701729000. Upon receipt of this payoff, First Financial Bank agrees to release its mortgage lien against 4545 Estero Blvd Fort Myers, Florida.

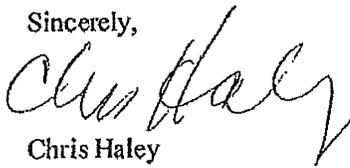
Principal Balance:	\$601,001.36
Accrued Interest:	\$102,767.21
Late Charges:	\$31,575.00
Total Amount due as of 09/21/2012:	\$735,343.57

First Financial Bank has agreed to accept 100% of net sales proceeds from the sale of the property. A final Settlement statement of the sale must be presented for approval prior to the Bank accepting anything less than the Total Amount due. Please send the payoff in the form of Cashiers or certified check payable to First Financial Bank at the address below:

First Financial Bank  
Attn: Chris Haley  
255 E. Fifth Street Suite 700  
Cincinnati, Ohio 45202  
513-979-5816

If you should have any questions, please do not hesitate to contact me at 513-513-979-5816 or [chris.haley@bankatfirst.com](mailto:chris.haley@bankatfirst.com). Please include a copy of this statement with the loan payoff.

Sincerely,



Chris Haley  
Special Assets Officer

# **first**

first financial bank

Another step on the path to success

#3

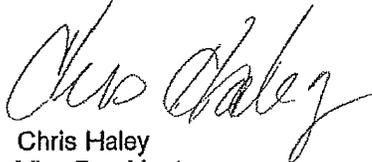
September 6, 2012

Attention: Town of Fort Myers Beach

Re: 4545 Estero Blvd

First Financial Bank has authorized a purchase agreement with our borrower, Bella Beach Villas for a short sale of the property located at 4545 Estero Blvd but will not authorize any payment for penalties. The bank understands that the property has extensive deferred maintenance and would ask the Town for an abatement of all penalties, interest, fees or assessments by the Town of Fort Myers Beach or governing entities.

Regards,



Chris Haley  
Vice President  
First Financial Bank  
255 E. 5th Street  
Suite 700  
Cincinnati, OH 45202

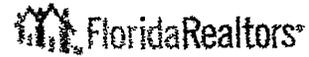
[Chris.Haley@BankatFirst.com](mailto:Chris.Haley@BankatFirst.com)

Office: (513) 979-5816

Cell: (513) 518-0964

#5

"AS IS" Residential Contract For Sale And Purchase  
THIS FORM HAS BEEN APPROVED BY THE FLORIDA REALTORS AND THE FLORIDA BAR



1\* PARTIES: Bella Beach Villas LLC ("Seller"),  
2\* and TORREN BRAUCH ("Buyer"),  
3 agree that Seller shall sell and Buyer shall buy the following described Real Property and Personal  
4 Property (collectively "Property") pursuant to the terms and conditions of this AS IS Residential Contract For Sale  
5 And Purchase and any riders and addenda ("Contract"):

6 1. PROPERTY DESCRIPTION:  
7 (a) Street address, city, zip: 4545 ESTERO BLVD Fort Myers Beach FL  
8\* (b) Property is located in: Lee County, Florida, Real Property Tax ID No:  
9\* (c) Legal description of the Real Property: 29-46-24-W3-0080 F. 0010  
10\* HYDE PARK BLK F PB7 PG 20 LOT 1, 2+3 LESS BEG. SE  
11 together with all existing improvements and fixtures, including built-in appliances, built-in furnishings and  
12 attached wall-to-wall carpeting and flooring ("Real Property") unless specifically excluded below.  
13 (d) Personal Property: The following items owned by Seller and existing on the Property as of the date  
14 of the initial offer are included in the purchase ("Personal Property"): (i) range(s)/oven(s), dishwasher(s),  
15 disposal, ceiling fan(s), intercom, light fixtures, rods, draperies and other window treatments, garage door  
16 openers, and security gate and other access devices; and (ii) those additional items checked below. If  
17\* additional details are necessary, specify below. If left blank, the item below is not included:

- |  |  |   |  |
|--|--|---|--|
| <input type="checkbox"/> Refrigerator(s)       | <input type="checkbox"/> Smoke detector(s) | <input type="checkbox"/> Pool barrier/fence         | <input type="checkbox"/> Storage shed              |
| <input type="checkbox"/> Microwave oven        | <input type="checkbox"/> Security system   | <input type="checkbox"/> Pool equipment             | <input type="checkbox"/> TV antenna/satellite dish |
| <input type="checkbox"/> Washer                | <input type="checkbox"/> Window/wall a/c   | <input type="checkbox"/> Pool heater                | <input type="checkbox"/> Water softener/purifier   |
| <input type="checkbox"/> Dryer                 | <input type="checkbox"/> Generator         | <input type="checkbox"/> Spa or hot tub with heater | <input type="checkbox"/> Storm shutters and panels |
| <input type="checkbox"/> Stand-alone ice maker |  | <input type="checkbox"/> Above ground pool          |  |

18 The only other items of Personal Property included in this purchase, and any additional details regarding  
19\* Personal Property, if necessary, are: N/A

20\* Personal Property is included in the Purchase Price, has no contributory value, and shall be left for the Buyer.

21\* (e) The following items are excluded from the purchase: N/A

22\* 2. PURCHASE PRICE (U.S. currency):..... \$ 340,000.00 ~~325,000~~ <sup>TR</sup> <sup>DR DKC</sup>

23\* (a) Initial deposit to be held in escrow in the amount of (checks subject to COLLECTION) \$ 5,000

24\* The initial deposit made payable and delivered to "Escrow Agent" named below  
25\* (CHECK ONE):  accompanies offer or  is to be made upon acceptance (Effective Date)  
26\* or  is to be made within 1 (if blank, then 3) days after Effective Date

27\* Escrow Agent Information: Name: Determined by Seller upon Acceptance <sup>MVP National Title</sup>  
28\* Address: 1174 SE 46TH LANE CAPE CORAL Phone: 239-443-1352  
29\* E-mail: BORINNE@AGONY-TITLE.COM Fax: 239-443-1332

30\* (b) Additional deposit to be delivered to Escrow Agent within 30 (if blank, then 3)  
31\* days after Effective Date..... \$ 5,000

32\* (All deposits paid or agreed to be paid, are collectively referred to as the "Deposit")

33\* (c) Financing: Express as a dollar amount or percentage ("Loan Amount") see Paragraph 8

34\* (d) Other: .....

35\* (e) Balance to close (not including Buyer's closing costs, prepaids and prorations) by wire  
36\* transfer or other COLLECTED funds..... \$ 315,000 <sup>TR</sup> <sup>330,000</sup>

37\* NOTE: For the definition of "COLLECTION" or "COLLECTED" see STANDARD S.

38\* 3. TIME FOR ACCEPTANCE OF OFFER AND COUNTER-OFFERS; EFFECTIVE DATE:

39\* (a) If not signed by Buyer and Seller, and an executed copy delivered to all parties on or before 7/16/12  
40\* this offer shall be deemed withdrawn and the Deposit, if any, will be returned to Buyer.  
41\* Unless otherwise stated, time for acceptance of any counter-offers shall be within 2 days after the day the  
42\* counter-offer is delivered.

43\* (b) The effective date of this Contract will be the date when the last one of the Buyer and Seller has signed or  
44\* initialed this offer or final counter-offer ("Effective Date").

45\* 4. CLOSING DATE: Unless modified by other provisions of this Contract, the closing of this transaction shall occur  
46\* and the closing documents required to be furnished by each party pursuant to this Contract shall be delivered  
47\* ("Closing") on 08/30/12 ("Closing Date"), at the time established by the Closing Agent.

48\* Buyer's Initials TR Page 1 of 10 Seller's Initials DR DKC  
49\* FloridaRealtors/FloridaBar-ASIS-7 Rev. 6/10 © 2010 Florida Realtors® and The Florida Bar. All rights reserved.

- 50 **5. EXTENSION OF CLOSING DATE:**
- 51 (a) If Closing funds from Buyer's lender(s) are not available at time of Closing due to Truth In Lending Act (TILA)
- 52 notice requirements, Closing shall be extended for such period necessary to satisfy TILA notice requirements,
- 53 not to exceed 7 days.
- 54 (b) If extreme weather or other condition or event constituting "Force Majeure" (see STANDARD G) causes:
- 55 (i) disruption of utilities or other services essential for Closing, or (ii) Hazard, Wind, Flood or Homeowners'
- 56 insurance, to become unavailable prior to Closing, Closing will be extended a reasonable time up to 3 days
- 57 after restoration of utilities and other services essential to Closing, and availability of applicable Hazard, Wind,
- 58 Flood or Homeowners' insurance. If restoration of such utilities or services and availability of insurance has not
- 59 occurred within \_\_\_\_\_ (if left blank, 14) days after Closing Date, then either party may terminate this
- 60 Contract by delivering written notice to the other party, and Buyer shall be refunded the Deposit, thereby
- 61 releasing Buyer and Seller from all further obligations under this Contract.
- 62 **6. OCCUPANCY AND POSSESSION:** Unless otherwise stated herein, Seller shall at Closing, have removed all
- 63 personal items and trash from the Property and shall deliver occupancy and possession, along with all keys,
- 64 garage door openers, access devices and codes, as applicable, to Buyer. If Property is intended to be rented or
- 65 occupied beyond Closing, the fact and terms thereof and the tenant(s) or occupants shall be disclosed pursuant
- 66 to STANDARD D. If occupancy is to be delivered before Closing, Buyer assumes all risks of loss to Property from
- 67 date of occupancy, shall be responsible and liable for maintenance from that date, and shall be deemed to have
- 68 accepted Property in its existing condition as of time of taking occupancy.
- 69 **7. ASSIGNABILITY: (CHECK ONE)** Buyer  may assign and thereby be released from any further liability
- 70 under this Contract;  may assign but not be released from liability under this Contract; or  may not assign
- 71 this Contract.

**FINANCING**

- 72 **8. FINANCING:**
- 73  (a) Buyer will pay cash or may obtain a loan for the purchase of the Property. There is no financing
- 74 contingency to Buyer's obligation to close.
- 75  (b) This Contract is contingent upon Buyer obtaining a written loan commitment for a  conventional  FHA
- 76  VA loan on the following terms within \_\_\_\_\_ (if blank, then 30) days after Effective Date ("Loan
- 77 Commitment Date") for: (CHECK ONE):  fixed,  adjustable,  fixed or adjustable rate loan in
- 78 the principal amount of \$ \_\_\_\_\_ or \_\_\_\_\_ % of the Purchase Price, at an initial interest rate
- 79 not to exceed \_\_\_\_\_ % (if blank, then prevailing rate based upon Buyer's creditworthiness), and for a
- 80 term of \_\_\_\_\_ years ("Financing").
- 81
- 82 Buyer will make mortgage loan application for the Financing within \_\_\_\_\_ (if blank, then 5) days after
- 83 Effective Date and use good faith and diligent effort to obtain a written loan commitment for the Financing
- 84 ("Loan Commitment") and close this Contract. Buyer shall keep Seller and Broker fully informed about
- 85 the status of mortgage loan application and Loan Commitment and authorizes Buyer's mortgage broker and
- 86 Buyer's lender to disclose such status and progress to Seller and Broker.
- 87
- 88 If Buyer does not receive Loan Commitment, then Buyer may terminate this Contract by delivering written
- 89 notice to Seller, and the Deposit shall be refunded to Buyer, thereby releasing Buyer and Seller from all
- 90 further obligations under this Contract.
- 91
- 92 If Buyer does not deliver written notice to Seller of receipt of Loan Commitment or Buyer's written waiver of
- 93 this financing contingency, then after Loan Commitment Date Seller may terminate this Contract by
- 94 delivering written notice to Buyer and the Deposit shall be refunded to Buyer, thereby releasing Buyer and
- 95 Seller from all further obligations under this Contract.
- 96
- 97 If Buyer delivers written notice of receipt of Loan Commitment to Seller and this Contract does not
- 98 thereafter close, the Deposit shall be paid to Seller unless failure to close is due to: (1) Seller's default;
- 99 (2) Property related conditions of the Loan Commitment have not been met (except when such conditions
- 100 are waived by other provisions of this Contract); (3) appraisal of the Property obtained by Buyer's lender is
- 101 insufficient to meet terms of the Loan Commitment; or (4) the loan is not funded due to financial failure of
- 102 Buyer's lender, in which event(s) the Deposit shall be returned to Buyer, thereby releasing Buyer and Seller
- from all further obligations under this Contract.
- (c) Assumption of existing mortgage (see rider for terms).
- (d) Purchase money note and mortgage to Seller (see riders; addenda; or special clauses for terms).

Buyer's Initials TS  
 FloridaRealtors/FloridaBar-ASIS-1

Page 2 of 10

Seller's Initials RE RKC

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**CLOSING COSTS, FEES AND CHARGES**

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**9. CLOSING COSTS; TITLE INSURANCE; SURVEY; HOME WARRANTY; SPECIAL ASSESSMENTS:**

- (a) **COSTS TO BE PAID BY SELLER:**
- Documentary stamp taxes and surtax on deed, if any
  - Owner's Policy and Charges (if Paragraph 9(c)(i) is checked)
  - Title search charges (if Paragraph 9(c)(iii) is checked)
  - Other:
- HOA/Condominium Association estoppel fees
  - Recording and other fees needed to cure title
  - Seller's attorneys' fees

If, prior to Closing, Seller is unable to meet the AS IS Maintenance Requirement as required by Paragraph 11 a sum equal to 125% of estimated cost to meet the AS IS Maintenance Requirement shall be escrowed at Closing. If actual costs to meet the AS IS Maintenance Requirement exceed escrowed amount, Seller shall pay such actual costs. Any unused portion of escrowed amount shall be returned to Seller.

- (b) **COSTS TO BE PAID BY BUYER:**
- Taxes and recording fees on notes and mortgages
  - Recording fees for deed and financing statements
  - Owner's Policy and Charges (if Paragraph 9(c)(ii) is checked)
  - Survey (and elevation certification, if required)
  - Lender's title policy and endorsements
  - HOA/Condominium Association application/transfer fees
  - Other:
- Loan expenses
  - Appraisal fees
  - Buyer's Inspections
  - Buyer's attorneys' fees
  - All property related insurance

(c) **TITLE EVIDENCE AND INSURANCE:** At least \_\_\_\_\_ (if blank, then 5) days prior to Closing Date, a title insurance commitment issued by a Florida licensed title insurer, with legible copies of instruments listed as exceptions attached thereto ("Title Commitment") and, after Closing, an owner's policy of title insurance (see STANDARD A for terms) shall be obtained and delivered to Buyer. If Seller has an owner's policy of title insurance covering the Real Property, a copy shall be furnished to Buyer and Closing Agent within 5 days after Effective Date. The owner's title policy premium and charges for owner's policy endorsements, title search, and closing services (collectively, "Owner's Policy and Charges") shall be paid, as set forth below **(CHECK ONE):**

- (i) Seller will designate Closing Agent and pay for Owner's Policy and Charges (but not including charges for closing services related to Buyer's lender's policy and endorsements and loan closing, which amounts shall be paid by Buyer to Closing Agent or such other provider(s) as Buyer may select); or
- (ii) Buyer will designate Closing Agent and pay for Owner's Policy and Charges and charges for closing services related to Buyer's lender's policy, endorsements, and loan closing; or
- (iii) **(MIAMI-DADE/BROWARD REGIONAL PROVISION):** Seller will furnish a copy of a prior owner's policy of title insurance or other evidence of title and pay fees for: (A) a continuation or update of such title evidence, which is acceptable to Buyer's title insurance underwriter for reissue of coverage; (B) tax search; and (C) municipal lien search. Buyer shall obtain and pay for post-Closing continuation and premium for Buyer's owner's policy, and if applicable, Buyer's lender's policy. Seller shall not be obligated to pay more than \$ \_\_\_\_\_ (if blank, \$200.00) for abstract continuation or title search ordered or performed by Closing Agent.

(d) **SURVEY:** At least 5 days prior to Closing, Buyer may, at Buyer's expense, have the Real Property surveyed and certified by a registered Florida surveyor ("Survey"). If Seller has a survey covering the Real Property, a copy shall be furnished to Buyer and Closing Agent within 5 days after Effective Date.

(e) **HOME WARRANTY:** At Closing,  Buyer  Seller  N/A will pay for a home warranty plan issued by \_\_\_\_\_ at a cost not to exceed \$ \_\_\_\_\_. A home warranty plan provides for repair or replacement of many of a home's mechanical systems and major built-in appliances in the event of breakdown due to normal wear and tear during the agreement's warranty period.

(f) **SPECIAL ASSESSMENTS:** At Closing, Seller will pay: (i) the full amount of liens imposed by a public body ("public body" does not include a Condominium or Homeowner's Association) that are certified, confirmed and ratified before Closing; and (ii) the amount of the public body's most recent estimate or assessment for an improvement which is substantially complete as of Effective Date, but that has not resulted in a lien being imposed on the Property before Closing. Buyer will pay all other assessments. If special assessments may be paid in installments **(CHECK ONE):**

- (a) Seller shall pay installments due prior to Closing and Buyer shall pay installments due after Closing. Installments prepaid or due for the year of Closing shall be prorated.
- (b) Seller shall pay the assessment(s) in full prior to or at the time of Closing.
- IF NEITHER BOX IS CHECKED, THEN OPTION (a) SHALL BE DEEMED SELECTED.**

This Paragraph 9(f) shall not apply to a special benefit tax lien imposed by a community development district (CDD) pursuant to Chapter 190 F.S. which lien shall be treated as an ad valorem tax and prorated pursuant to STANDARD K.

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DISCLOSURES

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10. DISCLOSURES:

- (a) **RADON GAS:** Radon is a naturally occurring radioactive gas that, when it is 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.
- (b) **PERMITS DISCLOSURE:** Except as may have been disclosed by Seller to Buyer in a written disclosure, Seller does not know of any improvements made to the Property which were made without required permits or made pursuant to permits which have not been properly closed.
- (c) **MOLD:** Mold is naturally occurring and may cause health risks or damage to property. If Buyer is concerned or desires additional information regarding mold, Buyer should contact an appropriate professional.
- (d) **FLOOD ZONE; ELEVATION CERTIFICATION:** Buyer is advised to verify by elevation certificate which flood zone the Property is in, whether flood insurance is required by Buyer's lender, and what restrictions apply to improving the Property and rebuilding in the event of casualty. If Property is in a "Special Flood Hazard Area" or "Coastal High Hazard Area" and finished floor elevation is below minimum flood elevation, Buyer may terminate this Contract by delivering written notice to Seller within 20 days after Effective Date, failing which Buyer accepts existing elevation of buildings and flood zone designation of Property.
- (e) **ENERGY BROCHURE:** Buyer acknowledges receipt of Florida Energy-Efficiency Rating Information Brochure required by Section 553.996, F.S.
- (f) **LEAD-BASED PAINT:** If Property includes pre-1978 residential housing, a lead-based paint rider is mandatory.
- (g) **HOMEOWNERS' ASSOCIATION/COMMUNITY DISCLOSURE: BUYER SHOULD NOT EXECUTE THIS CONTRACT UNTIL BUYER HAS RECEIVED AND READ THE HOMEOWNERS' ASSOCIATION/COMMUNITY DISCLOSURE, IF APPLICABLE.**
- (h) **PROPERTY TAX DISCLOSURE SUMMARY: BUYER SHOULD NOT RELY ON THE SELLER'S CURRENT PROPERTY TAXES AS THE AMOUNT OF PROPERTY TAXES THAT THE BUYER MAY BE OBLIGATED TO PAY IN THE YEAR SUBSEQUENT TO PURCHASE. A CHANGE OF OWNERSHIP OR PROPERTY IMPROVEMENTS TRIGGERS REASSESSMENTS OF THE PROPERTY THAT COULD RESULT IN HIGHER PROPERTY TAXES. IF YOU HAVE ANY QUESTIONS CONCERNING VALUATION, CONTACT THE COUNTY PROPERTY APPRAISER'S OFFICE FOR INFORMATION.**
- (i) **TAX WITHHOLDING:** If Seller is a "foreign person" as defined by the Foreign Investment in Real Property Tax Act ("FIRPTA"), Buyer and Seller will comply with FIRPTA, which may require Seller to provide additional cash at Closing.
- (j) **SELLER DISCLOSURE:** Seller knows of no facts materially affecting the value of the Real Property which are not readily observable and which have not been disclosed to Buyer. Except as stated in the preceding sentence or otherwise disclosed in writing: (1) Seller has received no written or verbal notice from any governmental entity or agency as to a currently uncorrected building, environmental or safety code violation; and (2) Seller extends and intends no warranty and makes no representation of any type, either express or implied, as to the physical condition or history of the Property.

PROPERTY MAINTENANCE, CONDITION, INSPECTIONS AND EXAMINATIONS

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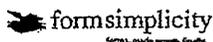
11. **PROPERTY MAINTENANCE:** Except for ordinary wear and tear and Casualty Loss, Seller shall maintain the Property, including, but not limited to, lawn, shrubbery, and pool, in the condition existing as of Effective Date ("AS IS Maintenance Requirement").

12. **PROPERTY INSPECTION; RIGHT TO CANCEL:**

(a) **PROPERTY INSPECTIONS AND RIGHT TO CANCEL:** Buyer shall have 30 (if blank, 15) days from Effective Date ("Inspection Period") within which to have such inspections of the Property performed as Buyer shall desire during the Inspection Period. If Buyer determines, in Buyer's sole discretion, that the Property is not acceptable to Buyer, Buyer may terminate this Contract by delivering written notice of such election to Seller prior to expiration of Inspection Period. If Buyer timely terminates this Contract, the Deposit paid shall be immediately returned to Buyer, thereupon, Buyer and Seller shall be released of all further obligations under this Contract; however, Buyer shall be responsible for prompt payment for such inspections, for repair of damage to, and restoration of, the Property resulting from such inspections, and shall provide Seller with paid receipts for all work done on the Property (the preceding provision shall survive termination of this Contract). Unless Buyer exercises the right to terminate granted herein, Buyer accepts the physical condition of the Property and any violation of governmental, building, environmental, and safety codes, restrictions, or requirements, but subject to Seller's continuing AS IS Maintenance Requirement, and Buyer shall be responsible for any and all repairs and improvements required by Buyer's lender.

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- 209 (b) **WALK-THROUGH INSPECTION/RE-INSPECTION:** On the day prior to Closing Date, or on Closing Date prior  
 210 to time of Closing, as specified by Buyer, Buyer or Buyer's representative may perform a walk-through (and  
 211 follow-up walk-through, if necessary) inspection of the Property solely to confirm that all items of Personal  
 212 Property are on the Property and to verify that Seller has maintained the Property as required by the AS IS  
 213 Maintenance Requirement and has met all other contractual obligations.  
 214 (c) **SELLER ASSISTANCE AND COOPERATION IN CLOSE-OUT OF BUILDING PERMITS:** If Buyer's  
 215 inspection of the Property identifies open or needed building permits, then Seller shall promptly deliver to  
 216 Buyer all plans, written documentation or other information in Seller's possession, knowledge, or control  
 217 relating to improvements to the Property which are the subject of such open or needed Permits, and shall  
 218 promptly cooperate in good faith with Buyer's efforts to obtain estimates of repairs or other work necessary to  
 219 resolve such Permit issues. Seller's obligation to cooperate shall include Seller's execution of necessary  
 220 authorizations, consents, or other documents necessary for Buyer to conduct inspections and have estimates  
 221 of such repairs or work prepared, but in fulfilling such obligation, Seller shall not be required to expend, or  
 222 become obligated to expend, any money.  
 223 (d) **ASSIGNMENT OF REPAIR AND TREATMENT CONTRACTS AND WARRANTIES:** At Buyer's option and  
 224 cost, Seller will, at Closing, assign all assignable repair, treatment and maintenance contracts and warranties  
 225 to Buyer.

226 **ESCROW AGENT AND BROKER**

- 227 13. **ESCROW AGENT:** Any Closing Agent or Escrow Agent (collectively "Agent") receiving the Deposit, other funds  
 228 and other items is authorized, and agrees by acceptance of them, to deposit them promptly, hold same in escrow  
 229 within the State of Florida and, subject to **COLLECTION**, disburse them in accordance with terms and conditions  
 230 of this Contract. Failure of funds to become **COLLECTED** shall not excuse Buyer's performance. When conflicting  
 231 demands for the Deposit are received, or Agent has a good faith doubt as to entitlement to the Deposit, Agent  
 232 may take such actions permitted by this Paragraph 13, as Agent deems advisable. If in doubt as to Agent's duties  
 233 or liabilities under this Contract, Agent may, at Agent's option, continue to hold the subject matter of the escrow  
 234 until the parties agree to its disbursement or until a final judgment of a court of competent jurisdiction shall  
 235 determine the rights of the parties, or Agent may deposit same with the clerk of the circuit court having jurisdiction  
 236 of the dispute. An attorney who represents a party and also acts as Agent may represent such party in such  
 237 action. Upon notifying all parties concerned of such action, all liability on the part of Agent shall fully terminate,  
 238 except to the extent of accounting for any items previously delivered out of escrow. If a licensed real estate  
 239 broker, Agent will comply with provisions of Chapter 475, F.S., as amended and FREC rules to timely resolve  
 240 escrow disputes through mediation, arbitration, interpleader or an escrow disbursement order.  
 241 Any proceeding between Buyer and Seller wherein Agent is made a party because of acting as Agent hereunder,  
 242 or in any proceeding where Agent interpleads the subject matter of the escrow, Agent shall recover reasonable  
 243 attorney's fees and costs incurred, to be paid pursuant to court order out of the escrowed funds or equivalent.  
 244 Agent shall not be liable to any party or person for mis-delivery of any escrowed items, unless such mis-delivery is  
 245 due to Agent's willful breach of this Contract or Agent's gross negligence. This Paragraph 13 shall survive Closing  
 246 or termination of this Contract.  
 247 14. **PROFESSIONAL ADVICE; BROKER LIABILITY:** Broker advises Buyer and Seller to verify Property condition,  
 248 square footage, and all other facts and representations made pursuant to this Contract and to consult appropriate  
 249 professionals for legal, tax, environmental, and other specialized advice concerning matters affecting the Property  
 250 and the transaction contemplated by this Contract. Broker represents to Buyer that Broker does not reside on the  
 251 Property and that all representations (oral, written or otherwise) by Broker are based on Seller representations or  
 252 public records. **BUYER AGREES TO RELY SOLELY ON SELLER, PROFESSIONAL INSPECTORS AND**  
 253 **GOVERNMENTAL AGENCIES FOR VERIFICATION OF PROPERTY CONDITION, SQUARE FOOTAGE AND**  
 254 **FACTS THAT MATERIALLY AFFECT PROPERTY VALUE AND NOT ON THE REPRESENTATIONS (ORAL,**  
 255 **WRITTEN OR OTHERWISE) OF BROKER.** Buyer and Seller (individually, the "Indemnifying Party") each  
 256 individually indemnifies, holds harmless, and releases Broker and Broker's officers, directors, agents and  
 257 employees from all liability for loss or damage, including all costs and expenses, and reasonable attorney's fees  
 258 at all levels, suffered or incurred by Broker and Broker's officers, directors, agents and employees in connection  
 259 with or arising from claims, demands or causes of action instituted by Buyer or Seller based on: (i) inaccuracy of  
 260 information provided by the Indemnifying Party or from public records; (ii) Indemnifying Party's misstatement(s) or  
 261 failure to perform contractual obligations; (iii) Broker's performance, at Indemnifying Party's request, of any task  
 262 beyond the scope of services regulated by Chapter 475, F.S., as amended, including Broker's referral,  
 263 recommendation or retention of any vendor for, or on behalf of, Indemnifying Party; (iv) products or services  
 264 provided by any such vendor for, or on behalf of, Indemnifying Party; and (v) expenses incurred by any such  
 265 vendor. Buyer and Seller each assumes full responsibility for selecting and compensating their respective vendors  
 266 and paying their other costs under this Contract whether or not this transaction closes. This Paragraph 14 will not  
 267 relieve Broker of statutory obligations under Chapter 475, F.S., as amended. For purposes of this Paragraph 14,

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268 Broker will be treated as a party to this Contract. This Paragraph 14 shall survive Closing or termination of this  
269 Contract.

#### 270 **DEFAULT AND DISPUTE RESOLUTION**

#### 271 **15. DEFAULT:**

272 (a) **BUYER DEFAULT:** If Buyer fails, neglects or refuses to perform Buyer's obligations under this Contract,  
273 including payment of the Deposit, within the time(s) specified, Seller may elect to recover and retain the  
274 Deposit for the account of Seller as agreed upon liquidated damages, consideration for execution of this  
275 Contract, and in full settlement of any claims, whereupon Buyer and Seller shall be relieved from all further  
276 obligations under this Contract, or Seller, at Seller's option, may, pursuant to Paragraph 16, proceed in equity  
277 to enforce Seller's rights under this Contract. The portion of the Deposit, if any, paid to Listing Broker upon  
278 default by Buyer, shall be split equally between Listing Broker and Cooperating Broker; provided however,  
279 Cooperating Broker's share shall not be greater than the commission amount Listing Broker had agreed to pay  
280 to Cooperating Broker.

281 (b) **SELLER DEFAULT:** If for any reason other than failure of Seller to make Seller's title marketable after  
282 reasonable diligent effort, Seller fails, neglects or refuses to perform Seller's obligations under this Contract,  
283 Buyer may elect to receive return of Buyer's Deposit without thereby waiving any action for damages resulting  
284 from Seller's breach, and, pursuant to Paragraph 16, may seek to recover such damages or seek specific  
285 performance. This Paragraph 15 shall survive Closing or termination of this Contract.

286 **16. DISPUTE RESOLUTION:** Unresolved controversies, claims and other matters in question between Buyer and  
287 Seller arising out of, or relating to, this Contract or its breach, enforcement or interpretation ("Dispute") will be  
288 settled as follows:

289 (a) Buyer and Seller will have 10 days after the date conflicting demands for the Deposit are made to attempt to  
290 resolve such Dispute, failing which, Buyer and Seller shall submit such Dispute to mediation under  
291 Paragraph 16(b).

292 (b) Buyer and Seller shall attempt to settle Disputes in an amicable manner through mediation pursuant to Florida  
293 Rules for Certified and Court-Appointed Mediators and Chapter 44, F.S., as amended (the "Mediation Rules").  
294 The mediator must be certified or must have experience in the real estate industry. Injunctive relief may be  
295 sought without first complying with this Paragraph 16(b). Disputes not settled pursuant to this Paragraph 16  
296 may be resolved by instituting action in the appropriate court having jurisdiction of the matter. This Paragraph 16  
297 shall survive Closing or termination of this Contract.

298 **17. ATTORNEY'S FEES; COSTS:** The parties will split equally any mediation fee incurred in any mediation permitted  
299 by this Contract, and each party will pay their own costs, expenses and fees, including attorney's fees, incurred in  
300 conducting the mediation. In any litigation permitted by this Contract, the prevailing party shall be entitled to  
301 recover from the non-prevailing party costs and fees, including reasonable attorney's fees, incurred in conducting  
302 the litigation. This Paragraph 17 shall survive Closing or termination of this Contract.

#### 303 **STANDARDS FOR REAL ESTATE TRANSACTIONS ("STANDARDS")**

#### 304 **18. STANDARDS:**

##### 305 **A. TITLE:**

306 (i) **TITLE EVIDENCE; RESTRICTIONS; EASEMENTS; LIMITATIONS:** Within the time period provided in  
307 Paragraph 9(c), the Title Commitment, with legible copies of instruments listed as exceptions attached thereto, shall  
308 be issued and delivered to Buyer. The Title Commitment shall set forth those matters to be discharged by Seller at or  
309 before Closing and shall provide that, upon recording of the deed to Buyer, an owner's policy of title insurance in the  
310 amount of the Purchase Price, shall be issued to Buyer insuring Buyer's marketable title to the Real Property,  
311 subject only to the following matters: (a) comprehensive land use plans, zoning, and other land use restrictions,  
312 prohibitions and requirements imposed by governmental authority; (b) restrictions and matters appearing on the Plat  
313 or otherwise common to the subdivision; (c) outstanding oil, gas and mineral rights of record without right of entry;  
314 (d) unplatted public utility easements of record (located contiguous to real property lines and not more than 10 feet in  
315 width as to rear or front lines and 7 1/2 feet in width as to side lines); (e) taxes for year of Closing and subsequent  
316 years; and (f) assumed mortgages and purchase money mortgages, if any (if additional items, attach addendum);  
317 provided, that none prevent use of the Property for **RESIDENTIAL PURPOSES**. If there exists at Closing any  
318 violation of items identified in (b) - (f) above, then the same shall be deemed a title defect. Marketable title shall be  
319 determined according to applicable Title Standards adopted by authority of The Florida Bar and in accordance with  
320 law.

321 (ii) **TITLE EXAMINATION:** Buyer shall have 5 days after receipt of Title Commitment to examine it and notify  
322 Seller in writing specifying defect(s), if any, that render title unmarketable. If Seller provides Title Commitment and it  
323 is delivered to Buyer less than 5 days prior to Closing Date, Buyer may extend Closing for up to 5 days after  
324 date of receipt to examine same in accordance with this STANDARD A. Seller shall have 30 days ("Cure Period")  
325 after receipt of Buyer's notice to take reasonable diligent efforts to remove defects. If Buyer fails to so notify Seller,  
326 Buyer shall be deemed to have accepted title as it then is. If Seller cures defects within Cure Period, Seller will

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STANDARDS FOR REAL ESTATE TRANSACTIONS (CONTINUED)

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328 deliver written notice to Buyer (with proof of cure acceptable to Buyer and Buyer's attorney) and the parties will  
329 close this Contract on Closing Date (or if Closing Date has passed, within 10 days after Buyer's receipt of Seller's  
330 notice). If Seller is unable to cure defects within Cure Period, then Buyer may, within 5 days after expiration of  
331 Cure Period, deliver written notice to Seller: (a) extending Cure Period for a specified period not to exceed 120 days  
332 within which Seller shall continue to use reasonable diligent effort to remove or cure the defects ("Extended Cure  
333 Period"); or (b) electing to accept title with existing defects and close this Contract on Closing Date (or if Closing Date  
334 has passed, within the earlier of 10 days after end of Extended Cure Period or Buyer's receipt of Seller's notice), or  
335 (c) electing to terminate this Contract and receive a refund of the Deposit, thereby releasing Buyer and Seller from  
336 all further obligations under this Contract. If after reasonable diligent effort, Seller is unable to timely cure defects,  
337 and Buyer does not waive the defects, this Contract shall terminate, and Buyer shall receive a refund of the Deposit,  
338 thereby releasing Buyer and Seller from all further obligations under this Contract.

339 **B. SURVEY:** If Survey discloses encroachments on the Real Property or that improvements located thereon  
340 encroach on setback lines, easements, or lands of others; or violate any restrictions, covenants, or applicable  
341 governmental regulations described in STANDARD A (i)(a), (b) or (d) above, Buyer shall deliver written notice of such  
342 matters, together with a copy of Survey, to Seller within 5 days after Buyer's receipt of Survey, but no later than  
343 Closing. If Buyer timely delivers such notice and Survey to Seller, such matters identified in the notice and Survey  
344 shall constitute a title defect, subject to cure obligations of STANDARD A above. If Seller has delivered a prior  
345 survey, Seller shall, at Buyer's request, execute an affidavit of "no change" to the Real Property since the  
346 preparation of such prior survey, to the extent the affirmations therein are true and correct.

347 **C. INGRESS AND EGRESS:** Seller represents that there is ingress and egress to the Real Property and title to  
348 the Real Property is insurable in accordance with STANDARD A without exception for lack of legal right of access.

349 **D. LEASES:** Seller shall, within 5 days after Inspection Period, furnish to Buyer copies of all written leases and  
350 estoppel letters from each tenant specifying nature and duration of tenant's occupancy, rental rates, advanced rent  
351 and security deposits paid by tenant, and income and expense statements for preceding 12 months ("Lease  
352 Information"). If Seller is unable to obtain estoppel letters from tenant(s), the same information shall be furnished by  
353 Seller to Buyer within that time period in the form of a Seller's affidavit, and Buyer may thereafter contact tenant(s)  
354 to confirm such information. If terms of the lease(s) differ materially from Seller's representations, Buyer may deliver  
355 written notice to Seller within 5 days after receipt of Lease Information, but no later than 5 days prior to Closing  
356 Date, terminating this Contract and receive a refund of the Deposit, thereby releasing Buyer and Seller from all  
357 further obligations under this Contract. Seller shall, at Closing, deliver and assign all original leases to Buyer who  
358 shall assume Seller's obligation thereunder.

359 **E. LIENS:** Seller shall furnish to Buyer at Closing an affidavit attesting; (i) to the absence of any financing  
360 statement, claims of lien or potential lienors known to Seller, and (ii) that there have been no improvements or repairs  
361 to the Real Property for 90 days immediately preceding Closing Date. If the Real Property has been improved or  
362 repaired within that time, Seller shall deliver releases or waivers of construction liens executed by all general  
363 contractors, subcontractors, suppliers and materialmen in addition to Seller's lien affidavit setting forth names of all  
364 such general contractors, subcontractors, suppliers and materialmen, further affirming that all charges for  
365 improvements or repairs which could serve as a basis for a construction lien or a claim for damages have been paid  
366 or will be paid at Closing.

367 **F. TIME:** Calendar days shall be used in computing time periods. Any time periods provided for in this Contract  
368 which shall end on a Saturday, Sunday, or a national legal holiday (see 5 U.S.C. 6103) shall extend to 5:00 p.m.  
369 (where the Property is located) of the next business day. **Time is of the essence in this Contract.**

370 **G. FORCE MAJEURE:** Buyer or Seller shall not be required to perform any obligation under this Contract or be  
371 liable to each other for damages so long as performance or non-performance of the obligation is delayed, caused or  
372 prevented by Force Majeure. "Force Majeure" means: hurricanes, earthquakes, floods, fire, acts of God, unusual  
373 transportation delays, wars, insurrections, acts of terrorism, and any other cause not reasonably within control of  
374 Buyer or Seller, and which, by exercise of reasonable diligent effort, the non-performing party is unable in whole or in  
375 part to prevent or overcome. All time periods, including Closing Date, will be extended for the period that the Force  
376 Majeure prevents performance under this Contract, provided, however, if such Force Majeure continues to prevent  
377 performance under this Contract more than 14 days beyond Closing Date, then either party may terminate this  
378 Contract by delivering written notice to the other and the Deposit shall be refunded to Buyer, thereby releasing Buyer  
379 and Seller from all further obligations under this Contract.

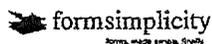
380 **H. CONVEYANCE:** Seller shall convey marketable title to the Real Property by statutory warranty, trustee's,  
381 personal representative's, or guardian's deed, as appropriate to the status of Seller, subject only to matters described  
382 in STANDARD A and those accepted by Buyer. Personal Property shall, at request of Buyer, be transferred by  
383 absolute bill of sale with warranty of title, subject only to such matters as may be provided for in this Contract.

384 **I. CLOSING LOCATION; DOCUMENTS; AND PROCEDURE:**

385 (i) **LOCATION:** Closing will take place in the county where the Real Property is located at the office of the  
386 attorney or other closing agent ("Closing Agent") designated by the party paying for the owner's policy of title

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STANDARDS FOR REAL ESTATE TRANSACTIONS (CONTINUED)

387 insurance, or, if no title insurance, designated by Seller. Closing may be conducted by mail or electronic means.  
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389 (ii) **CLOSING DOCUMENTS:** At Closing, Seller shall furnish and pay for, as applicable, deed, bill of sale,  
390 certificate of title, construction lien affidavit, owner's possession affidavit, assignments of leases, and corrective  
391 instruments. Seller shall provide Buyer with paid receipts for all work done on the Property pursuant to this Contract.  
392 Buyer shall furnish and pay for, as applicable, mortgage, mortgage note, security agreement, financing statements,  
393 survey, base elevation certification, and other documents required by Buyer's lender.  
394 (iii) **PROCEDURE:** The deed shall be recorded upon **COLLECTION** of all closing funds. If the Title  
395 Commitment provides insurance against adverse matters pursuant to Section 627.7841, F.S., as amended, the  
396 escrow closing procedure required by STANDARD J shall be waived, and Closing Agent shall, **subject to**  
397 **COLLECTION** of all closing funds, disburse at Closing the brokerage fees to Broker and the net sale proceeds to  
398 Seller.  
399 **J. ESCROW CLOSING PROCEDURE:** If Title Commitment issued pursuant to Paragraph 9(c) does not provide  
400 for insurance against adverse matters as permitted under Section 627.7841, F.S., as amended, the following escrow  
401 and closing procedures shall apply: (1) all Closing proceeds shall be held in escrow by the Closing Agent for a period  
402 of not more than 10 days after Closing; (2) if Seller's title is rendered unmarketable, through no fault of Buyer, Buyer  
403 shall, within the 10 day period, notify Seller in writing of the defect and Seller shall have 30 days from date of receipt  
404 of such notification to cure the defect; (3) if Seller fails to timely cure the defect, the Deposit and all Closing funds  
405 paid by Buyer shall, within 5 days after written demand by Buyer, be refunded to Buyer and, simultaneously with  
406 such repayment, Buyer shall return the Personal Property, vacate the Real Property and re-convey the Property to  
407 Seller by special warranty deed and bill of sale; and (4) if Buyer fails to make timely demand for refund of the  
408 Deposit, Buyer shall take title as is, waiving all rights against Seller as to any intervening defect except as may be  
409 available to Buyer by virtue of warranties contained in the deed or bill of sale.  
410 **K. PRORATIONS; CREDITS:** The following recurring items will be made current (if applicable) and prorated as of  
411 the day prior to Closing Date, or date of occupancy if occupancy occurs before Closing Date: real estate taxes  
412 (including special benefit tax assessments imposed by a CDD), interest, bonds, association fees, insurance, rents  
413 and other expenses of Property. Buyer shall have option of taking over existing policies of insurance, if assumable, in  
414 which event premiums shall be prorated. Cash at Closing shall be increased or decreased as may be required by  
415 prorations to be made through day prior to Closing. Advance rent and security deposits, if any, will be credited to  
416 Buyer. Escrow deposits held by Seller's mortgagee will be paid to Seller. Taxes shall be prorated based on current  
417 year's tax with due allowance made for maximum allowable discount, homestead and other exemptions. If Closing  
418 occurs on a date when current year's millage is not fixed but current year's assessment is available, taxes will be  
419 prorated based upon such assessment and prior year's millage. If current year's assessment is not available, then  
420 taxes will be prorated on prior year's tax. If there are completed improvements on the Real Property by January 1st of  
421 year of Closing; which improvements were not in existence on January 1st of prior year, then taxes shall be prorated  
422 based upon prior year's millage and at an equitable assessment to be agreed upon between the parties, failing which,  
423 request shall be made to the County Property Appraiser for an informal assessment taking into account available  
424 exemptions. A tax proration based on an estimate shall, at either party's request, be readjusted upon receipt of  
425 current year's tax bill. This STANDARD K shall survive Closing.  
426 **L. ACCESS TO PROPERTY TO CONDUCT APPRAISALS, INSPECTIONS, AND WALK-THROUGH:** Seller  
427 shall, upon reasonable notice, provide utilities service and access to Property for appraisals and inspections,  
428 including a walk-through (or follow-up walk-through if necessary) prior to Closing.  
429 **M. RISK OF LOSS:** If, after Effective Date, but before Closing, Property is damaged by fire or other casualty  
430 ("Casualty Loss") and cost of restoration (which shall include cost of pruning or removing damaged trees) does not  
431 exceed 1.5% of Purchase Price, cost of restoration shall be an obligation of Seller and Closing shall proceed  
432 pursuant to terms of this Contract. If restoration is not completed as of Closing, a sum equal to 125% of estimated  
433 cost to complete restoration (not to exceed 1.5% of Purchase Price), will be escrowed at Closing. If actual cost of  
434 restoration exceeds escrowed amount, Seller shall pay such actual costs (but, not in excess of 1.5% of Purchase  
435 Price). Any unused portion of escrowed amount shall be returned to Seller. If cost of restoration exceeds 1.5% of  
436 Purchase Price, Buyer shall elect to either take Property "as is" together with the 1.5%, or receive a refund of the  
437 Deposit, thereby releasing Buyer and Seller from all further obligations under this Contract. Seller's sole obligation  
438 with respect to tree damage by casualty or other natural occurrence shall be cost of pruning or removal.  
439 **N. 1031 EXCHANGE:** If either Seller or Buyer wish to enter into a like-kind exchange (either simultaneous with  
440 Closing or deferred) under Section 1031 of the Internal Revenue Code ("Exchange"), the other party shall cooperate  
441 in all reasonable respects to effectuate the Exchange, including execution of documents; provided, however,  
442 cooperating party shall incur no liability or expense related to the Exchange, and Closing shall not be contingent  
443 upon, nor extended or delayed by, such Exchange.  
444 **O. CONTRACT NOT RECORDABLE; PERSONS BOUND; NOTICE; COPIES:** Neither this Contract nor any  
445 notice of it shall be recorded in any public records. This Contract shall be binding on, and inure to the benefit of, the  
446 parties and their respective heirs or successors in interest. Whenever the context permits, singular shall include plural

Buyer's Initials TS  
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Seller's Initials DR AK

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**STANDARDS FOR REAL ESTATE TRANSACTIONS (CONTINUED)**

447 and one gender shall include all. Notice and delivery given by or to the attorney or broker (including such broker's real  
 448 estate licensee) representing any party shall be as effective as if given by or to that party. All notices must be in  
 449 writing and may be made by mail, personal delivery or electronic (including "pdf") media. A legible facsimile or  
 450 electronic (including "pdf") copy of this Contract and any signatures hereon shall be considered for all purposes as an  
 451 original.

452  
 453 **P. INTEGRATION; MODIFICATION:** This Contract contains the full and complete understanding and agreement  
 454 of Buyer and Seller with respect to the transaction contemplated by this Contract and no prior agreements or  
 455 representations shall be binding upon Buyer or Seller unless included in this Contract. No modification to or change  
 456 in this Contract shall be valid or binding upon Buyer or Seller unless in writing and executed by the parties intended  
 457 to be bound by it.

458 **Q. WAIVER:** Failure of Buyer or Seller to insist on compliance with, or strict performance of, any provision of this  
 459 Contract, or to take advantage of any right under this Contract, shall not constitute a waiver of other provisions or  
 460 rights.

461 **R. RIDERS; ADDENDA; TYPEWRITTEN OR HANDWRITTEN PROVISIONS:** Riders, addenda, and typewritten  
 462 or handwritten provisions shall control all printed provisions of this Contract in conflict with them.

463 **S. COLLECTION or COLLECTED:** "COLLECTION" or "COLLECTED" means any checks tendered or received,  
 464 including Deposits, have become actually and finally collected and deposited in the account of Escrow Agent  
 465 or Closing Agent. Closing and disbursement of funds and delivery of Closing documents may be delayed by  
 466 Closing Agent until such amounts have been COLLECTED in Closing Agent's accounts.

467 **T. LOAN COMMITMENT:** "Loan Commitment" means a statement by the lender setting forth the terms and  
 468 conditions upon which the lender is willing to make a particular mortgage loan to a particular borrower.

469 **U. APPLICABLE LAW AND VENUE:** This Contract shall be construed in accordance with the laws of the State of  
 470 Florida and venue for resolution of all disputes, whether by mediation, arbitration or litigation, shall lie in the county in  
 471 which the Real Property is located.

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

**ADDENDA AND ADDITIONAL TERMS**

476  
 477 **19. ADDENDA:** The following additional terms are included in the attached addenda and incorporated into this  
 478 Contract (Check if applicable):

- |  |   |  |   |
|--|---|--|---|
| <input type="checkbox"/> A. Condominium Assn.      | <input type="checkbox"/> L. RESERVED                                      | <input type="checkbox"/> R. Rezoning                     | <input type="checkbox"/> Y. Seller's Attorney Approval              |
| <input type="checkbox"/> B. Homeowners' Assn.      | <input type="checkbox"/> M. Defective Drywall                             | <input type="checkbox"/> S. Lease Purchase/ Lease Option | <input type="checkbox"/> Z. Buyer's Attorney Approval               |
| <input type="checkbox"/> C. Seller Financing       | <input type="checkbox"/> N. Coastal Construction Control Line             | <input type="checkbox"/> T. Pre-Closing Occupancy        | <input type="checkbox"/> AA. Licensee-Personal Interest in Property |
| <input type="checkbox"/> D. Mortgage Assumption    | <input type="checkbox"/> O. Insulation Disclosure                         | <input type="checkbox"/> U. Post-Closing Occupancy       | <input type="checkbox"/> BB. Binding Arbitration                    |
| <input type="checkbox"/> E. FHA/VA Financing       | <input type="checkbox"/> P. Pre-1978 Housing Statement (Lead Based Paint) | <input type="checkbox"/> V. Sale of Buyer's Property     | <input type="checkbox"/> Other _____                                |
| <input type="checkbox"/> F. Appraisal Contingency  | <input type="checkbox"/> Q. Housing for Older Persons                     | <input type="checkbox"/> W. Back-up Contract             | _____   |
| <input type="checkbox"/> G. Short Sale             |   | <input type="checkbox"/> X. Kick-out Clause              | _____   |
| <input type="checkbox"/> H. Homeowners' Insurance  |   |  | _____   |
| <input type="checkbox"/> I. FIRPTA                 |   |  | _____   |
| <input type="checkbox"/> J. Interest-Bearing Acct. |   |  | _____   |
| <input type="checkbox"/> K. RESERVED               |   |  | _____   |

479 **20. ADDITIONAL TERMS:** THIS CONTRACT IS CONTINGENT UPON THE SELLER  
 480 REACHING A SATISFACTORY AGREEMENT WITH THE TOWN OF  
 481 FT WALTERS AREA WITH REGARDS TO CODE VIOLATIONS THAT MUST  
 482 BE PAID AT CLOSING.  
 483  
 484 BUYERS WILL BE RESPONSIBLE FOR THE PAYMENT OF THE  
 485 CODE VIOLATIONS UP TO A MAXIMUM OF \$5,000.  
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 487  
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 490  
 491  
 492  
 493

Buyer's Initials FB  
 FloridaRealtors/FloridaBar-ASIS-1

Seller's Initials JK  
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COUNTER-OFFER/REJECTION

494

495  Seller counters Buyer's offer (to accept the counter-offer, Buyer must sign or initial the counter-offered terms and  
496 deliver a copy of the acceptance to Seller).

497  Seller rejects Buyer's offer.

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

500 THIS FORM HAS BEEN APPROVED BY THE FLORIDA REALTORS AND THE FLORIDA BAR.

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

505 AN ASTERISK (\*) FOLLOWING A LINE NUMBER IN THE MARGIN INDICATES THE LINE CONTAINS A BLANK TO  
506 BE COMPLETED.

507 Buyer: [Signature]

Date: 7/5/12

ACCEPTED

508 Buyer: \_\_\_\_\_

Date: 7/29/12

509 Seller: [Signature]

Date: 7-13-12

510 Seller: [Signature]

Date: 7/13/12

511 Buyer's address for purposes of notice  
512\* \_\_\_\_\_  
513\* \_\_\_\_\_  
514\* \_\_\_\_\_

Seller's address for purposes of notice  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

515 **BROKER:** Listing and Cooperating Brokers, if any, named below (collectively, "Broker"), are the only Brokers entitled  
516 to compensation in connection with this Contract. Instruction to Closing Agent: Seller and Buyer direct Closing Agent  
517 to disburse at Closing the full amount of the brokerage fees as specified in separate brokerage  
518 agreements with the parties and cooperative agreements between the Brokers, except to the extent Broker has  
519 retained such fees from the escrowed funds. This Contract shall not modify any MLS or other offer of compensation  
520 made by Seller or Listing Broker to Cooperating Brokers.

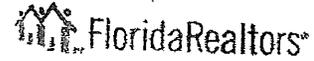
521\* CLAY CASON  
522 Cooperating Sales Associate, if any

Joe Jamison  
Listing Sales Associate

523\* NESSIT REAL ESTATE  
524 Cooperating Broker, if any

PENELOPE REALTY  
Listing Broker

### Extension Addendum to Contract



The following date and/or time period(s) of the Residential Sale and Purchase Contract, Residential Contract for Sale and Purchase, Vacant Land Contract, or Commercial Contract dated 7-30-12 between Bella Beach Villas LLC ("Seller") and TORREN BRANCH ("Buyer") concerning the Property located at 4545 ESTERO BLVD FMB FL 33931 is hereby extended. (check whichever apply)

ON OR BEFORE

Closing Date. Seller and Buyer agree to extend the Closing Date until 9-21-12

- Financing Period. Seller and Buyer agree to extend the Commitment Period, Loan Commitment Date, Financing Period, or Loan Approval Date for an additional \_\_\_\_\_ days or until \_\_\_\_\_
- Inspection Period. Seller and Buyer agree to extend the Inspection Period for an additional \_\_\_\_\_ days or until \_\_\_\_\_
- Title Cure Period. Seller and Buyer agree to extend the Curative Period or Cure Period for an additional \_\_\_\_\_ days or until \_\_\_\_\_
- Short Sale Approval Deadline. Seller and Buyer agree to extend the Approval Deadline for an additional \_\_\_\_\_ days or until \_\_\_\_\_
- Feasibility Study Period. Seller and Buyer agree to extend the Feasibility Study Period for an additional \_\_\_\_\_ days or until \_\_\_\_\_
- Due Diligence Period. Seller and Buyer agree to extend the Due Diligence Period for an additional 15 days or until 9-15-12

This extension will be on the same terms and conditions as stated in the original contract except:

ADDITIONAL ESCROW EXTENDED UNTIL 9-15-12

All other non-conflicting terms of the contract remain in full force and effect.

<u>[Signature]</u> Seller <u>Managing Member</u>	<u>8-27-12</u> Date	<u>[Signature]</u> Buyer	<u>9-23-12</u> Date
_____ Seller	_____ Date	_____ Buyer	_____ Date