

**IN THE UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF MISSISSIPPI**

IN RE:

**GOLDEN BEARS 88, LLC
D/B/A VERANDA APARTMENTS**

CASE NO. 16-03788-EE

DEBTOR

CHAPTER 11

**MOTION TO SELL SUBSTANTIALLY ALL OF THE ASSETS OWNED
BY GOLDEN BEARS 88, LLC, D/B/A VERANDA APARTMENTS,
FREE AND CLEAR OF LIENS, CLAIMS AND INTERESTS,
WITH LIENS ATTACHING TO PROCEEDS OF SALE, OUTSIDE
THE ORDINARY COURSE OF BUSINESS**

COMES NOW, Golden Bears 88, LLC d/b/a Veranda Apartments (the “Movant” or the “Debtor”) and files this, its *Motion to Sell Substantially All of the Assets Owned by Golden Bears 88, LLC, D/B/A Veranda Apartments, Free and Clear of Liens, Claims and Interests, with Liens Attaching to Proceeds of Sale, Outside the Ordinary Course of Business* (the “Motion”), and in support thereof would respectfully show as follows, to-wit:

INTRODUCTION AND BACKGROUND

1. Debtor initiated this case by the filing of Voluntary Petition under Chapter 11 of the Bankruptcy Code on the 18th day of November, 2016. Movant is the Debtor-in-Possession in this Chapter 11 case. Subsequent thereto, the Debtor has been, and is, the duly qualified, and acting Debtor-in-Possession in this Chapter 11 case. The Debtor is in control of its assets and is managing and operating the Debtor-in-Possession’s businesses.

2. This Honorable Court has jurisdiction of the subject matter herein and the parties hereto pursuant to 28 U.S.C. §§ 157 and 1334, 11 U.S.C. §§ 105, 363, 365, 503, 507, 1107, related statutes, related rules and various orders of reference. This is a core proceeding

3. Debtor, Golden Bears 88, LLC d/b/a Veranda Apartments (“**Veranda**”) operates the Veranda Apartments located on Greymont Street in Jackson, MS. Shortly prior to the filing of the petition, the Debtor was placed in Receivership in the Chancery Court of the First Judicial District of Hinds County.

4. An Order Authorized Debtor to employ B&B Management Group, LLC as Manager [Docket No. 45] was entered on January 18, 2017 and B&B Management Group, LLC has been managing the Veranda and assisting in finding a buyer. B&B Management Group, LLC and the Debtor have both received numerous expressions of interest, and they have conducted extensive negotiations and discussions with various interested parties for the sale of the Veranda. Gary Lym, Executor/Manager of Golden Bears 88, LLC has received an offer to purchase the Veranda Apartments from Nortia, LLC (“Nortia”) dated as of May 15, 2017, a copy of which is attached, incorporated by reference and marked as **Exhibit “A”** hereto. The purchase price is \$840,000.00. A description of the property is attached hereto as **Exhibit “B”** .

5. The offer represents the best opportunity for the Veranda Apartments to continue to operate and to preserve their going concern value and to generate the greatest return to the creditor and parties in interest.

6. The Debtor believes that a sale of its assets as contemplated by this Motion will maximize the value of the estate.

7. The Debtor believes that in the event the Motion is approved, the result will be a successful sale of the Debtor’s assets.

8. Accordingly, the Debtor at this time seeks authority to sell the assets.

9. In addition to the relief set forth above, upon a hearing with respect to the Motion, the Debtor request entry of an order that will, *inter alia*, (i) find that the buyer(s) of the assets has

negotiated and purchased in good faith, and (ii)waive any stays, if they exist, set forth in the Bankruptcy Rules so the sale can be closed as soon as possible.

10. A prompt sale of the assets to Nortia will likely enable the Debtor to realize good value for the assets. The Debtor believes that the terms and conditions set forth in the Motion are fair and equitable to the purchaser and the Debtor, and thus reflect a transaction that will ultimately result in a successful sale of the Debtor's assets. The Debtor believes that any material delay in consummating the proposed sale of the assets will result in a reduction in the value of the Debtor's assets. Therefore, the Debtor submits that the proposed sale of the assets to Nortia is justified and should be approved by the Court.

11. In accordance with Bankruptcy Rule 6004(f)(1), sales of property rights outside the ordinary course of business may be by private sale or public auction. The Debtor has determined that a private sale of the assets is in the best interests of the Debtor, its estate, and its creditors.

12. Section 363 of the Bankruptcy Code provides, in relevant part, that a debtor, "after notice and a hearing, may use, sell, or lease, other than in the ordinary course of business, property of the estate." Section 105(a) of the Bankruptcy Code provides, in relevant part that "[t]he court may issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title."

13. Although Section 363 of the Bankruptcy Code does not specify a standard for determining when it is appropriate for a court to authorize the use, sale, or lease of property of the estate, bankruptcy courts routinely authorize sales of a debtor's assets if such sale is based upon the second business judgment of the debtor. *See, e.g., In re Trans World Airlines, Inc.*, Case No. 01-00056, 2001 WL 1820326, at *10-11 (Bankr.D.Del. Apr. 2, 2001); *Meyers v.*

Martin(*In re Martin*), 901 F.3d 389, 395 (3rd Cir. 1996).

14. Courts typically consider the following factors in determining whether a proposed sale satisfies this standard: (a) whether a sound business justification exists for the sale; (b) whether adequate and reasonable notice of the sale was given to interested parties; (c) whether the sale will produce a fair and reasonable price for the property; and (d) whether the parties have acted in good faith. *See In re Del. & Hudson Ry.*, 124 B.R. at 176. In *In re Del. & Hudson Ry.*, the court further held that:

[o]nce a court is satisfied that there is a sound business reason or an emergency justifying the pre-confirmation sale, the court must also determine that the trustee has provided the interested parties with adequate and reasonable notice, that the sale price is fair and reasonable and that the [proposed] purchaser is proceeding in good faith.

124 B.R. at 176.

15. The business judgment rule shields a debtor's management from judicial second guessing. *See In re Tower Air*, 416 F.3d 229, 238 (3d Cir. 2005). Once a debtor articulates a valid business justification, "[t]he business judgment rule is a presumption that directors act in good faith, on an informed basis, honestly believing that their action is in the best interests of the company." *Id.* Thus, if a debtor's actions satisfy the business judgment rule, then the transaction in question should be approved under section 363(b)(1) of the Bankruptcy Code.

16. A sound business purpose for the sale of a debtor's assets outside the ordinary course of business may be found where such a sale is necessary to preserve the value of assets for the estate, its creditors, or interest holders. *See, e.g., In re Lionel Corp.*, 722 F.2d 1063,1071 (2nd Cir. 1983). In fact, the paramount goal in any proposed sale of property of the estate is to maximize the proceeds received by the estate. *See In re Food Barn Stores, Inc.*, 107 F.3d 558, 56465 (8th Cir. 1997) (noting that in bankruptcy sales, "a primary objective of the [Bankruptcy]

Code [is] to enhance the value of the estate at hand"); *In re Integrated Res., Inc.*, 147 B.R. at 659 ("It is a well established principle of bankruptcy law that the . . . [Debtor's] duty with respect to such sales is to obtain the highest price or greatest overall benefit possible for the estate.") (quoting *In re Atlanta Packaging Prods., Inc.*, 99 B.R. 124,130 (Bankr. N.D. Ga. 1988)). Here, in light of the Debtor's current condition, and prior orders requiring the Debtor to sell the assets, no further justification is needed.

17. The Debtor and its secured creditor Wilmington Trust, National Association, as Trustee for the Registered Holders of LSTAR Commercial Mortgage Trust 2015-3, Commercial Mortgage Pass-Through Certificates, Series 2015-3, acting by and through Hudson Americas L.P., a Delaware limited partnership have agreed that the secured creditor will receive \$800,000.00 from the proceeds of the sale for full satisfaction of its claim and will cancel any and all Mortgages or Deeds of Trust or liens of any kind against the property.

18. The sale of the assets will be consummated only after thorough consideration of all viable alternatives and after concluding that such transactions are supported by sound business justifications. Since the Debtor and its secured creditor have agreed that the assets must be sold, the business justifications for the requested sales are self-evident. Based on available information, the Debtor believes that the consideration to be received for the assets will be fair and reasonable under the circumstances.

19. The Debtor further submits that it is appropriate to sell the assets free and clear of (i) any Permitted Encumbrances or (ii) any permitted Liens, with any such Liens attached to the net sale proceeds of the assets, as and to the extent applicable. Section 363(f) of the Bankruptcy Code authorizes a debtor to sell assets free and clear of liens, claims, interests, and encumbrances if:

- (1) applicable nonbankruptcy law permits sale of such property free and clear of such interests;
- (2) such entity consents;
- (3) such interest is a lien and the price at which such property is to be sold is greater than the value of all liens on such property;
- (4) such interest is in *bona fide* dispute; or
- (5) such entity could be compelled, in a legal or equitable proceeding, to accept a money satisfaction of such interest.

20. Because Section 363(f) of the Bankruptcy Code is drafted in the disjunctive, satisfaction of any one of its five requirements will suffice to permit the sale of the assets “free and clear” of Liens. *In re Decora Indus., Inc.*, Case No. 004459 (JJF), 2002 WL 32332749, at *7 (D. Del. May 20, 2002) (“Because § 363(f) is drafted in the disjunctive, the satisfaction of any of the requirements outlined is sufficient to warrant Debtors’ sale of the Debtor’s assets free and clear of all Interests”).

21. The Debtor believes that one or more of the tests of Section 363(f) of the Bankruptcy Code are satisfied with respect to the transfer of the assets and the assignment of contracts and leases. In particular, the Debtor believes that at least Section 363(f)(2) of the Bankruptcy Code will be met in connection with the transactions proposed because the party holding the secured lien on the assets, will consent, or, absent any objection to this Motion, will be deemed to have consented to, the Motion.

22. The holder of the secured lien also will be adequately protected by having its lien attach to the sale proceeds received by the Debtor for the sale of the assets, in the same order of priority, with the same validity, force, and effect that such creditor had prior to such sale, subject to any claims and defenses that the Debtor and its estate may possess with respect thereto. Accordingly, Section 363(f) of the Bankruptcy Code authorizes the sale of the assets and the assignment of the contracts and leases free and clear of any such Liens.

23. Nortia is not liable for any of the Debtor's liabilities as a successor or otherwise, unless Nortia expressly assumes such liabilities as provided for in the Contract.

24. Although Section 363(f) of the Bankruptcy Code provides for the sale of assets "free and clear of any interests," the term "any interest" is not defined in the Bankruptcy Code. *Folger Adam Security v. DeMatteis/MacGregor .IV*, 209 F.3d 252, 257 (3d Cir. 2000). In *In re Trans World Airlines, Inc.*, the Third Circuit specifically addressed the scope of the term "any interest." 322 F.3d 283, 28889 (3d Cir. 2003). The Third Circuit observed that while some courts have "narrowly interpreted interests in property to mean *in rem* interests in property," the trend in modern cases is toward "a more expansive reading of 'interests in property' which 'encompasses other obligations that may flow from ownership of the property.'" *Id.* at 289 (citing 3 *Collier on Bankruptcy* 1363.06[1]).

25. Courts have held that a buyer of a debtor's assets pursuant to a Section 363 sale takes free from successor liability resulting from preexisting claims. *See The Ninth Ave. Remedial Group v. Allis-Chalmers Corp.*, 195 B.R. 716, 732 (N.D. Ind. 1996) (stating that a bankruptcy court has the power to sell assets free and clear of any interest that could be brought against the bankruptcy estate during the bankruptcy); *MacArthur Co. v. Johns-Manville Corp. (In re Johns-Manville Corp.)*, 837 F.2d 89, 9394 (2d Cir. 1988) (holding channeling of claims to proceeds consistent with intent of sale free and clear under Section 363(f) of the Bankruptcy Code); *In re New England Fish Co.*, 19 B.R. 323, 329 (Bankr. W.D. Wash. 1982) (holding transfer of property in free and clear sale included free and clear of Title VII employment discrimination and civil rights claims of debtor's employees); *In re Hoffman*, 53 B.R. 874, 876 (Bankr. D.R.I. 1985) (holding that transfer of liquor license free and clear of any interest permissible even though the estate had unpaid taxes was permissible).

26. Here, this Chapter 11 Case was filed in good faith. The sale process has also been, and will be, conducted in good faith and at arm's length. The Debtor expects that if the Court approves a sale of the assets, it will be able to satisfy the Court that (a) the purchaser engaged in arm's length negotiations with the Debtor and did not exert control or undue influence over the Debtor, (b) the purchaser is a completely and wholly unrelated entity to the Debtor, (c) the purchaser does not, and will not, share any common incorporators, officers, directors, or stockholders with the Debtor, and (d) the purchaser is not an insider of the Debtor.

27. For obvious reasons, the very purpose of an order purporting to authorize the transfer of assets free and clear of all "interests" would be frustrated if claimants could thereafter use the transfer as a basis to assert claims against a purchaser arising from a seller's presale conduct. Furthermore, the Debtor will provide notice of the proposed sale to all known parties in interest that may assert claims or interests relating to the assets against the Debtor, including trade creditors, contract counterparties, lenders, and other parties known to the Debtor to be asserting claims relating to the assets.

28. Under Section 363(f) of the Bankruptcy Code, a purchaser of assets is entitled to know that the assets are not subject to latent claims that will be asserted against the purchaser after the proposed transaction is completed. Accordingly, consistent with the above cited case law, the order approving the sale of the assets may provide that the purchaser of the assets is not liable as a successor under any theory of successor liability, for claims that encumber or relate to the assets.

29. Accordingly, absent a showing of fraud, collusion between a purchaser and a debtor, or an attempt by the purchaser to take grossly unfair advantage of other bidders, courts will uphold the transaction under Section 363(m) of the Bankruptcy Code. *See, e.g., In re Trans*

World Airlines, Inc., Case No. Civ. A. 01226 (SLR), 2002 WL 500569, *1 (D. Del. Mar. 26, 2002) (upholding bankruptcy court's ruling premised on finding that there was 'no evidence of unlawful insider influence or improper conduct,' nor was there "any evidence of fraud or collusion between [the prevailing purchaser] and [debtors], or [the prevailing purchaser] and other bidders," that sale was in good faith); *see also Kabro Assocs. of West Islip, LLC. v. Colony Hill Assocs. (In re Colony Hill Assocs.)*, Ill. F.3d 269, 276 (2d Cir. 1997) ("Typically, the misconduct that would destroy a purchaser's good faith status at a judicial sale involves fraud, collusion between the purchaser and other bidders or the trustee, or an attempt to take grossly unfair advantage of other bidders.")

30. Other grounds to be assigned upon a hearing hereof.

WHEREFORE, PREMISES CONSIDERED, the Debtor prays that upon a hearing hereof, this Honorable Court will enter its Order granting the Motion and authorizing Gary Lym to execute such instruments of transfer as commercially reasonable and necessary to consummate and effectuate the contemplated transaction hereunder, and that the Court will approve the sales of the assets free and clear of liens, claims, encumbrances and interests. The Debtor prays for general relief.

DATED, this the 15th day of May, 2017.

**GOLDEN BEARS 88, LLC
D/B/A VERANDA APARTMENTS**

/s/J. Walter Newman IV
J. WALTER NEWMAN IV

J. Walter Newman IV, MSB# 3832
NEWMAN & NEWMAN
587 Highland Colony Parkway
Ridgeland, MS 39157
Telephone No. (601) 948-0586
Email: wnewman95@msn.com
Attorney for Debtor

CERTIFICATE OF SERVICE

I, J. WALTER NEWMAN IV, do hereby certify that I have this day served via United States mail, postage prepaid and/or Notice of Electronic Filing, a true and correct copy of the above and foregoing Pleading to the following:

Office of The United States Trustee
United States Courthouse
501 E. Court St., Suite 6-430
Jackson, MS 39201
USTPRegion05.JA.ECF@usdoj.gov

Alan L. Smith
asmith@bakerdonelson.com

Dated this the 15th day of May, 2017.

/s/ J. Walter Newman IV
J. WALTER NEWMAN IV

COMMERCIAL PROPERTY CONTRACT

THIS IS INTENDED TO BE A LEGALLY BINDING CONTRACT. YOU MAY WANT LEGAL ADVICE BEFORE SIGNING.

In consideration of the mutual promises contained herein, the undersigned Seller agrees to sell, to the undersigned Buyer, who agrees to buy, the herein described property on the terms and conditions stated below and on the reverse hereof.

1. PROPERTY DESCRIPTION: Veranda Apartments, 1140, 1154 and 1110 N. Greymont St.
Jackson, MS 39216 located in Hinds County, Mississippi, and all improvements thereon know as
 _____ consisting of: 27 units

including
 all items permanently attached unless specifically excluded herein.

2. PRICE: The purchase price of the property is (if assumption sale, firm or approximate) \$ 840,000
 Payable as follows:
 (a) Certified or Cashiers Check at closeout, subject to adjustments and prorations \$ 840,000
 (if assumption sale, firm or approximate)
 (b) This contract is contingent on property appraising for the "PRICE"
 and Buyer qualifying for a new loan in the amount of \$ _____
 Should Buyer fail or refuse within five days of this contract to apply for such loan, or refuse to diligently pursue loan approval, or fail or refuse within seven
 days after the issuance of an unconditional loan commitment, to execute all documents necessary for said loan, Buyer shall be considered in default under
 the terms of this contract and Seller shall have such recourse as is delineated in paragraph 11 hereof.
 (c) Buyer shall assume existing loan with an approximate balance of \$ _____
 Seller shall pay all payments due prior to closing and accrued interest through closing date; Buyer shall pay next payment due after closing.
 (d) This offer expires May 20, 2017 at 12:00 noon

3. CERTAIN COSTS PAID BY: (S for Seller; B for Buyer; N/A if not applicable) Discount: N/A Origination Fee: N/A
 Appraisal: N/A Survey: N/A Attorney's Fee including Certificate of Title and transfer instrument: S
 Loan Title Insurance: N/A Loan Transfer Fees: N/A Prepaid and Escrow Items: S Other closing costs: S

4. DEPOSIT: Buyer has deposited with seller the sum of \$ 5,000.00 cash/check as earnest money, which will be held in a non-interest bearing account. The same is
 to be applied to the cash down payment on closing of this transaction. Should Buyer require approval for a specified loan for any part of the purchase price, and
 after applying therefore in good faith, be unable to secure such loan, then the earnest money shall be returned in full to Buyer.

5. (a) CLOSING DATE: (1) If this sale is by new first loan, closing shall be within seven days after unconditional loan commitment. (2) If this sale is by cash or loan
 assumption, closing shall be within seven days after delivery of certificate of title and proposed warranty deed/lease assignment. (3) On or before June 15, 2017
Or after an order approving sale in bankruptcy court becomes final and non appealable (b) POSSESSION WITH DEED.

6. INSURANCE: (a) If this sale is by new first loan, Buyer shall provide new policies at closing. (b) If this sale is by loan assumption, Seller shall assign existing
 insurance policies to Buyer. (c) _____

7. PRORATION: (a) Ground rents, property taxes, interest, utilities, maintenance fees, and other expenses of the property are to be prorated as of the closing date.
 Security deposits, advance rentals or considerations involving future lease credits, shall be credited to Buyer as of the closing date. (b) On loan assumptions: Any
 and all items being escrowed by Seller shall be prorated by transfer of a current escrow account. Seller hereby agrees to assign and transfer to Buyer, effective at
 closing, all of his right, title and interest in and to the reserves in escrow with the present mortgagee and warrants that the amount in this reserve will be adequate.
 If the reserve is short, Seller hereby agrees to pay the shortage. If the reserve has a surplus, Buyer agrees to pay Seller said surplus at closing.

8. SPECIAL PROVISIONS: (a) Addendum is, is not attached; (b) _____

10. TITLE AND CONVEYANCE: Seller is to convey Title by General Warranty Deed/Lease Assignment and provide Buyer with a Certificate of Title prepared by
 an attorney upon whose Certificate Title Insurance may be obtained from a title insurance company qualified to do and doing business in the state of Mississippi.
 Seller shall, prior to or at closing, satisfy all outstanding mortgages, deeds of trust and special liens affecting the subject property which are not specifically
 assumed by Buyer herein. Title shall be good and marketable, subject only to the following items recorded in the Chancery Clerk's office of said County:
 easements without encroachments, applicable zoning ordinances, protective covenants and prior mineral reservations; otherwise Buyer, at his option, may either
 (a) if defects cannot be cured by designated closing date, cancel this contract, in which case all earnest money deposited shall be returned, (b) accept title as is, or
 (c) if the defects are of such character that they can be remedied by legal action within a reasonable time, permit Seller such reasonable time to perform his
 curative work at Seller's expense. In the event that the curative work is performed by Seller, the time specified herein for closing of this sale shall be extended for
 a reasonable period necessary for such action. Seller represents that the property may be legally used as zoned and that no government agency has served any
 notice requiring repairs, alterations or corrections of any existing condition except as stated herein.

11. BREACH OF CONTRACT: Specific performance is the essence of this contract, except as other wise specifically provided for in paragraphs 4, 10, and 16 hereof
 and as further delineated below:
 (a) in the event of breach of this contract by Buyer, Seller at his option may either: (1) accept the earnest money deposit as liquidated damages and this contract
 shall then be null and void, or (2) enter suit in any court of competent jurisdiction for damages, giving credit on said damages for the said earnest money
 deposit, or (3) enter suit in any court of competent jurisdiction for specific performance.
 (b) In the event of breach of contract by Seller, Buyer at his option may either: (1) accept the return of the earnest money deposit and cancel the contract, or (2)
 enter suit for damages in any court of competent jurisdiction, or (3) enter suit in any court of competent jurisdiction for specific performance.
 (c) If it becomes necessary to insure the performance of the conditions of this contract for either party to hire legal counsel, then the defaulting party agrees to
 pay reasonable attorney's fees and court costs in connection therewith.


12. SURVIVAL OF CONTRACT: All express representations, warranties, and covenants contained herein shall survive closing except where herein specified to the
 contrary. All other contractual obligations shall terminate with the closing.

13. CONDITION OF PROPERTY AND ACCEPTANCE: Buyer hereby represents that he has personally inspected and examined the above mentioned premises and
 all improvements thereon and accepts the property in its "as is" and present condition, except for items in paragraphs 14 and 15 hereof. Buyer hereby

Initial of Parties: Buyer [Signature] Buyer _____ Seller _____ Seller _____ have read this page.


acknowledges that unless otherwise set forth in writing elsewhere in this contract Seller not their representatives have made any representations concerning the present or past structural condition of the property. Buyer also hereby agrees that he will not hold Seller or their representatives responsible or liable for any present or future structural problems or damage to said property. Seller hereby represents that he is not aware of any defects of subject property except as stated in paragraph 9 hereof. Seller agrees to provide a completed Seller Disclosure Statement to Buyer within 48 hours of this contract.

14. MECHANICAL EQUIPMENT AND BUILT-IN APPLIANCES: Seller represents that all heating and air conditioning equipment, plumbing, electrical and gas systems and built-in appliances are in good working order and in a good state of repair, or will be before closing; but this representation on the part of Seller does not survive the closing of this transaction. Buyer shall have the responsibility to carefully inspect and satisfy himself of the condition of such equipment prior to closing. Closing of this sale constitutes acceptance by Buyer of equipment condition. Seller hereby represents that he is not aware of any defects of equipment, systems and appliances of subject property except as stated in paragraph 9 hereof.
15. TERMITE CERTIFICATE: Seller shall furnish Buyer, prior to or at closing, a certification from a licensed reputable termite control company, that subject property shows no evidence of termite or other wood destroying insect infestation and if such infestation exists, furnish warranty of approved treatment and correct any past or present structural and cosmetic damage.
16. RISK OF LOSS: This contract is further conditioned upon delivery of the improvements in their present condition and in the event of material damage by fire or otherwise, Buyer may declare this contract void and shall be entitled to the return of his earnest money, or Buyer may elect to complete the transaction in accordance with this contract provided the property is restored by Seller at Seller's expense prior to closing. Seller agrees to keep the subject property insured against fire and extended coverage risks until closing.
17. AGREEMENT OF PARTIES: This contract incorporates all prior agreements between the parties, contains the entire and final agreement of the parties, and cannot be changed except by their written consent. Neither party has relied upon or shall be bound by any terms, conditions, statements or representations made by the other party or the sales representative bringing the parties together not contained herein. Each party acknowledges that he has read and understands this contract. The provisions of this contract shall apply to and bind the heirs, executors, administrators, successors and assigns of the respective parties hereto. Gender and number, as herein used, shall be changed as the context may require. This contract shall be governed by the laws of the state of Mississippi. If any provision of this contract is invalid or unenforceable, the other provisions herein shall remain in full force and effect and shall be liberally construed in order to effectuate the purpose and intent of this contract. Each party hereby acknowledges receipt of a duplicate original hereof. **Handwritten provisions inserted in this form shall supersede any and all typewritten provisions in conflict therewith, and typewritten provisions shall supersede conflicting printed provisions. The facsimile transmission of a signed copy hereof to the other party, followed by an acknowledgement of receipt sent by facsimile transmission, shall constitute delivery of a signed document. The parties agree to confirm such delivery by immediately mailing a signed copy to the other party.**
18. AGENCY RELATIONSHIP DECLARATION: N/A
19. SELLER'S STATEMENT: Seller hereby represents that he is not aware of any flooding, foundation or drainage problems with the subject property, or the presence of urea-formaldehyde insulation, radon gas, asbestos containing material, lead based paint, or any form of hazardous material. Seller further represents that he is not aware of any visible or hidden defects. Seller hereby acknowledges that he has not received or relied upon any statements or representations regarding the effect of this transaction upon Seller's tax or legal liability, or the enforceability of any due-on-sale clauses in any existing loan documents.
20. PERMITS: Seller warrants that an occupancy permit and an operating permit (if appropriate) for the property are in effect, or will be at closing.
21. PERSONAL PROPERTY: The purchase price stated in paragraph 2 hereof includes all furnishings, appliance, furniture and any other personal property owned by Seller and used in the operation of the property according to an inventory list which shall be delivered to Buyer within seven (7) days of this contract. Said inventory list is made a part hereof by this reference. Said personal property shall be transferred to Buyer by Bill of Sale at closing.
22. TAX DEFERRED EXCHANGE: If either party to this contract wishes to enter into a tax deferred exchange in connection with this transaction, each of the parties agrees to cooperate with the other party in regard to such exchange, including the execution of such documents as may be reasonably necessary to effect the exchange. However: (a) the other party shall not be required to delay the closing, (b) all additional cost caused by such exchange, shall be borne by the party whose property is exchanged and (c) the other party shall not be obligated to execute any note, contract or other document providing for any personal liability which would survive the exchange.
23. EXISTING LEASES: This contract of sale is subject to existing leases and rights of parties in possession. Within seven (7) days of contract, Seller shall deliver to Buyer for his approval, copies of all existing leases and rental agreements, as well as copies of all outstanding notices sent to tenants, and a written statement of all oral agreements with tenants, incurred defaults by Seller or tenants, claims made by or to tenants and a statement of all tenants' deposits held by Seller, all of which Seller warrants to be true and complete. Buyer's obligations under this contract are conditioned upon approval of existing leases. Buyer shall be deemed to have approved said documents unless written notice to the contrary is delivered to Seller or his agent within seven (7) days of receipt of said document, in which case Buyer may have his deposit returned and both parties shall be released of all obligations hereunder.
24. CHANGES DURING TRANSACTION: While this transaction is pending, Seller agrees that no changes in the existing leases or rental agreements shall be made, no new leases or rental agreements entered into, nor shall any substantial alterations or repairs be made or undertaken without written consent of Buyer.
25. INCOME AND EXPENSE STATEMENT: Seller shall deliver to Buyer for his approval, a true and complete statement of rental income and expenses for Buyer's approval within seven (7) days of acceptance. Buyer's obligations are conditioned upon approval of said statement. Buyer shall be deemed to have approved said statement unless written notice to the contrary is delivered to the Seller or his agent within seven (7) days of receipt of said statement by Buyer, in which case Buyer may have his deposit returned and both parties shall be relieved of all obligation hereunder.
26. This contract is is not contingent on a satisfactory environmental audit paid for by Buyer Seller.

Initial of Parties: Buyer  Buyer _____ Seller _____ Seller _____ have read this page.

Date 5/15/2017

Date _____

Buyer  for Nortia, LLC

Buyer _____

SS # EIN: 82-1471226 Phone 415-309-1895

SS # _____ Phone _____

Date _____

Date _____


Seller _____

Seller _____

SS # _____ Phone _____

SS # _____ Phone _____


Convey title to (please print): Nortia, LLC and/or Assigns Date of Execution of this Contract by all parties: 5/15/2017

Initial of Parties: Buyer  Buyer _____ Seller _____ Seller _____ have read this page.


ADDENDUM

- 1) **This contract is contingent upon inspection of property acceptable to Buyer, to be paid by Buyer. Buyer will have 10 days from contract date to complete the "Due Diligence" on subject properties. Upon completion of inspection of property Buyer will notify Seller of any conditions Buyer may object to and Buyer and Seller will have option to remedy such conditions or not.**

Accepted by:

Buyer  for Nortia, LLC
Date 5/15/2017

Seller _____
Date _____

Initial of Parties: Buyer  Buyer _____ Seller _____ Seller _____ have read this page.

Legal Description

**1110 GREYMONT STREET
JACKSON, MS**

BEG 5 FT N NW COR LOT 11 BLK 66 BELHAVEN HGTS E 50.7 FT S 138.8 FT
NWLY 52.5 FT N 130 FT TO POB BEING PT LOTS 9 11 13 & 15 BLK 66
BELHAVEN HGTS

This is not part of Secured Lenders Deed of Trust

Exhibit "B"

REAL PROPERTY

PARCEL 1: Lots 1, 3, 5, 7 and 9, less 5 feet off the South side of Lot 9, Block 66 Belhaven Heights Subdivision, according to the map or plat thereof on file and of record in the office of the Chancery Clerk of Hinds County at Jackson, Mississippi in Plat Book 1, Page 41 and a parcel of land described as beginning at the Northwest corner of Lot 1, Block 66 Belhaven Heights Subdivision; run thence North along the East right-of-way line of Greymont Street for a distance of 50 feet; turn thence right and run East along the North right-of-way line of what was formerly Lake Street prior to its being closed, for a distance of 140 feet; turn thence right and run South along the West line of Cabiness Place Subdivision a distance of 50 feet to a point, which point is further described as being the Northeast corner of Lot 1, Block 66, Belhaven Heights Subdivision; turn thence right and run West a distance of 140 feet to the POINT OF BEGINNING.

PARCEL 2: The South one-half of the hereinafter described property: Beginning at a point at the intersection of the East line of Greymont Street with the North line of Lake Street, as both said streets were laid out and improved on November 19, 1951, in the City of Jackson, Mississippi, run thence North along the East line of Greymont Street a distance of 140 feet to the South line of Persimmon Avenue, run thence East along the South line of Persimmon Avenue a distance of 140 feet to the West line of Cabiness Place Subdivision, run thence South along the West line of Cabiness Place Subdivision a distance of 140 feet to the North line of Lake Street; thence run West along the North line of Lake Street a distance of 140 feet to the POINT OF BEGINNING. Said property being in and a part of SE 1/4 of SW 1/4 of Section 35, T6N, R1E.

The foregoing real property is referred to, collectively, as the "Premises".

PERSONAL PROPERTY

All buildings, improvements, and tenements now erected on the Premises, and all heretofore vacated alleys and streets abutting the Premises, and all easements, rights, appurtenances, rents, royalties, mineral, oil and gas rights and profits, water, water rights, and water stock appurtenant to the Premises, and all fixtures, machinery, equipment, engines, boilers, incinerators, building materials, appliances and goods of every nature whatsoever now located in, or on, or used, or intended to be used in connection with the Premises, including, but not limited to, those for the purposes of supplying or distributing heating, cooling, electricity, gas, water, air and light; and all elevators, and related machinery and equipment, fire prevention and extinguishing apparatus, security and access control apparatus, plumbing, bath tubs, water heaters, water closets, sinks, ranges, stoves, refrigerators, dishwashers, disposals, washers, dryers, awnings, storm windows, storm doors, screens, blinds, shades, curtains and curtain rods, mirrors, cabinets, paneling, rugs, attached floor coverings, furniture, pictures, antennas, trees and plants, and all other personal property necessary for the operation of the Premises; together with all replacements and additions thereto.