

UNITED STATES BANKRUPTCY COURT  
MIDDLE DISTRICT OF FLORIDA  
TAMPA DIVISION

In re:

THE OCALA SHOPPES LLC,

Case No: 8:13-bk-00125-MGW

Debtor.

Chapter 11

**ORDER GRANTING DEBTOR'S MOTION FOR ORDER  
(A) ESTABLISHING BID PROCEDURES AND SALE PROCESS, (B) ESTABLISHING  
BID DEADLINES, AUCTION, AND SALE HEARING DATES, AND (C) APPROVING  
ASSUMPTION AND ASSIGNMENT PROCEDURES**

**THIS CASE** came before the Court for an expedited hearing on March 12, 2013 at 9:30 a.m. for consideration of the *Debtor's Motion for Order (A) Establishing Bid Procedures and Sale Process, (B) Establishing Bid Deadlines, Auction, and Sale Hearing Dates, and (C) Approving Assumption and Assignment Procedures* (Doc. No. 91) (the "**Sale Procedure Motion**") filed by The Ocala Shoppes LLC (the "**Debtor**") and the *Objection to Consideration on March 12, 2013 of Debtor's Motion to Establish Bid Procedures* (Doc. No. 90) (the "**Objection**") filed by The Higbee Company d/b/a Dillard's ("**Dillard's**"). Through the Motion, pursuant to Sections 105(a), 363, and 1123(a)(5)(D) of the Bankruptcy Code and Rules 4001, 6004, and 6006 of the Federal Rules of Bankruptcy Procedure, the Debtor seeks the entry of an order (this "**Procedures Order**") (i) authorizing and approving the bid procedures and the marketing and sale process (the "**Sales Procedures**") for the disposition of the shopping center and office complex (the "**Sale**") owned by the Debtor known as the Market Street at Heath Brook, located at 4414 Southwest College Road, Ocala, Florida (the "**Property**"), free and clear of liens, claims, and encumbrances, all as contemplated in the Plan Support Agreement and the Plan Term Sheet filed as are exhibits to the *Debtor's Motion for Order Authorizing and*

*Approving Plan Support Agreement* (Doc. No. 60), (ii) establishing certain deadlines for submission of bids to purchase the Property and the content of such bids, (iii) scheduling an auction for the sale of the Property (the “**Auction**”) to be conducted prior to a hearing to consider approval of the Sale (the “**Sale Approval Hearing**”), which may be held in conjunction with a confirmation hearing, and (iv) authorizing and approving certain procedures in connection with the assumption, assignment, and cure of any default(s) or, alternatively, the rejection of certain executory contracts and unexpired leases relating to the Property (the “**Assumption Procedures**”). Appearances were made as reflected on the record. The Court, having considered the Motion and the Objection, the arguments in support of the Motion by counsel for the Debtor and Bank of America, N.A. (“**BOA**”), the arguments of counsel for Dillard’s, and for the reasons stated orally and recorded in open court that shall constitute the decision of the Court, the Court finds that the Sale Procedure Motion should be granted and the procedures set forth therein. Accordingly, it is

**ORDERED:**

1. The Motion is GRANTED.
2. The Objection is OVERRULED.
3. The form and substance of the Sales Procedures and Assumption Procedures attached hereto as **Exhibit “A”** (collectively, the “**Bidding Procedures**”) are approved, and the Debtor and its agents are authorized to undertake any and all actions necessary or appropriate to implement the Bidding Procedures.
4. The form and substance of the (i) Confidentiality Agreement (identified as **Attachment “1”** to the Bidding Procedures), (ii) the Purchase Agreement (identified as

**Attachment “2”** to the Bidding Procedures) and (iii) the indicative bid Term Sheet (identified as **Attachment “3”** to the Bidding Procedures), are all hereby approved.

5. On or before **4:00 p.m. (EDT) on Wednesday, April 3, 2013**, any Prospective Bidder<sup>1</sup> seeking “stalking horse” protections must submit a non-contingent Purchase Agreement that clearly describes the specific “stalking horse” protections sought including, without limitation any overbid protections, “breakup fee,” or expense reimbursement requests, as set forth in the Bidding Procedures (the “**Stalking Horse Protections**”).

6. On or before **Monday, April 8, 2013**, the Debtor shall file with the Court a motion (a) identifying any Stalking Horse Bid (or the submission of a Credit Bid by BOA as the Stalking Horse Bid) and (b) requesting that the Court schedule a hearing, on an expedited basis, to consider approval of the Stalking Horse Bidder and the requested Stalking Horse Protections. Immediately following the Court’s entry of an Order approving any Stalking Horse Bid (or the BOA Credit Bid as the Stalking Horse Bid), the Debtor’s agent, HFF, shall notify the remaining Prospective Bidders of the agreed upon terms and conditions of the approved Stalking Horse Bid, as described in the Bidding Procedures.

7. On or before **4:00 p.m. on Wednesday, April 24, 2013**, non-Stalking Horse Prospective Bidders shall submit a fully executed indicative bid Term Sheet clearly describing the proposed terms and conditions of their initial bid for the Property, as described in the Bidding Procedures.

8. Prospective Bidders are to include as part of their bid either (i) the adequate funding commitments it expects to have in place to satisfy the Cure Amount for any unexpired

---

<sup>1</sup> All capitalized terms used but not defined in this Order shall have the same meanings as ascribed in the Bidding Procedures.

leases or executory contracts it wishes to have the Debtor assume and assign or (ii) an Adequate Assurance Proposal, as described in the Bidding Procedures.

9. As described in the Bidding Procedures, (i) in the event the terms and conditions of an indicative bid as memorialized in a timely submitted Term Sheet exceed any approved Stalking Horse Bid (and/or the Credit Bid of BOA), or (ii) in the event there is no Stalking Horse Bid, then on or before **4:00 p.m. on Friday, May 10, 2013**, all Qualifying Bidders shall, in accordance with the Bidding Procedures, submit a fully executed Purchase Agreement and the Bid Deposit, as described in the Bidding Procedures.

10. On **Tuesday, May 14, 2013 at 10:00 a.m. (EDT)**, HFF will conduct an Auction among all Qualifying Bidders in accordance with the Bidding Procedures at the offices of Bush Ross, P.A. located at 1801 North Highland Avenue, Tampa, Florida 33801. The bidding will start with the highest Qualified Bid and be conducted in accordance with the Bidding Procedures.

11. At a date and time shortly after the Auction, which shall be specifically scheduled by separate Order of this Court, the Sale Approval Hearing (which may be held in conjunction with the confirmation hearing) shall occur in Courtroom 8A, Sam M. Gibbons United States Courthouse, 801 North Florida Avenue, Tampa, Florida before the Honorable Michael G. Williamson, United States Bankruptcy Judge to consider approval of the Sale to the Successful Bidder from the Auction.

12. With regard to executory contracts and unexpired leases that are or may be subject to assumption by the Debtor and immediate assignment to the Successful Bidder, on or before **Friday, March 22, 2013**, the Debtor shall file a Cure Notice substantially in the form attached as **Exhibit "B"** which may include a standard tenant estoppel letter (the "**Estoppel**

**Letter**”), in accordance with the Bidding Procedures, and serve the same on each Counter-Party to any executory contracts and/or unexpired leases that the Debtor has or may identify as being subject to possible assumption or assignment to the Prospective Bidder, which shall include the Debtor’s calculation of any amounts or actions necessary to cure any default in any executory contract or unexpired lease (a “**Cure Amount**”).

13. Any Counter-Party who is a tenant of the Property (“**Tenant**”) are hereby directed to accurately complete and execute any Estoppel Letter and return it to the Debtor, BOA, and HFF as contemplated by the Bidding Procedures.

14. Any Counter-Party to an unexpired lease or executory contract who disagrees with the Cure Amount stated in the Cure Notice must file and appropriately serve an Assumption Objection in accordance with the Bidding Procedures, on or before **Wednesday, April 17, 2013** (the “**Cure Claim Submission Deadline**”). Any Tenant shall include a copy of that Tenant’s completed Estoppel Letter as an exhibit to an Assumption Objection.

15. If no Assumption Objection is timely filed and served as provided in this Order, (a) the Counter-Party to such an Assumed Contract shall be deemed to have consented to the assumption and assignment of the Assumed Contract in connection with the Sale and shall be forever barred from asserting any objection with regard to such assumption and assignment (even if such Counter-Party is a Tenant of the Debtor who provided an Estoppel Letter), and (b) the Cure Amount set forth in the Cure Notice shall be deemed to be the Cure Amount for all purposes. Notwithstanding the foregoing, the Debtor shall retain the right up through the conclusion of the Sale Approval Hearing to seek rejection of an executory contract or unexpired lease that has been previously designated for assumption and assignment, as set forth in the Bidding Procedures.

16. As part of each Prospective Bidder's Purchase Agreement, each Prospective Bidder shall (a) specifically identify those executory contracts and/or unexpired leases that the Prospective Bidder desires to be designated as Assumed Contracts, and (b) for each identify the method and manner of payment or satisfaction of any Cure Amount, whether by cash payment on the date of the closing of the Sale, or by providing adequate assurance of payment or satisfaction of the Cure Amount other than by cash payment on the date of closing of the Sale (an "**Adequate Assurance Proposal**"). Any Adequate Assurance Proposal shall delineate (i) in the case of monetary defaults (a) a set amount to be paid on a prescribed basis; (b) the frequency of such payments (i.e., weekly, monthly); and (c) the duration of such payments; and (ii) in the case of non-monetary defaults (a) a complete description of such default and the cure options available; (b) the specific action(s) to be taken to cure such default; (c) a timeline in which such actions are to be performed and completed; (d) a monetary amount such that it will enable tenant to internally cure such default; and, (iii) if requested by a Counter-Party to an Assumed Contract to be assumed and assigned under a particular offer, proof of financial wherewithal sufficient to satisfy the Adequate Assurance Proposal.

17. The Debtor shall file a designation of what executory contracts and unexpired leases are to be Assumed Contracts up to and through the conclusion of the Sale Approval Hearing, and any supplement to its Assumed Contract designations to add or remove an executory contract or unexpired lease from the list of Assumed Contracts, and such list may be maintained, as modified from time to time, on myHFF.

18. As soon as practicable after the conclusion of the Auction, the Debtor shall send a notice to the Counter-Parties of any Assumed Contracts identifying the successful bidder and the terms and conditions of the corresponding Successful Bid (including, specifically, the terms

and conditions governing the assumption, assignment, and cure (or rejection of) the executory contracts and unexpired leases and shall publish same on myHFF.

19. If a Counter-Party has filed an Assumption Objection in accordance with the Bidding Procedures by the Cure Claim Submission Deadline, then by no later than **12:00 p.m. (EDT) on Wednesday, May 15, 2013**, a Counter-Party to an Assumed Contract may file a supplement to its Assumption Objection to assert any additional objection based solely on the ability of the successful bidder to perform its obligations under such Assumed Contract. In the event any Cure Amount or the Adequate Assurance Proposal is the subject of an unresolved Assumption Objection as of the conclusion of the Sale Approval Hearing, the Successful Bidder shall have the option to remove such executory contract or unexpired lease from its Successful Bid, and the Debtor shall be entitled to redesignate the same for rejection in connection with Sale approval.

20. The Debtor has reserved for itself the right, upon consultation with BOA and HFF, to make non-material alterations to the Bidding Procedures and/or terminate discussions with any and all Prospective Bidders at any time, in its reasonable discretion and business judgment, so long as consistent with the Bidding Procedures.

**DONE and ORDERED** in Chambers at Tampa, Florida, on March 27, 2013.



---

Michael G. Williamson  
United States Bankruptcy Judge

Copies furnished via CM/ECF and/or BNC to:

**David S. Jennis**, 400 N. Ashley Drive, Suite 2540, Tampa, FL 33602

**Office of the United States Trustee**, 501 E. Polk St., Ste. 1200, Tampa, FL 33602

**Jeffrey W. Warren**, Bush Ross, P.A., P.O. Box 3913, Tampa, FL 33601-3913

**John C. Leininger**, Bryan Cave, LLP, JP Morgan Chase Tower, 2200 Ross Avenue, Suite 3300, Dallas, TX 75201

**Judy B. Calton**, Honigman Miller Schwartz and Cohn, LLP, 2290 First National Building, 660 Woodward Avenue, Detroit, MI 48226

**Dock A. Blanchard**, Blanchard, Merriam, Adel & Kirkland, P.A., 4 S.E. Broadway Street, Ocala, FL 34471

**Exhibit "A"****BIDDING AND ASSUMPTION PROCEDURES**

The following sales procedures and assumption procedures (the "**Bidding Procedures**") have been approved and authorized by the United States Bankruptcy Court for the Middle District of Florida, Tampa Division (the "**Bankruptcy Court**") in the chapter 11 case of The Ocala Shoppes LLC, Case No. 8:13-bk-00125-MGW (the "**Debtor**") relating to the sale of the real property owned by the Debtor known as Market Street at Heath Brook located at 4414 Southwest College Road, Ocala, Florida (the "**Property**") pursuant to Sections 363 and 1123(a)(5)(D) of the Bankruptcy Code.

**I. BIDDING PROCEDURES****Solicitation of Prospective Bidders**

The Court has authorized Holliday Fenoglio Fowler, L.P. ("**HFF**") to market the Property, assist in the sale process, and facilitate the Plan Sale. Beginning on **March 13, 2013**, HFF will distribute the Confidentiality Agreement attached as **Attachment "1"** hereto, together with preliminary, non-confidential information regarding the Property and Bidding Procedures, to certain identified prospective bidders and other intended parties requesting such information and with a legitimate intent in acquiring the Property ("**Prospective Bidders**"). HFF will provide the information to Prospective Bidders via an online data repository known as myHFF ("**myHFF**" or the "**Data Room**"). Additionally, HFF may post any or all forms, Court papers, instructions, or notes in myHFF. Such materials may include an offering memorandum, tenant leases, Argus financial models, historical operating statements, construction drawings, tenant sales information, environmental Phase I reports, tenant estoppels, updated surveys, title reports, and any other information that HFF and the Debtor deem pertinent (the "**Offering Materials**").

**Stalking-Horse Bidder Instructions**

Any Prospective Bidder interested in making an opening offer for the acquisition of the Property and desiring certain protections customarily provided to induce an initial offer in connection with any proposed purchase of the Property may do so by submitting a clean and "redlined" non-contingent Purchase Agreement substantially in the form of **Attachment "2"** (the "**Purchase Agreement**"), marked up to set forth such additional terms that clearly describe any requested "Stalking Horse" protection(s) (a "**Stalking Horse Bid**"). To be considered, any such Stalking Horse Bids must be sent via regular U.S. Mail, facsimile, and electronic mail so as to be received by Debtor's counsel, BOA's counsel, and HFF (in accordance with the notice provision set forth below) no later than **4:00 p.m. (EDT) on Wednesday, April 3, 2013** to.

David S. Jennis, Jennis & Bowen, P.L., 400 N. Ashley Drive, Suite 2540, Tampa, Florida 33602 (Fax: 813-229-1707 - E-Mail: [djennis@jennisbowen.com](mailto:djennis@jennisbowen.com))

John C. Leininger, Bryan Cave LLP, 2200 Ross Avenue, Suite 3300, Dallas, Texas 75201 (Fax: 214-220-6740 - E-Mail: [john.leininger@bryancave.com](mailto:john.leininger@bryancave.com))



Jeffrey W. Warren, Bush Ross, P.A., 1801 N. Highland Avenue, Tampa, Florida 33602 (Fax: 813- 223-9620 - E-Mail: [jwarren@bushross.com](mailto:jwarren@bushross.com))

Daniel Finkle, Holliday Fenoglio Fowler, LLP, 1450 Brickell Avenue, Suite 2950, Miami, FL 33131 (Fax: 305-448-9499 - E-Mail: [dfinkle@hfflp.com](mailto:dfinkle@hfflp.com))

The Debtor and BOA will thereafter determine if any proposed Stalking Horse Bid is acceptable and/or negotiate a final Purchase and Sale Agreement reflecting the mutually agreeable terms with the submitting part(ies). If no Prospective Bidder elects to become a Stalking Horse or if all Stalking Horse Bids are considered unacceptable, BOA may, but is not required to, elect to submit as a Stalking Horse Bid a credit bid under Section 363(k) of the Bankruptcy Code for the Property (the “**Credit Bid**”) by the deadline for the Stalking Horse Bid. In the event a Prospective Bidder’s Stalking Horse Bid is accepted (or if BOA elects to use its Credit Bid as the Stalking Horse Bid), upon receipt of an acceptable and fully executed Stalking Horse Purchase Agreement the Debtor will file a motion (1) identifying the proposed Stalking Horse (or the submission of BOA’s Credit Bid as the Stalking Horse Bid) and (2) requesting that the Bankruptcy Court schedule a hearing, on an expedited basis, to (a) approve the Stalking Horse Bid and (b) consider and approve any requested Stalking Horse protections including, without limitation, any overbid protections, minimum bidding increments and/or expense reimbursements.

After approval of a Stalking Horse by the Bankruptcy Court (or BOA’s election to use its Credit Bid as the Stalking Horse Bid), HFF will immediately notify the remaining Prospective Bidders of the agreed upon terms and conditions. Such notification may occur by posting the motion to approve the Stalking Horse Bid (including any Stalking Horse Purchase Agreement attached thereto) and any resulting Order of the Bankruptcy Court. In the event neither a Prospective Bidder or BOA timely submits a Stalking Horse Bid, then the Debtor may file a notice of the same with the Court.

#### **Indicative Bid Instructions (Non-Stalking Horse Bidders)**

Prospective Bidders not seeking to become a Stalking Horse but nevertheless interested in making a bid for the Property, are required to initially submit their proposed terms in the form of the Term Sheet attached as **Attachment “3”** by **4:00 p.m., EDT on Wednesday, April 24, 2013**. **Submissions made in any other manner will be considered non-conforming and may not be accepted.**

To the extent the submitted Term Sheet terms and conditions (1) exceed the Stalking Horse Bid (or the Credit Bid, if any), or (2) in the event there is no Stalking Horse Bid, these Prospective Bidders will be deemed to be “**Qualifying Bidders**” and will be invited to participate in an auction as described below, currently scheduled for May 14, 2013 (the “**Auction**”). To qualify to bid at the Auction described below, each Qualifying Bidder shall submit the following on or before **4:00 p.m. EDT on Friday, May 10, 2013** (a “**Qualified Bid**”):

a) A clean, fully executed purchase agreement substantially in the form attached as **Attachment “2”** in an amount not less than such Qualifying Bidder’s initial Bid. Additionally, any Purchase Agreement which contains terms different from the form provided must also be provided in an additional “black-lined” format to show any changes made by such Qualifying Bidder to the form of the Purchase Agreement. The clean version of the Purchase Agreement must be signed by such Qualifying Bidder and be subject to acceptance by the Debtor and BOA by their execution thereof and necessary Court approval. Qualifying Bidders must include as part of their bids (1) a specific designation of any executory contracts and unexpired leases to which the Debtor is a party that the Qualifying Bidder desires to acquire as part of its prospective purchase of the Property in accordance with the “Assumption Procedures” described in Section II, below (the “**Assumed Contracts**”), (2) the manner in which the prospective purchaser intends to pay, or otherwise cure any monetary and non-monetary defaults as a condition of assumption and/or assignment of such Assumed Contracts pursuant to Section 365 of the Bankruptcy Code (a “Cure Amount”). Regarding the proposed method of payment of the Cure Amounts, for each Assumed Contract, any Qualifying Purchaser must state in the Purchase Agreement (1) that the Cure Amount will be satisfied in cash in full at the closing, and describe the adequate funding commitments it expects to have in place to satisfy the Cure Amounts or (2) an adequate assurance proposal that, no later than the time of the Auction, the Qualifying Bidder proposes and will effectuate an order to satisfy the requirements to assume and assign the Assumed Contracts in compliance with Section 365 of the Bankruptcy Code including, without limitation, the manner and method of payment of the Cure Amounts for Assumed Contracts (the “**Adequate Assurance Proposal**”). An Adequate Assurance Proposal shall, at a minimum, consist of:

(i) In the case of monetary defaults - (a) a set amount to be paid on a prescribed basis; (b) the frequency of such payments (i.e., weekly, monthly); and (c) the duration of such payments.

(ii) In the case of non-monetary defaults - (a) a complete description of such default and the cure options available; (b) the specific action(s) to be taken to cure such default; (c) a timeline in which such actions are to be performed and completed; and (d) a monetary amount such that it will enable tenant to internally cure such default.

(iii) If requested by any lessee or other party to an Assumed Contract (a “Counter-Party”) under a particular Qualified Bid, proof of financial wherewithal sufficient to satisfy the Adequate Assurance Proposal.

b) The Debtor and BOA may accept modifications to the Purchase Agreement as submitted by a Qualifying Bidder who otherwise complies with the Bid Procedures if the Debtor and BOA determine, in the exercise of their business judgment, that the proposed modifications result in a higher and better offer for the Property; and

c) A good faith deposit in immediately available funds in the amount of ten percent (10%) of the total gross purchase price set forth in the Qualifying Bid (the “**Bid Deposit**”), which shall be made payable to and delivered to Jennis & Bowen, P.L., counsel to the Debtor (“**J&B**”). The Bid Deposit will be deposited into a non-IOTA interest-bearing trust account maintained by J&B. Such Bid Deposit will be non-refundable to the Qualifying Bidder in the event such Qualifying Bidder’s Bid is approved by the Court at the Sale Hearing as the highest and best offer and such Qualifying Bidder fails to close on the purchase of the Property for any reason. The Bid Deposit will be applied against the purchase price at the closing. Within five (5) days following the entry of the Sale Order, J&B, as the escrow agent, will return the Bid Deposit (inclusive of any earned interest) of any Qualifying Bidder (except the Backup Bidder as defined below) that is not selected as having the highest and best offer at the Sale Hearing.

### **Auction**

In the event that the Debtor receives one or more Qualified Bids, that is determined to be higher and better than the Stalking Horse Bid or Credit Bid, if any, the Auction will be conducted by HFF and held on **Tuesday, May 14, 2013 at 10:00 a.m. EDT** at the offices of Bush Ross, P.A. located at 1801 North Highland Avenue, Tampa, Florida 33602. **Qualifying Bidders must be present to participate in the Auction.** The Debtor, after consultation with and obtaining the concurrence of BOA and HFF, will select the highest and best offer(s) in its reasonable discretion (the “**High Bid**”) and the Qualifying Bidder submitting such High Bid shall be designated as the “**High Bidder**.” By participating in the Auction, each Qualifying Bidder shall consent to being selected as the High Bidder as well as the second highest and best bidder (the “**Backup Bidder**”) for the Property. The Backup Bidder’s Purchase Agreement will be a binding contract in the event the High Bidder fails to consummate the acquisition of the Property in accordance with the provisions described above and in the Sale Order. Any closing with the Backup Bidder will occur within five (5) days of notification that the High Bidder failed to close or such extended time as approved by BOA.

### **Bankruptcy Court Sale Approval Hearing**

A hearing to consider approval of the Sale of the Property to the High Bidder pursuant to the High Bid received in connection with the Bidding Procedures outlined above and to consider any timely filed objections thereto (the “**Sale Approval Hearing**”), will be held before the Honorable Michael G. Williamson at the United States Bankruptcy Court, Courtroom 8A, Sam M. Gibbons United States Courthouse, 801 North Florida Avenue, Tampa, Florida shortly following the scheduled Auction. The Sale Approval Hearing and confirmation hearing will be set by separate order(s), and are expected to occur promptly following the Auction. At the Sale Approval Hearing, the Debtor will recommend to the Court that the High Bid be considered to be the highest and best offer(s) for the Property, after taking into account all aspects of the Qualified Bids, the Auction process, and the terms of the High Bidder’s Purchase Agreement (including, without limitation, the amount of the purchase price, the method and timing of the payment of the purchase price, conditions to closing, the time for closing, the representations, warranties,

and covenants to be provided by the possible Purchaser, the Assumed Contracts and the Adequate Assurance Proposals, and the indemnification obligations of the possible Purchaser, if any). **All Qualifying Bidders or their authorized representatives must be present at the Auction and the High Bidder and the Backup Bidder must be present at the Sale Approval Hearing. The Bankruptcy Court will independently confirm that the High Bid is the highest and best offer(s) at the Sale Approval Hearing and if approved by the Bankruptcy Court, the Bankruptcy Court will enter an order approving the sale of the Property (the “Final Sale Order”) to the High Bidder pursuant to Sections 363(f) and 1123(a)(5)(D) of the Bankruptcy Code and as provided under the terms of the Plan as confirmed by the Bankruptcy Court.**

### **Closing**

Closing will take place as soon as possible following the later of (a) the Sale Approval Hearing or (b) the date that any order confirming the Plan becomes final and non-appealable, but in no event will a closing occur more than fifteen (15) days following entry of the Final Sale Order.

## **II. ASSUMPTION PROCEDURES**

In connection with the Bidding Procedures and sale process and in furtherance of the Plan Sale, the Debtor will seek, pursuant to Sections 365(a) and (b)(1) of the Bankruptcy Code, authority to assume and assign to the successful purchaser of the Property, pursuant to the Bidding Procedures and sale process outlined above (the “**Purchaser**”), all of the Debtor’s right, title, and interest in and to the Assumed Contracts and unexpired leases designated by the Purchaser and to reject all executory contracts and unexpired leases which are not Assumed Contracts (the “**Rejected Contracts**”). In order to facilitate (i) the designation, assumption, and assignment of any of the Debtor’s executory contracts and unexpired leases as Assumed Contracts, and (ii) the rejection of the Rejected Contracts, the following procedures have been approved by the Bankruptcy Court:

- a) By not later than **Friday, March 22, 2013**, the Debtor will serve a notice (the “**Cure Notice**”) to the counter-parties to the Debtor’s executory contracts and unexpired leases, which may include a form of “estoppel letter” for commercial tenants as is typically used in commercial real estate transactions of similar properties. The Cure Notice will include the Debtor’s calculation or estimate of any Cure Amounts that, pursuant to Section 365 of the Bankruptcy Code, will be paid to cure any monetary and non-monetary defaults (if any) on the part of Debtor under any Assumed Contracts.
- b) If any Counter-Party to an Assumed Contract in the Cure Notice objects to and/or asserts any Cure Amounts different than that set forth in the Cure Notice, or asserts any other non-monetary defaults or any other claims against the Debtor that would be required to be cured in connection with or as a condition of any assumption and assignment pursuant to Section 365 of the Bankruptcy Code, such Counter-Party must file with this Court, on or before **Wednesday, April 17, 2013** (the “**Cure Claim**”).

**Submission Deadline**”), any objection to the assumption and assignment of such executory contract or unexpired lease and/or assertion of a different Cure Amount, claim, or default other than set forth in the Cure Notice (the “**Assumption Objection**”), which shall state:

- i. the specific grounds for such Assumption Objection;
  - ii. any and all defaults of the Debtor (whether monetary or non-monetary that it alleges are in existence under such Assumed Contract and, (a) if such alleged defaults are monetary, the nature of such monetary defaults (including the date and amount of any payment allegedly due under the Assumed Contract) and Cure Amounts, if any, due and owing by the Debtor pursuant to 11 U.S.C. §365(b) and, (b) if such alleged defaults are non-monetary, the nature of such non-monetary defaults and the amount of money or the type of action required to cure such non-monetary defaults;
  - iii. any and all Cure Amounts or claims of any nature whatsoever against the Debtor; and
  - iv. any and all objections to the adequate assurance of future performance by a Stalking Horse Bidder under the Assumed Contract.
- c) To the extent not specifically contained in the Purchase Agreement, no later than **Wednesday, April 24, 2013**, each Prospective Bidder shall notify the Debtor in writing of those executory contracts and unexpired leases that the Prospective Bidder desires to be designated as Assumed Contracts by the Debtor and assigned to the Prospective Bidder at Closing and shall designate the amount and term of the payment of the Cure Amount or specify the Adequate Assurance Proposal for each Assumed Contract.
- d) Any Counter-Party who fails to timely file a written Assumption Objection to any proposed assumption and assignment of their Assumed Contract will be conclusively deemed to have waived any objection to the Debtor’s stated Cure Amount as provided in the Cure Notice. Any Counter-Party served with the Cure Notice not specifying any Cure Amount, default, or claim in an Assumption Objection will be deemed to have conclusively acknowledged that no Cure Amount, default, or claim exists under any such Assumed Contract.
- e) Any Counter-Party to an unexpired lease or executory contract who disagrees with the Debtor’s calculation of the Cure Amount must file and appropriately serve an Assumption Objection in accordance with the Bidding Procedures, on or before **Wednesday, April 17, 2013** (the “**Objection Deadline**”). If no Assumption Objection is timely filed and served, (i) the Counter-Party to such an Assumed Contract shall be deemed to have consented to the assumption and assignment of the

Assumed Contract in connection with the Sale and shall be forever barred from asserting any objection with regard to such assumption and assignment, and (ii) the Cure Amount set forth on the list of Assumed Contracts shall be controlling, notwithstanding anything to the contrary in any Assumed Contract, or any other document, and the Counter-Party to an Assumed Contract shall be deemed to have consented to the Cure Amount and shall be forever barred from asserting any other claims related to such Assumed Contract against the Debtor, the successful bidder, or the property of any of them. Notwithstanding the foregoing, the Debtor shall retain the right up through the conclusion of the Confirmation Hearing to seek rejection of an executory contract or unexpired lease that has been previously designated for assumption and assignment, as set forth in the Bidding Procedures.

- f) Any Counter-Party filing an Assumption Objection shall serve the same upon the Debtor and its counsel, BOA and its counsel, and HFF in a manner designed to assure actual receipt by such parties by the Cure Claim Submission Deadline.

**Property:** Market Street at Heath Brook  
**Location:** Ocala, Florida  
**Potential Purchaser:** \_\_\_\_\_

**HFF**<sup>®</sup>

**Upon execution of the agreement, please remit the entire agreement via facsimile or email in "PDF" format to:**

**Attention:** Cecily Valera  
**Email Address:** cvalera@hfflp.com  
**Facsimile:** (305) 448-6767

**Owner:** Ocala Shoppes, LLC

HFF represents Owner as Owner's exclusive agent or broker for the potential sale or capitalization of the Property on an "as-is" basis. This Confidentiality and Conditions of Offering Agreement (the "Agreement") will confirm the mutual understandings of Potential Purchaser, HFF, and Owner in connection with Potential Purchaser's review of certain confidential information, including but not limited to, an offering memorandum, documents, data, financial statements, reports, forecasts, projections, surveys, diagrams, records, engineering reports and such other documents or conversations concerning the Property (the "Offering Materials"). Please be advised that Owner and HFF may make the Offering Materials available in written, electronic or verbal form to the Potential Purchaser following HFF's receipt of this Agreement executed by Potential Purchaser. The terms of this Agreement are as follows:

1. **Ownership, Use and Return of Offering Materials** - All of the Offering Materials relating to the Property which may be furnished to the Potential Purchaser by the Owner or HFF shall continue to be the property of the Owner and HFF. The Offering Materials will be used by the Potential Purchaser and the Related Parties (as hereinafter defined below) solely for the purpose of evaluating the possible acquisition and/or capitalization of the Property and not for any other purpose unrelated to the possible acquisition and/or capitalization of the Property. The Offering Materials may not be copied or duplicated without the Owner's or HFF's prior written consent and must be returned to HFF immediately upon request (or with HFF's permission, destroyed by the Potential Purchaser and/or the Related Parties with a letter to HFF stating that all Offering Materials have been destroyed) or when the Potential Purchaser declines to make an offer for the Property or terminates discussion or negotiations with respect to the Property.
2. **Confidentiality and Disclosure of Offering Materials by the Potential Purchaser** - The Potential Purchaser acknowledges that the Offering Materials are considered confidential and proprietary information of the Owner and HFF and will not make any Offering Materials available, or disclose any of the contents thereof, to any person without Owner's or HFF's prior written consent; provided however, that the Offering Materials may be disclosed to the Potential Purchaser's partners, employees, legal counsel, advisors, institutional lenders and other capital source(s) ("Related Parties") as required for an evaluation of the Property, provided such Related Parties are (a) informed by the Potential Purchaser of the confidential nature of the Offering Materials and the terms of this Agreement (including, but not limited to, the provisions of this Section 2 and Section 4 of this Agreement) and (b) directed by the Potential Purchaser to keep the Offering Materials and related information strictly confidential in accordance with this Agreement. The Prospective Purchaser shall be responsible for any violation of this provision by any of the Related Parties.
3. **Potential Purchaser as Principal and Other Brokers or Agents** - The Potential Purchaser acknowledges and agrees that the Potential Purchaser is a principal and not an agent of or acting on behalf of any other party in connection with the purchase (or capitalization) of the Property and the Potential Purchaser hereby agrees that it will not look to HFF, or to Owner for any brokerage commission, finders fee or other compensation in connection with the sale (or capitalization) of the Property or any interest therein. The Potential Purchaser acknowledges that it has not had any discussion regarding the Property with any broker or agent. Potential Purchaser shall indemnify, defend and hold Owner and HFF, their respective officers, directors, partners, employees, agents, representatives, and any of their affiliates, beneficiaries, successors and assigns, harmless from and against any and all claims, causes of action, damages, suits, demands, liabilities, fines, fees, costs and expenses (including but not limited to, court costs and attorney's fees) of any kind, nature or character (collectively, the "Claims") relating to the Property by any agents or brokers resulting from Potential Purchaser's actions or failures to act and/or any actions or failures to act of any of the Related Parties.
4. **No Representations as to Offering Materials or Condition of Property** - The Potential Purchaser understands and acknowledges that neither the Owner nor HFF makes any representation or warranty as to the accuracy or completeness of the Offering Materials or the condition of the Property in any manner. The Potential Purchaser further understands and acknowledges that the information used in the preparation of the Offering Materials was furnished by the Owner and has not been independently verified by HFF or the Owner, and is not guaranteed as to its completeness or accuracy. The Potential Purchaser agrees that neither the Owner, nor HFF shall have any liability for any reason to the Potential Purchaser or any Related Parties resulting from the use of the Offering Materials by any person in connection with the sale of, or other

Property: Market Street at Heath Brook  
Location: Ocala, Florida  
Potential Purchaser: \_\_\_\_\_

HFF®

investments by the Potential Purchaser in the Property whether or not consummated for any reason. Neither the Owner, nor HFF is under any obligation to notify any of the undersigned or any Related Party or provide any further information to any of the undersigned or any Related Party if Owner and/or HFF become aware of any inaccuracy, incompleteness or change in the Offering Materials. The undersigned acknowledges and agrees that neither (i) the Owner nor any person acting on Owner's behalf or (ii) HFF nor any person acting on HFF's behalf, have made any representation or warranty as to the accuracy or completeness of the Offering Materials, or the suitability of the information contained therein for any purpose whatsoever, and any representation or warranty (whether expressed or implied) in connection therewith is hereby expressly excluded. The undersigned further acknowledges and agrees that the Offering Materials provided to the undersigned are subject to, among other things, correction of errors and omissions, additions or deletion of terms, and withdrawal upon notice. The undersigned further acknowledges and agrees that neither Owner, HFF or any person acting on Owner's or HFF's behalf, shall have any liability to the undersigned or any Related Party resulting from the delivery to, or use by the undersigned or any Related Party of the Offering Materials or otherwise with respect thereto. Potential Purchaser and the Related Parties shall rely only their own due diligence and investigation of the Property, including but not limited to any financial, title, environmental, structural and physical, tenant, leases, contracts, claims, or any other matters.

5. **Withdrawal of Property from Market or Termination of Discussions** - The Potential Purchaser acknowledges that the Property has been offered for sale or capitalization subject to withdrawal of the Property from the market at any time or rejection of any offer because of the terms thereof, or for any other reason whatsoever, without notice, as well as the termination of discussions with any party at any time without notice for any reason whatsoever. The Owner also reserves the right to accept any pre-emptive bid or otherwise alter any previously announced procedures related to the marketing of the Property for sale or capitalization.
6. **Term of Agreement** - The terms and conditions of this Agreement shall remain in full force and effect for a period of two (2) years from the date hereof, provided that all indemnification obligations which may arise hereunder shall survive such expiration date or any earlier termination of this Agreement.
7. **Remedies** - In the event that the Potential Purchaser and/or the Related Parties fail to comply with the terms and conditions of this Agreement, the Potential Purchaser and/or the Related Parties may be liable to Owner and/or HFF for such breach and Owner and/or HFF shall be entitled to exercise any right, power or remedy available at law or in equity for such breach.
8. **Applicable Law** - This Agreement shall be governed by and construed in accordance with the laws of the state in which the Property is located, without reference to its conflicts of law provisions.
9. **Access to Property, Property's Management, Property Lender, and Property Tenants** - Potential Purchaser and the Related Parties agree not to seek to gain access to any non-public areas of the Property or communicate with Property's management employees, the holder of any financing encumbering the Property, the Property's tenants, and the Owner's partners in the ownership of the Property, without the prior written consent of Owner or HFF, which consent may be withheld in the Owner's or HFF's sole discretion.
10. **Entire Agreement, Waiver or Modification** - This Agreement contains the entire understanding between the parties with respect to the subject matter hereof, and may not be altered, varied, revised or amended, except by an instrument in writing signed by the parties subsequent to the date of this Agreement. The parties have not made any other agreement or representation with respect to such matter.
11. **Severability** - If any term or provision of this Agreement is held to be void or unenforceable, such term or provision will be ineffective and separable from the remaining terms and provisions of this Agreement without invalidating the remaining terms or provisions of this Agreement. In lieu of any invalid or unenforceable provision, a valid and enforceable provision will automatically be added containing terms as similar as possible to the ineffective provision, and the parties request that the court or any arbitrator to whom disputes relating to this Agreement are submitted, reform the ineffective provision in accordance with this paragraph.

POTENTIAL PURCHASER: Accepted and Agreed to this \_\_\_\_ day of \_\_\_\_\_, 2013.

\_\_\_\_\_  
*Signature*



**Property:** Market Street at Heath Brook

**Location:** Ocala, Florida

**Potential Purchaser:** \_\_\_\_\_

**HFF®**

---

**Name**

**Title**

**Company**

**Address**

**Telephone**

**Telecopier**

**Email**

ATTACHMENT “2”

---

**THE OCALA SHOPPES**

PURCHASE AGREEMENT

BETWEEN

THE OCALA SHOPPES LLC, Debtor-in-Possession,

AS SELLER

AND

\_\_\_\_\_.

AS PURCHASER

As of \_\_\_\_\_, 2013

---

## PURCHASE AGREEMENT

THIS PURCHASE AGREEMENT (the “**Agreement**”) is made to be effective as of the Effective Date (as hereinafter defined) by and between THE OCALA SHOPPES LLC, Debtor-in-Possession (“**Seller**”), and \_\_\_\_\_ (“**Purchaser**”).

**WHEREAS** Seller has filed a voluntary petition for relief under chapter 11 of title 11 of the United States Code (the “**Bankruptcy Code**”) with the United States Bankruptcy Court for the Middle District of Florida, Tampa Division (the “**Bankruptcy Court**”). The Seller is currently managing its property as a debtor in possession pursuant to sections 1107 and 1108 of the Bankruptcy Code.

**WHEREAS** by order of the Bankruptcy Court dated March \_\_, 2013, the Bankruptcy Court approved certain initial bidding procedures applicable to the sale of the shopping center and office complex owned by the Seller known as the Market Street at Heath Brook, located at 4414 Southwest College Road, Ocala, Florida (the “**Property**”), free and clear of liens, claims and encumbrances (the “**Initial Bid Procedures Order**”).

**WHEREAS** subject to the terms and conditions of the Initial Bid Procedures Order, this Agreement and pursuant to sections 363 and 1123(a)(5)(D) of the Bankruptcy Code, the applicable Federal Rules of Bankruptcy Procedure and the local rules of the Bankruptcy Court, Seller desires to sell to Purchaser, and Purchaser desires to purchase from Seller, the Property.

### ARTICLE 1

#### PURCHASE AND SALE

1.1 Agreement of Purchase and Sale. Subject to the terms and conditions hereinafter set forth, Seller agrees to sell and convey and Purchaser agrees to purchase the following:

(a) that certain tract or parcel of land situated in Marion County, Florida, more particularly described on Exhibit A attached hereto and made a part hereof, together with all and singular the rights and appurtenances pertaining to such property, including any right, title and interest of Seller in and to adjacent streets, alleys or rights-of-way (the property described in clause (a) of this Section 1.1 being herein referred to collectively as the “**Land**”);

(b) the buildings and other improvements on the Land, if any, owned by Seller (the property described in clause (b) of this Section 1.1 being herein referred to collectively as the “**Improvements**”);

(c) the tangible personal property, if any, owned by Seller upon the Land or within the Improvements, including specifically, without limitation, heating, ventilation and air conditioning systems and equipment, appliances, furniture, carpeting, draperies and curtains, tools and supplies, and other items of personal property (excluding cash)

used in connection with the operation of the Land and the Improvements (the property described in clause (c) of this Section 1.1 being herein referred to collectively as the “**Personal Property**”);

(d) all of Seller’s right, title and interest, if any, in all oral or written agreements pursuant to which any portion of the Land or Improvements is used or occupied by anyone other than Seller (the property described in clause (d) of this Section 1.1 being herein referred to collectively as the “**Leases**”); and

(e) all of Seller’s right, title and interest, if any, in and to (i) all assignable contracts and agreements relating to the upkeep, repair, maintenance or operation of the Land, Improvements or Personal Property which will extend beyond the date of Closing (as such term is defined in Section 4.1 hereof), including specifically, without limitation, all assignable equipment leases (collectively, the “**Operating Agreements**”), and (ii) all assignable warranties and guaranties issued to Seller in connection with the Improvements or the Personal Property (the property described in this Section 1.1(e) being sometimes herein referred to collectively as the “**Intangibles**”). As used in this Section 1.1(e), “assignable” shall mean either that the consent of any third party is not required or that such consent can be obtained by Seller after using reasonable efforts.

1.2 Property Defined. The Land, the Improvements, the Personal Property, the Leases, and the Intangibles are hereinafter sometimes referred to collectively as the “**Property**.”

1.3 Permitted Exceptions. The Property shall be conveyed subject to all matters which are either shown as exceptions on Seller’s vesting deed (the “**Permitted Exceptions**”).

1.4 Purchase Price. Seller is to sell and Purchaser is to purchase the Property for a total of \_\_\_\_\_ AND NO/100 DOLLARS (\$\_\_\_\_\_.00) (the “**Purchase Price**”).

1.5 Payment of Purchase Price. The Purchase Price shall be payable in full at Closing (as hereinafter defined) in cash or immediately available wire transferred funds.

1.6 Earnest Money. Within one (1) business day after the Effective Date, Purchaser shall deposit with Jennis & Bowen, P.L., counsel to the Seller (the “**Escrow Agent**”), the sum of \_\_\_\_\_ AND NO/100 DOLLARS (\$\_\_\_\_\_.00) (the “**Earnest Money**”) to be held by the Escrow Agent in a non-IOTA interest-bearing trust account maintained by the Escrow Agent. All interest accruing on such sum shall become a part of the Earnest Money and shall be distributed as Earnest Money in accordance with the terms of this Agreement.

## **ARTICLE 2**

### **TITLE**

2.1 Commitment for Title Insurance. Seller and Purchaser hereby instruct Bush Ross, P.A. (the “**Title Agent**”), as agent for Fidelity National Title Insurance Company (the “**Title Company**”), to prepare and deliver to Purchaser and Seller, a title commitment (the “**Title Commitment**”) covering the Property, showing all matters affecting title to the Property and binding the Title Company to issue at Closing an Owner’s Policy of Title Insurance pursuant to Section 2.4 hereof on the standard form of policy prescribed by the Florida Insurance Commissioner’s office in the full amount of the Purchase Price. Seller and Purchaser further instruct the Title Agent to deliver to such parties’ copies of all instruments referenced in Schedule B and Schedule C of the Title Commitment.

2.2 Intentionally Deleted.

2.3 Intentionally Deleted.

2.4 Owner’s Policy of Title Insurance. At Closing, the Title Agent shall issue to Purchaser, on behalf of the Title Company, at Seller’s expense, a marked commitment or proforma Owner’s Policy of Title Insurance (the “**Title Policy**”) covering the Property, in the full amount of the Purchase Price. Such Title Policy may contain as exceptions the standard printed exceptions and the Permitted Exceptions.

## **ARTICLE 3**

### **ACKNOWLEDGMENT OF INSPECTION**

3.1 Acknowledgement of Inspection and Acceptance of Property. Purchaser acknowledges and agrees that Purchaser has made, or has had an opportunity to make, a physical inspection of the Property, executed a confidentiality agreement, and examined the online proprietary data repository known as *myHFF* containing an offering memorandum, tenant leases, Argus financial models, historical operating statements, construction drawings, tenant sales information, environmental Phase I reports, tenant estoppels, updated surveys, title reports, and any other information that the Seller and Holiday Fenoglio Fowler, L.P., the entity retained by the Seller to market the Property, assist in the sale process and facilitate the sale of the Property (“**HFF**”), deem pertinent (the “**Offering Materials**”). Purchaser agrees to and hereby does indemnify, defend and hold Seller and Seller’s directors, shareholders, partners, certificate-holders, representatives, agents, employees, successors and assigns, and each of them, free and harmless from and against any claim for damages or injuries arising from Purchaser’s inspection of the Property and, notwithstanding anything to the contrary in this Agreement, such obligation to indemnify shall survive Closing or any termination of this Agreement. Purchaser hereby accepts the condition of the Property as suitable for its purposes and agrees that Purchaser has no right to terminate this Agreement, other than a termination pursuant to Section 7.2 or Section 8.2 hereof.

## **ARTICLE 4**

### **BANKRUPTCY COURT APPROVAL**

4.1 **Approval.** Seller and Purchaser acknowledge that this Agreement and the sale of the Property are subject to approval by the Bankruptcy Court. Seller and Purchaser acknowledge that the sale of the Property to Purchaser is also subject to higher and better offers in accordance with the Initial Bid Procedures Order and the final bid procedures that will be approved by the Bankruptcy Court at a hearing to be conducted subsequent to the Effective Date of this Agreement (the "**Final Bid Procedures**").

4.2 **Proposed Break-Up Fee.** If (i) the Bankruptcy Court approves the sale of the Property (or substantially all of the Property) to a third party unaffiliated with Purchaser (an "**Alternative Offer**"), excluding a sale on a credit bid by Bank of America, N.A., (ii) the sale of the Property pursuant to the Alternative Offer closes, and (iii) Purchaser has not materially breached this Agreement and is otherwise willing and capable of closing the transaction contemplated by this Agreement, then Purchaser shall be paid by Seller from the sale proceeds of such Alternative Offer a break-up fee (the "**Break-Up Fee**") in an amount equal to \_\_\_\_\_ percent (\_\_\_%) of the Purchase Price. Anything contained in this Agreement to the contrary notwithstanding, in the event that the Property is sold and closed pursuant to an Alternative Offer, Purchaser shall have the right to terminate this Agreement, receive a prompt return of the Deposit, and the Break-Up Fee shall be paid to Purchaser at the closing on the Alternative Offer. Seller agrees that at any time that Purchaser is entitled to a return of the Deposit under this Agreement, upon request from Purchaser, Seller promptly will execute and deliver to the Escrow Agent a written notice to the Escrow Agent directing that the Deposit be returned to Purchaser.

4.3 **Bid Protection.** If Purchaser has not terminated or materially breached this Agreement, Seller agrees not to entertain or accept any Alternative Offer(s) unless such Alternative Offer exceeds the Purchase Price by at least \_\_\_\_\_ Hundred Thousand and NO/100 Dollars (\$\_\_\_\_,000.00) (the "**Overbid Protection**").

4.4 **Motion/Final Bid Procedures Order.** Purchaser acknowledges that Seller will file with the Bankruptcy Court, immediately subsequent to the Effective Date, a motion seeking (i) the entry of an order approving the Final Bid Procedures, the Overbid Protection and the Break-Up Fee (the "**Final Bid Procedures Order**"), and (ii) the entry of an order by the Bankruptcy Court, in form and substance satisfactory to Seller and Purchaser, that approves this Agreement as a proposed Stalking Horse Bid as provided in the Initial Bid Procedures Order.

4.5 **Plan of Reorganization/Plan Sale Order.** Purchaser acknowledges that Seller and its primary secured creditor, Bank of America, N.A., a national banking association, as successor by merger to Merrill Lynch Commercial Finance Corporation ("**BOA**"), have entered into various agreements and compromises that have been approved by the Bankruptcy Court and that form the basis for a proposed chapter 11 plan to be proposed by the Seller (the "**Plan**"). The sale of the Property will be pursuant to an order confirming the Plan (the "**Plan Sale Order**") which will be entered in connection with or, included as part of, the confirmation of the Plan. The Plan

Sale Order shall specifically provide that the Purchaser shall take the Property free and clear of all liens, claims, interests and encumbrances, with the exception of Permitted Liens, with any such valid liens, claims, interests and encumbrances attaching to the proceeds of the sale; Purchaser is a good faith purchaser within the meaning of Section 363(m) of the Bankruptcy Code; Purchaser is not a successor to Seller and shall have no liability for any obligations of Seller except as expressly provided herein; and the automatic stays under Rules 6004 and 6006 of the Federal Rules of Bankruptcy Procedures are waived.

4.6 Bidding Matter and Auction. Seller and Purchaser acknowledge that Seller may seek or entertain one or more bids for the purchase of the Property in accordance with the Final Bid Procedures Order at an auction that will be held on Tuesday, May 14, 2013 at 10:00 a.m. EST at the offices of Bush Ross, P.A. located at 1801 North Highland Avenue, Tampa, Florida 33602.

## ARTICLE 5

### CLOSING

5.1 Time and Place. Closing of the transaction contemplated hereby shall be held as an escrow closing through the Title Agent and the closing of the sale and transfer of the Property (the “**Closing**”) will occur within fifteen (15) business days after the entry of the Plan Sale Order so long as the Plan Sale Order is not subject to a stay, or if the Plan Sale Order is subject to a stay, within fifteen (15) business days after the dissolution of such stay (the “**Closing Date**”). In the event this Agreement is approved by the Bankruptcy Court as a backup bid to an Alternative Offer and such Alternative Offer fails to close and all Property is available for sale to Purchaser, then, the Closing Date shall occur as specified in the Final Bid Procedures Order. The Closing shall take place in the offices of Bush Ross, P.A. or at such other location as may be agreed upon between Seller and Purchaser. The Closing will be effective as of 11:59 p.m. prevailing Eastern Time on the Closing Date. At Closing, Seller and Purchaser shall perform the obligations set forth in, respectively, Section 5.2 and Section 5.3, the performance of which obligations shall be concurrent conditions.

5.2 Seller’s Obligations at Closing. At Closing, Seller shall:

(a) deliver to Purchaser a Special Warranty Deed (the “**Deed**”) in the form of Exhibit B attached hereto and made a part hereof, executed and acknowledged by Seller and in recordable form, conveying the Land and Improvements to Purchaser, subject only to the Permitted Exceptions;

(b) join with Purchaser in the execution and acknowledgment of a Bill of Sale and Assignment (the “**Bill of Sale**”) in the form of Exhibit C attached hereto and made a part hereof with respect to the Property;

(c) join with Purchaser in the execution and acknowledgment of an Assignment and Assumption of Contracts (the “**Assignment of Contracts**”) in the form of Exhibit D attached hereto and made a part hereof with respect to the Property;

(d) join with Purchaser in the execution of a Closing Memorandum and Indemnification Agreement (the “**Closing Memorandum**”) in the form of Exhibit E attached hereto and made a part hereof with respect to the Property;

(e) join with Purchaser in the execution of a letter to each tenant of the Property in the form of Exhibit F attached hereto and made a part hereof;

(f) deliver to Purchaser a FIRPTA Affidavit in the form of Exhibit G attached hereto and made a part hereof, duly executed by Seller, stating that Seller is not a “foreign person” as defined in the federal Foreign Investment in Real Property Tax Act of 1980 and the 1984 Tax Reform Act, and in the event Seller is unable or unwilling to deliver the FIRPTA Affidavit, in lieu thereof the funds payable to Seller shall be adjusted in such a manner as to comply with the withholding provisions of such statutes;

(g) deliver to Purchaser possession and occupancy of the Property, subject to the Permitted Exceptions; and

(h) deliver to Purchaser all available keys to the Property in Seller’s possession.

**5.3 Purchaser’s Obligations at Closing.** At Closing, Purchaser shall:

(a) pay to Seller the full amount of the Purchase Price in cash or immediately available wire transferred funds pursuant to Section 1.5 above, it being agreed that at Closing the Earnest Money shall be delivered to Seller and applied towards payment of the Purchase Price;

(b) join Seller in execution of the instruments described in Sections 5.2(b), 5.2(c), 5.2(d) and 5.2(e) above; and

(c) deliver to Seller an Environmental Indemnity in the form of Exhibit H attached hereto and made a part hereof, executed by Purchaser.

**5.4 Credits and Prorations.**

(a) The following shall be apportioned with respect to the Property as of 12:01 a.m., Ocala, Florida time, on the day of Closing, as if Purchaser were vested with title to the Property during the entire day upon which Closing occurs:

(i) rents, if any, as and when collected (the term “rents” as used in this Agreement includes payments due and payable by tenants under the Leases and by licensees and concessionaires and room revenues, if any);

(ii) taxes (including personal property taxes on the Personal Property), with an adjustment for the maximum discount permitted by law;



(iii) certified assessments or liens for governmental improvements as of the date of Closing, if any, shall be paid in full by Seller, and pending assessments or liens for government improvements as of the date of Closing shall be assumed by the Purchaser. "Certified" for this purpose shall be defined to mean that the improvement has been substantially completed as of the Effective Date. With respect to any assessments or liens for governmental improvements which are payable in installments over a number of calendar or fiscal years, Seller shall be obligated to pay all installments due and owing for all of the calendar or fiscal years which have elapsed prior to the date of Closing. Installments for the calendar or fiscal year of Closing shall be prorated and installments for future calendar and fiscal years shall be the responsibility of Purchaser;

(iv) payments under the Operating Agreements;

(v) gas, electricity and other utility charges for which Seller is liable, if any, such charges to be apportioned at Closing on the basis of the most recent meter reading occurring prior to Closing; and

(vi) any other operating expenses of the Property incurred during the month in which Closing occurs.

(b) Notwithstanding anything contained in the foregoing provisions:

(i) At Closing, (A) Seller shall, at Seller's option, either deliver to Purchaser any security deposits actually held by Seller pursuant to the Leases or credit to the account of Purchaser the amount of such security deposits (to the extent such security deposits are not applied against delinquent rents), and (B) Purchaser shall credit to the account of Seller all refundable cash or other deposits posted with utility companies serving the Property or, at Seller's option, Seller shall be entitled to receive and retain such refundable cash and deposits.

(ii) Any taxes paid at Closing shall be prorated based upon the amounts actually paid, provided, however, that any proration of taxes to be made with respect to a tax year for which the tax rate or assessed valuation or both have not yet been fixed shall be based upon the tax rate or assessed valuation last fixed.

(iii) Charges referred to in Section 4.4(a) above (other than those referred to in Section 4.4(a)(i)) which are payable by any tenant to a third party shall not be apportioned hereunder, and Purchaser shall accept title subject to any of such charges unpaid and Purchaser shall look solely to the tenant responsible therefor for the payment of the same. If Seller shall have paid any of such charges on behalf of any tenant, and shall not have been reimbursed therefor by the time of Closing, Purchaser shall credit to Seller an amount equal to all such charges so paid by Seller.

(iv) Seller shall receive the entire advantage of any discounts for the prepayment by it of any taxes, water rates, or sewer rates. Purchaser acknowledges that Seller may be appealing the valuation of the Property and agrees that Seller shall be entitled, at Seller's cost and expense, to pursue such appeal to completion and to receive (i) any tax refunds or reductions attributable to the years prior to the year of the Closing, and (ii) any tax refund or reduction attributable to the year of the Closing, shall be prorated between Seller and Purchaser after deducting (or crediting Seller, as applicable) any expenses, (including attorneys' fees) relating to the appeal, and Purchaser shall remit such amounts to Seller within ten (10) days following written request therefor by Seller.

(v) As to gas, electricity and other utility charges referred to in Section 4.4(a)(v) above, Seller may on notice to Purchaser elect to pay one or more of all of said items accrued to the date hereinabove fixed for apportionment directly to the person or entity entitled thereto, and to the extent Seller so elects, such item shall not be apportioned hereunder, and Seller's obligation to pay such item directly in such case shall survive the Closing.

(vi) The Personal Property is included in this sale, without further charge, except that Purchaser shall pay to Seller the amount of any and all sales or similar taxes, if any, payable in connection with the Personal Property which is to be transferred to Purchaser under this Agreement and Purchaser shall execute and deliver any tax returns required of it in connection therewith, said obligations of Purchaser to survive Closing.

(vii) At Closing, Purchaser shall assume responsibility for the payment of any leasing commissions becoming due and payable from and after the Effective Date, including any leasing commissions becoming due and payable from and after the Effective Date under Leases executed after the Effective Date and any leasing commissions otherwise becoming due and payable from and after the Effective Date. If Seller shall have paid any such leasing commissions as of the date of Closing, Purchaser shall reimburse Seller therefor at Closing.

(viii) At Closing, Purchaser shall assume responsibility for the payment of any Tenant Inducement Costs (as hereinafter defined) becoming due and payable from and after the Effective Date, including any Tenant Inducement Costs becoming due and payable by reason of Leases executed after the Effective Date and any Tenant Inducement Costs otherwise becoming due and payable from and after the Effective Date. If Seller shall have paid any such Tenant Inducement Costs as of the date of Closing, Purchaser shall reimburse Seller therefor at Closing. For purposes of the foregoing provisions, the term "Tenant Inducement Costs" shall mean any payment required under a Lease to be paid by the landlord thereunder to or for the benefit of the tenant thereunder which is in the nature of a tenant inducement, including specifically, without limitation, tenant improvement costs, lease buyouts and moving allowances.

(c) All other matters with respect to apportionment shall be governed by the Closing Memorandum. All prorations and adjustments described in this Section 5.4 and in the Closing Memorandum shall be effected by increasing or decreasing, as appropriate, the amount of cash to be paid by Purchaser to Seller at Closing. Subject to Section 10 of the Closing Memorandum, the provisions of this Section 5.4 shall survive Closing.

5.5 Closing Costs. Seller shall pay from the Purchase Price (a) the fees of any counsel representing it in connection with this transaction; (b) the basic premium for the Title Policy; and (c) one-half (1/2) of any escrow fee which may be charged by the Title Agent. Purchaser shall pay (v) the fees of any counsel representing Purchaser in connection with this transaction; (w) any additional premium chargeable for any endorsements attached to the Title Policy; (x) any transfer tax, surtax documentary stamp tax or similar tax which becomes payable by reason of the transfer of the Property; (y) the fees for recording the Deed; and (z) one-half (1/2) of any escrow fees charged by the Title Agent. All other costs and expenses incident to this transaction and the closing thereof shall be paid by the party incurring same.

5.6 Conditions to Closing. The obligations of Seller and Purchaser to consummate the Closing and the transfer of the Property are subject to the satisfaction of the following conditions:

(a) the Plan Sale Order shall have been entered by the Bankruptcy Court and shall not be subject to any stay;

(b) no judgment, injunction, order or decree shall have been issued prohibiting the consummation of the transfer of the Property or the transactions contemplated under this Agreement;

(c) (i) the obligations of Seller shall be subject to Purchaser having performed and complied with its obligations and covenants under this Agreement, and the delivery by Purchaser of the closing items and documents to be delivered by Purchaser as set forth above; and (ii) the obligations of Purchaser shall be subject to Seller having performed and complied with its obligations and covenants under this Agreement, and the delivery by Seller of the closing items and documents to be delivered by Seller as set forth above.

## **ARTICLE 6**

### **REPRESENTATIONS, WARRANTIES AND COVENANTS**

6.1 Representations and Warranties of Seller. Seller hereby represents and warrants to Purchaser as follows:

(a) Seller has no actual knowledge that the execution and delivery of this Agreement by Seller and Seller's performance of and compliance with its terms (i) violates any existing federal, state or local law, ordinance, rule, regulation or order, or (ii) breaches any agreement or other obligation to which Seller is a party or by which it is bound except to the extent Seller's performance under such agreement or obligation is

waived or excused including, without limitation, pursuant to Section 362 and 365 of the Bankruptcy Code.

6.2 Actual Knowledge Defined. References in Section 6.1 above to the “actual knowledge” of Seller shall refer only to the actual knowledge of the Designated Employee (as hereinafter defined) of Seller, and shall not be construed to refer to the knowledge of any other officer, agent or employee of Seller or any affiliate thereof or to impose upon such Designated Employee any duty to investigate the matter to which such actual knowledge, or the absence thereof, pertains. As used herein, the term “Designated Employee” shall refer to the following person: Gordon Comer.

6.3 Representations and Warranties of Purchaser. Purchaser hereby represents and warrants to Seller as follows:

(a) Purchaser has the full right, power and authority to purchase the Property as provided in this Agreement and to carry out Purchaser’s obligations hereunder, and all requisite action necessary to authorize Purchaser to enter into this Agreement and to carry out its obligations hereunder have been, or by the Closing will have been taken.

(b) Purchaser is not owned in whole or in part, nor does Purchaser own or hold any part of the beneficial ownership in, Seller or Servicer.

(c) Purchaser is not in a significantly disparate bargaining position in relation to Seller.

(d) Purchaser is represented by legal counsel of its own choice and designation in connection with the transaction contemplated by this Agreement.

(e) Purchaser’s legal counsel was not directly or indirectly identified, suggested, or selected by Seller or any agent of Seller.

(f) Purchaser is purchasing the Property for business or commercial investment or similar purpose and not for use as Purchaser’s residence.

6.4 Covenant of Purchaser. Purchaser hereby acknowledges and agrees that Purchaser, in connection with its investigation of the Property, has performed such inspections and investigations of the Property that it deems necessary, including without limitation an inspection of the Property for the presence of asbestos, polychlorinated biphenyl emissions or other hazardous substances, materials and wastes (as those terms may be defined by applicable federal or state law, rule or regulation) and an inspection of the Property for compliance with the provisions of the Americans with Disabilities Act (“ADA”), 42 U.S.C. §12101, et seq., and Purchaser shall furnish to Seller at Closing copies of any reports received by Purchaser in connection with any such inspections. Purchaser hereby assumes full responsibility for such inspections and irrevocably waives any claim against Seller arising from the presence of such materials on the Property. Purchaser shall also furnish to Seller at Closing copies of any other reports received by Purchaser relating to any other inspections of the Property conducted on

Purchaser's behalf, if any (including, specifically, without limitation, any reports analyzing compliance of the Property with the provisions of the ADA, 42 U.S.C. §12101, et seq., if applicable).

## **ARTICLE 7**

### **DEFAULT**

7.1 Default by Purchaser. In the event that the Earnest Money is delivered to the Escrow Agent as herein provided and Purchaser fails to consummate this Agreement for any reason, except Seller's default or the permitted termination of this Agreement by either Seller or Purchaser pursuant to any other provision of this Agreement, Seller shall be entitled, as its sole remedy, to terminate this Agreement and receive the Earnest Money as liquidated damages for the breach of this Agreement, it being agreed between the parties hereto that the actual damages to Seller in the event of such breach are impractical to ascertain and the amount of the Earnest Money is a reasonable estimate thereof. In the event that the Earnest Money is not delivered to the Escrow Agent as herein provided, Purchaser shall be in breach of this Agreement and Seller shall have the right to pursue any remedy available at law or in equity as a result of such breach, including specifically, without limitation, (a) the right to terminate this Agreement and thereafter recover damages against Purchaser for Purchaser's breach thereof, and (b) the right to enforce specific performance of this Agreement. Notwithstanding anything to the contrary contained in this Section 6.1, if Purchaser or any affiliate of Purchaser asserts a claim to the Property which clouds Seller's title thereto, and if such claim is found by a court of competent jurisdiction to be without merit, then Seller shall have all remedies available at law or in equity against Purchaser.

7.2 Default by Seller. In the event that Seller should fail to consummate this Agreement for any reason, except Purchaser's default or the permitted termination of this Agreement by Seller or Purchaser pursuant to any other provision of this Agreement, Purchaser shall be entitled, as its sole remedy, either (a) to receive the return of the Earnest Money, which return shall operate to terminate this Agreement and release Seller from any and all liability hereunder, or (b) to enforce specific performance of Seller's obligation to execute the documents required to convey the Property to Purchaser, it being understood and agreed that the remedy of specific performance shall not be available to enforce any other obligation of Seller hereunder. Purchaser expressly waives its rights to seek damages in the event of Seller's default hereunder. Purchaser shall be deemed to have elected to terminate this Agreement and receive back the Earnest Money if Purchaser fails to file suit for specific performance against Seller in the Bankruptcy Court, on or before sixty (60) days following the date upon which Closing was to have occurred.

## **ARTICLE 8**

### **RISK OF LOSS**

8.1 Minor Damage. In the event of loss or damage to the Property or any portion thereof (the "premises in question") which is not "major" (as hereinafter defined), this Agreement shall remain in full force and effect provided Seller performs any necessary repairs

or, at Seller's option, reduces the cash portion of the Purchase Price in an amount equal to the cost of such repairs, Seller thereby retaining all of Seller's right, title and interest to any claims and proceeds Seller may have with respect to any casualty insurance policies or condemnation awards relating to the premises in question. In the event that Seller elects to perform repairs upon the Property, Seller shall use reasonable efforts to complete such repairs promptly and the date of Closing shall be extended a reasonable time in order to allow for the completion of such repairs.

8.2 Major Damage. In the event of a "major" loss or damage, either Seller or Purchaser may terminate this Agreement by written notice to the other party, in which event the Earnest Money shall be returned to Purchaser. If neither Seller nor Purchaser elects to terminate this Agreement within ten (10) days after Seller sends Purchaser written notice of the occurrence of major loss or damage, then Seller and Purchaser shall be deemed to have elected to proceed with Closing, in which event Seller shall, at Seller's option, either (a) perform any necessary repairs, or (b) assign to Purchaser all of Seller's right, title and interest to any claims and proceeds Seller may have with respect to any casualty insurance policies or condemnation awards relating to the premises in question. In the event that Seller elects to perform repairs upon the Property, Seller shall use reasonable efforts to complete such repairs promptly and the date of Closing shall be extended a reasonable time in order to allow for the completion of such repairs. Upon Closing, full risk of loss with respect to the Property shall pass to Purchaser. For purposes of Sections 8.1 and 8.2, "major" loss or damage refers to the following: (i) loss or damage to the Property or any portion thereof such that the cost of repairing or restoring the premises in question to a condition substantially identical to that of the premises in question prior to the event of damage would be, in the certified opinion of a mutually acceptable architect, equal to or greater than fifteen percent (15%) of the Purchase Price, and (ii) any loss due to a condemnation which permanently and materially impairs the current use of the Property.

## **ARTICLE 9**

### **COMMISSIONS**

9.1 Sales Commissions. Seller has agreed to pay to HFF a commission in the event the transaction contemplated by this Agreement is consummated in accordance with the terms of a separate agreement between Seller and HFF and the order entered by the Bankruptcy Court approving the retention of HFF. Each party agrees that should any claim be made for brokerage commissions or finder's fees by any broker or finder other than HFF by, through or on account of any acts of said party or its representatives, said party will hold the other party free and harmless from and against any and all loss, liability, cost, damage and expense in connection therewith. By its signature hereto, HFF represents to Seller and Purchaser (a) that HFF is a duly licensed real estate broker under the provisions of applicable law, and (b) that HFF has not entered into any arrangement with any other party whereby such other party is entitled to any commission or finder's fee in connection with this transaction, and HFF agrees that should any claim be made for brokerage commissions or finder's fees by any other party by, through or on account of any acts of HFF or its representatives, HFF shall hold Purchaser and Seller free and harmless from and against any and all loss, cost, damage and expense in connection therewith. The provisions of this paragraph shall survive Closing.

## **ARTICLE 10**

### **MISCELLANEOUS**

**10.1 Disclaimers. PURCHASER AGREES THAT IT HAS PERFORMED SUCH EXAMINATIONS AND INVESTIGATIONS OF THE PROPERTY THAT IT DEEMS NECESSARY, INCLUDING SPECIFICALLY, WITHOUT LIMITATION, EXAMINATIONS AND INVESTIGATIONS FOR THE PRESENCE OF ASBESTOS, PCB EMISSIONS AND HAZARDOUS SUBSTANCES, MATERIALS OR WASTES (AS THOSE TERMS MAY BE DEFINED BY APPLICABLE FEDERAL OR STATE LAW, RULE OR REGULATION) ON THE PROPERTY, AND THAT PURCHASER WILL RELY SOLELY UPON SUCH EXAMINATIONS AND INVESTIGATIONS IN PURCHASING THE PROPERTY. NOTWITHSTANDING ANYTHING TO THE CONTRARY HEREIN, IT IS EXPRESSLY UNDERSTOOD AND AGREED THAT PURCHASER IS PURCHASING THE PROPERTY “AS IS” AND “WHERE IS,” AND WITH ALL FAULTS AND THAT SELLER IS MAKING NO REPRESENTATIONS OR WARRANTIES, WHETHER EXPRESS OR IMPLIED, BY OPERATION OF LAW OR OTHERWISE, WITH RESPECT TO THE QUALITY, PHYSICAL CONDITION OR VALUE OF THE PROPERTY, THE INCOME OR EXPENSES FROM OR OF THE PROPERTY, THE BOOKS AND RECORDS RELATING TO THE PROPERTY OR THE COMPLIANCE OF THE PROPERTY WITH APPLICABLE BUILDING OR FIRE CODES OR OTHER LAWS OR REGULATIONS. WITHOUT LIMITING THE FOREGOING, IT IS UNDERSTOOD AND AGREED THAT SELLER MAKES NO WARRANTY OF HABITABILITY, SUITABILITY, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. PURCHASER AGREES THAT SELLER IS NOT LIABLE OR BOUND BY ANY GUARANTEES, PROMISES, STATEMENTS, REPRESENTATIONS OR INFORMATION PERTAINING TO THE PROPERTY MADE OR FURNISHED BY ANY REAL ESTATE AGENT, BROKER, EMPLOYEE, SERVANT OR OTHER PERSON REPRESENTING OR PURPORTING TO REPRESENT SELLER, EXCEPT AS AND TO THE EXTENT EXPRESSLY SET FORTH HEREIN. PURCHASER FURTHER ACKNOWLEDGES AND AGREES THAT THE COMPENSATION TO BE PAID TO SELLER FOR THE PROPERTY HAS BEEN DECREASED TO TAKE INTO ACCOUNT THAT THE PROPERTY IS BEING SOLD SUBJECT TO THE FOREGOING DISCLAIMERS, AND THE PURCHASER SHALL ASSUME RESPONSIBILITY FOR ALL COSTS AND EXPENSES REQUIRED TO CAUSE THE PROPERTY TO COMPLY WITH ALL APPLICABLE BUILDING AND FIRE CODES, MUNICIPAL ORDINANCES AND OTHER LAWS, RULES AND REGULATIONS (INCLUDING WITHOUT LIMITATION THE ADA AND ANY CODES, MUNICIPAL ORDINANCES, LAWS, RULES OR REGULATIONS REGARDING RETROFITTING OF PLUMBING FIXTURES). PURCHASER AND SELLER AGREE THAT THE PROVISIONS OF THIS SECTION 10.1 SHALL SURVIVE THE CLOSING OF THE TRANSACTION CONTEMPLATED BY THIS AGREEMENT.**

**10.2 Confidentiality. Purchaser and its representatives shall hold in strictest confidence all data and information obtained with respect to the Property, the purchase and sale thereof and Seller or its business, whether obtained before or after the execution and delivery of this Agreement, and shall not use such data or information or disclose the same to others, except that Purchaser may disclose such information, to the extent reasonably necessary, to its agents, representatives, contractors, lenders, attorneys and accountants; provided that, such parties agree to hold such information confidential in accordance with the terms of this Agreement. In the event this Agreement is terminated or Purchaser fails to perform hereunder, Purchaser shall**

promptly return to Seller any statements, documents, schedules, exhibits or other written information obtained from Seller in connection with this Agreement or the transaction contemplated herein. It is understood and agreed that, with respect to any provision of this Agreement which refers to the termination of this Agreement and the return of the Earnest Money to Purchaser, such Earnest Money shall not be returned to Purchaser unless and until Purchaser has fulfilled its obligation to return to Seller the materials described in the preceding sentence. In the event of a breach or threatened breach by Purchaser or its agents or representatives of this Section 10.2, Seller shall be entitled to an injunction restraining Purchaser or its agents or representatives from disclosing, in whole or in part, such confidential information. Nothing herein shall be construed as prohibiting Seller from pursuing any other available remedy at law or in equity for such breach or threatened breach.

10.3 Public Disclosure. Prior to Closing, any release to the public of information by Purchaser with respect to the matters set forth in this Agreement will be made only in the form approved by Seller and its counsel.

10.4 Discharge of Obligations. The acceptance of the Deed by Purchaser shall be deemed to be a full performance and discharge of every representation and warranty made by Seller herein and every agreement and obligation on the part of Seller to be performed pursuant to the provisions of this Agreement, except those, if any, which are herein specifically stated to survive Closing.

10.5 Assignment. Purchaser may not assign its rights under this Agreement except with the prior written consent of Seller, which consent may be given or withheld in Seller's sole discretion. Seller may assign its rights under this Agreement without the consent of Purchaser, but Seller shall give the Title Company notice of such assignment after it is accomplished and prior to Closing.

10.6 Notices. Any notice pursuant to this Agreement shall be given in writing by (a) personal delivery, or (b) expedited delivery service with proof of delivery, or (c) United States Mail, postage prepaid, registered or certified mail, return receipt requested, or (d) prepaid telegram, telex or telecopy (provided that such telegram, telex or telecopy is confirmed by expedited delivery service or by mail in the manner previously described), sent to the intended addressee at the address set forth below, or to such other address or to the attention of such other person as the addressee shall have designated by written notice sent in accordance herewith, and shall be deemed to have been given either at the time of personal delivery, or, in the case of expedited delivery service or mail, as of the date of first attempted delivery at the address and in the manner provided herein, or, in the case of telegram, telex or telecopy upon receipt. Unless changed in accordance with the preceding sentence, the addresses for notices given pursuant to this Agreement shall be as follows:



If to Seller: THE OCALA SHOPPES LLC, Debtor-in-Possession  
12570 Telecom Drive  
Tampa, Florida 33607  
Attn: Gordon Comer  
TELEPHONE: \_\_\_\_\_  
TELECOPY: \_\_\_\_\_  
EMAIL: gc.uarc@verizon.net

with a copy to: DAVID S. JENNIS, ESQ.  
JENNIS & BOWEN, P.L.  
400 N. Ashley Dr., Suite 2540  
Tampa, Florida 33602  
TELEPHONE: (813) 229-1700  
TELECOPY: (813) 229-1707  
EMAIL: djennis@jennisbowen.com

If to Purchaser: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
TELEPHONE: \_\_\_\_\_  
TELECOPY: \_\_\_\_\_  
EMAIL: \_\_\_\_\_

with a copy to: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
TELEPHONE: \_\_\_\_\_  
TELECOPY: \_\_\_\_\_  
EMAIL: \_\_\_\_\_

10.7 Modifications. This Agreement cannot be changed orally, and no executory agreement shall be effective to waive, change, modify, or discharge it in whole or in part unless such executory agreement is in writing and is signed by the parties against whom enforcement of any waiver, change, modification, or discharge is sought.

10.8 Calculation of Time Periods. Unless otherwise specified, in computing any period of time described in this Agreement, the day of the act or event after which the designated period of time begins to run is not to be included and the last day of the period so computed is to be included, unless such last day is a Saturday, Sunday, or legal holiday, in which event the period shall run until the end of the next day which is neither a Saturday, Sunday, or legal holiday.

10.9 Time of Essence. Seller and Purchaser agree that time is of the essence of this Agreement.

10.10 Successors and Assigns. The terms and provisions of this Agreement are to apply to and bind the permitted successors and assigns of the parties hereto.

10.11 Entire Agreement. THIS AGREEMENT, INCLUDING THE EXHIBITS, CONTAINS THE ENTIRE AGREEMENT BETWEEN THE PARTIES PERTAINING TO THE SUBJECT MATTER HEREOF AND FULLY SUPERSEDES ALL PRIOR AGREEMENTS AND UNDERSTANDINGS BETWEEN THE PARTIES PERTAINING TO SUCH SUBJECT MATTER.

10.12 Further Assurances. Each party agrees that it will without further consideration execute and deliver such other documents and take such other action, whether prior or subsequent to Closing, as may be reasonably requested by the other party to consummate more effectively the purposes or subject matter of this Agreement. Without limiting the generality of the foregoing, Purchaser shall, if requested by Seller, execute acknowledgments of receipt with respect to any materials delivered by Seller to Purchaser with respect to the Property.

10.13 Attorneys' Fees. In the event of any controversy, claim, or dispute between the parties affecting or relating to the subject matter or performance of this Agreement, the prevailing party shall be entitled to recover from the nonprevailing party all of its reasonable expenses, including reasonable attorneys' and accountants' fees. The term "reasonable attorneys' fees" whenever used herein shall be deemed to include but not be limited to reasonable attorneys' fees and the reasonable fees of legal assistants incurred in any and all judicial, probate, bankruptcy, reorganization, administrative, arbitration or other proceedings, including appellate proceedings, whether such proceedings arise before or after entry of a final judgment.

10.14 Counterparts. This Agreement may be executed in several counterparts, and all such executed counterparts shall constitute the same agreement. It shall be necessary to account for only one such counterpart in proving this Agreement.

10.15 Severability. If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Agreement shall nonetheless remain in full force and effect.

10.16 Applicable Law. THIS AGREEMENT SHALL IN ALL RESPECTS BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE SUBSTANTIVE FEDERAL LAWS OF THE UNITED STATES AND THE LAWS OF THE STATE OF FLORIDA. PURCHASER HEREBY IRREVOCABLY SUBMITS TO THE JURISDICTION OF THE BANKRUPTCY COURT IN ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT AND HEREBY IRREVOCABLY AGREES THAT ALL CLAIMS IN RESPECT OF SUCH ACTION OR PROCEEDING SHALL BE HEARD

AND DETERMINED IN THE BANKRUPTCY COURT. NOTHING CONTAINED IN THIS SECTION 10.16 SHALL AFFECT THE RIGHT OF SELLER TO BRING ANY ACTION OR PROCEEDING AGAINST PURCHASER OR ITS PROPERTY IN THE COURTS OF ANY OTHER JURISDICTION. PURCHASER AND SELLER AGREE THAT THE PROVISIONS OF THIS SECTION 10.16 SHALL SURVIVE THE CLOSING OF THE TRANSACTION CONTEMPLATED BY THIS AGREEMENT.

10.17 Limited Liability. The obligations of Seller, its agents, representatives, or employees, arising by virtue of this Agreement shall be limited to the interest of Seller in the Property and resort shall not be had to any other assets of Seller, its agents, representatives, or employees.

10.18 No Third Party Beneficiary. The provisions of this Agreement and of the documents to be executed and delivered at Closing are and will be for the benefit of Seller and Purchaser only and are not for the benefit of any third party, and accordingly, no third party shall have the right to enforce the provisions of this Agreement or of the documents to be executed and delivered at Closing.

10.19 Exhibits and Schedules. The following schedules or exhibits attached hereto shall be deemed to be an integral part of this Agreement:

- (a) Exhibit A - Legal Description of the Land
- (b) Exhibit B - Form of Special Warranty Deed
- (c) Exhibit C - Form of Bill of Sale and Assignment
- (d) Exhibit D - Form of Assignment and Assumption of Contracts
- (e) Exhibit E - Form of Closing Memorandum and Indemnification Agreement
- (f) Exhibit F - Form of Tenant Notification Letter
- (g) Exhibit G - Form of FIRPTA Affidavit
- (h) Exhibit H - Form of Environmental Indemnity

10.20 Captions. The section headings appearing in this Agreement are for convenience of reference only and are not intended, to any extent and for any purpose, to limit or define the text of any section or any subsection hereof.

10.21 Construction. The parties acknowledge that the parties and their counsel have reviewed and revised this Agreement and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement or any exhibits or amendments hereto.

10.22 Termination of Agreement. It is understood and agreed that if either Purchaser or Seller terminates this Agreement pursuant to a right of termination granted hereunder, such termination shall operate to relieve Seller and Purchaser from all obligations under this Agreement, except for such obligations as are specifically stated herein to survive the termination of this Agreement (such as the indemnification obligation of Purchaser set forth in Section 3.1).

10.23 Waiver of Right to Record Lis Pendens. AS PARTIAL CONSIDERATION FOR SELLER ENTERING INTO THIS AGREEMENT, PURCHASER EXPRESSLY WAIVES ANY RIGHT UNDER THE FLORIDA CODE OF CIVIL PROCEDURE OR AT COMMON LAW OR OTHERWISE TO RECORD OR FILE A LIS PENDENS OR A NOTICE OF PENDENCY OF ACTION OR SIMILAR NOTICE AGAINST ALL OR ANY PORTION OF THE PROPERTY IN CONNECTION WITH ANY ALLEGED DEFAULT BY SELLER HEREUNDER. PURCHASER AND SELLER HEREBY EVIDENCE THEIR SPECIFIC AGREEMENT TO THE TERMS OF THIS WAIVER BY PLACING THEIR INITIALS IN THE PLACE PROVIDED HEREINAFTER. THE PROVISIONS OF THIS PARAGRAPH SHALL SURVIVE CLOSING OR ANY TERMINATION OF THIS AGREEMENT.

---

PURCHASER'S INITIALS

---

SELLER'S INITIALS

10.24 Effective Date. If Purchaser fails to execute this Agreement and deliver same to Seller on or before 4:00 p.m. Tampa, Florida time, on Wednesday, April 3, 2013, all negotiations between Seller and Purchaser concerning the sale of the Property shall be deemed terminated. Upon execution of this Agreement by Purchaser and delivery of same to Seller, this Agreement shall constitute an offer by Purchaser. The offer by Purchaser herein contained shall automatically be withdrawn and become of no force or effect unless this Agreement is executed by Seller and delivered to the Title Agent on or before 5:00 p.m. Tampa, Florida time, on Monday, April 8, 2013. The date of delivery to the Title Agent of a fully executed counterpart of this Agreement, as evidenced by the Title Agent's notation in the space set forth below, shall be deemed the effective date of this Agreement (the "**Effective Date**").

10.25 Radon Gas Notification. Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of radon that exceed federal and state guidelines have been found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from your county public health unit.

10.26 Energy-Efficiency Rating Disclosure. In accordance with Florida Statutes Section 553.996, Purchaser may have the Property's energy-efficiency rating determined. Purchaser acknowledges that it has received from Seller a copy of The Florida Building Energy-Efficiency Rating System Brochure as provided by the State of Florida Department of Community Affairs.

10.27 Escrow Agent. Purchaser and Seller hereby acknowledge and agree that Escrow Agent shall hold and deliver the Earnest Money Deposit plus all accrued interest thereon in accordance with the terms and conditions of this Agreement. If there is a dispute as to whether the Escrow Agent is obligated to delivery any monies or documents which it holds or as to whom said monies or documents are to be delivered, the Escrow Agent shall not be obligated to make any delivery, but, in such event, may hold same until receipt by the Escrow Agent of an

authorization, in writing, signed by the Purchaser and Seller, directing the disposition of same, such writing also acknowledging to Escrow Agent that there are no other parties having an interest in such dispute; or, in the absence of such authorization, the Escrow Agent may hold said monies or documents until the final determination of the rights of the parties in an appropriate proceeding. If such written authorization is not given or a proceeding for such determination is not begun and diligently continued, the Escrow Agent may bring an appropriate action or proceeding in the Bankruptcy Court to deposit said monies or documents in court pending such determination. The Escrow Agent shall not be responsible for any acts or omissions unless grossly negligently or willfully done; and upon making delivery of the monies or documents which the Escrow Agent holds in accordance with the terms of this Agreement, Escrow Agent shall have no further liability. In the event that the Escrow Agent places the monies or documents that have actually been delivered to the Escrow Agent in the Registry of the Bankruptcy Court and files an action of interpleader naming the parties hereto, the Escrow Agent shall be released and relieved from any and all further obligation and liability hereunder or in connection herewith. The Purchaser and Seller hereby jointly and severally indemnify and hold the Escrow Agent harmless from any and all damages or losses arising hereunder or in connection herewith, including, but not limited to, all costs and expenses incurred by the Escrow Agent in connection with the filing of such action, and its reasonable attorneys' fees and court costs through all trial and appellate levels.

10.28        Right to Market. Notwithstanding anything in this Agreement to the contrary, and to the fullest extent permitted by any laws applicable to this Agreement, Seller hereby reserves the right to market the Property to potential purchasers, and to accept back-up contracts for the purchase of the Property, at any time up to the date of Closing. By its execution of this Agreement, Purchaser hereby acknowledges such reservation of marketing rights and agrees that any such actions by or on behalf of Seller at any time up to the date of Closing shall not constitute a default by Seller under this Agreement.

10.29        Subject to Further Approval. Purchaser acknowledges that this Agreement may be negotiated prior to Seller receiving all necessary approval to execute this Agreement. This Agreement shall not be binding in any manner unless and until executed by Seller, and Seller shall be under no obligation to execute same.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement to be effective as of the Effective Date.

Executed by Seller  
as of April \_\_, 2013

**SELLER:**

THE OCALA SHOPPES LLC, Debtor-in-Possession

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

Executed by Purchaser  
as of April\_\_\_\_, 2013

**PURCHASER:**

\_\_\_\_\_

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

Executed by Agent  
as of April \_\_, 2013

**ESCROW AGENT:**

Jennis & Bowen, P.L.

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

**ACKNOWLEDGMENT BY SALES AGENT**

The Sales Agent hereby acknowledges receipt of a fully executed counterpart of this Agreement for purposes of Article 9 of this Agreement.

**SALES AGENT:**

Holliday Fenoglio Fowler, L.P.

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



**ACKNOWLEDGMENT BY TITLE AGENT**

The Title Agent hereby agrees to perform its obligations under this Agreement and acknowledges receipt of a fully executed counterpart of this Agreement as of April\_\_\_\_, 2013, which date shall be deemed the “Effective Date” of this Agreement.

**TITLE AGENT:**

Bush Ross, P.A.,  
a Florida Corporation

By: \_\_\_\_\_  
Name: Jeffrey W. Warren  
Title: President

**EXHIBIT A**

Legal Description

PARCEL 1

Ocala Shoppes Main Parcel

Parcel 19 of "Heath Brook North B-2" as per plat thereof, recorded in Plat Book 9, Pages 149 through 152 inclusive, of the Public Records of Marion County, Florida.

AND

The Florida Department of Transportation Water Retention Area right-of-way filed in Official Records Book 2069, Page 1882, of the Public Records of Marion County, Florida, being more particularly described as follows:

The West 1/2 of the Southeast 1/4, lying Southeasterly of State Road No. 200, an existing 100 foot right-of-way of Section 34, Township 15 South, Range 21 East, Marion County, Florida, being further described as follows: Commence at the point of intersection of the base line survey of State Road No. 200 and the Westerly projection of the Southerly boundary of the plat of First Replat of Executive Park as recorded in Plat Book I, Page 31, of the Public Records of Marion County, Florida (said Southerly boundary being the North line of the Southeast 1/4 of Section 34, Township 15 South, Range 21 East, as monumented), said point being 694.42 feet North 89°36'13" West of the Southeast corner of said plat as shown on State of Florida Department of Transportation Right-of-Way Map Section No. 36100-2521; thence South 41°48'37" West, along said base line 1011.65 feet, thence South 48°07'23" East, 79.00 feet to a point on the new right-of-way line of State Road No. 200, said point being 79.00 feet Southeasterly of, as measured perpendicular to, said base line and also being the Southwesterly corner of a State of Florida Department of Transportation 30 foot storm sewer easement and maintenance road right-of-way as shown on said right-of-way map; thence continue South 48°07'23" East, along the Southerly line of said easement 538.45 feet for the Point of Beginning; thence North 63°53'47" East, 165.87 feet; thence South 57°33'33" East, 92.49 feet; thence South 02°55'21" West, 87.95 feet to the beginning of a non-tangent curve concave Northwesterly, having a radius of 94.54 feet, a central angle of 51°03'22", a chord bearing of South 32°24'17" West, and a chord distance of 81.48 feet; thence from a tangent bearing of South 06°52'36" West, run Southwesterly along the arc of said curve, 84.24 feet to a point of non-tangency; thence South 59°42'33" West, 60.60 feet to the beginning of a non-tangent curve concave northeasterly, having a radius of 115.99 feet, a central angle of 84°49'30", a chord bearing of North 70°39'52" West, and a chord distance of 156.46 feet; thence from a tangent bearing of South 66°55'23" West, run Northwesterly along the arc of said curve, 171.72 feet to a point of non-tangency; thence North 47°40'25" West, 88.65 feet; thence North 58°52'01" East, 101.22 feet to the Point of Beginning.

LESS AND EXCEPT: (Parcel "D")

A portion of Parcel 19 of "Heath Brook North B-2" as per plat thereof recorded in Plat Book 9, Pages 149 through 152 of the Public Records of Marion County, Florida, being more particularly described as follows:

Begin at the Southern most corner of said Parcel 19, thence along the Southern boundary of said Parcel 19, N44°55'42"E, a distance of 471.85 feet; thence N39°39'19"W, a distance of 39.58 feet; thence N47°57'34"W, a distance of 1016.87 feet to the Southeasterly right of way of line of State Road No. 200, said point also being on the Northwesterly boundary of aforesaid Parcel 19; thence continue along said Southeasterly right of way line, and Northwesterly boundary of said Parcel 19, S41°47'55"W, a distance of 446.68 feet; thence departing said Southeasterly right of way line, and along Southwesterly boundary of said Parcel 19 the following four courses, S03°11'23"E, a distance of 35.23 feet; thence S48°13'01"E, a distance of 373.89 feet; thence S41°46'39"W, a distance of 10.00 feet; thence S48°13'01"E, a distance of 631.45 feet to the Point of Beginning.

LESS AND EXCEPT: (PARCEL "H")

A portion of Parcel 19 of "Heath Brook North B-2" as per plat thereof recorded in Plat Book 9, Pages 149 through 152 of the Public Records of Marion County, Florida, being more particularly described as follows:

Begin at the Southeast corner of Parcel 19, thence along the Easterly boundary of said Parcel 19, N00°14'01"E, a distance of 489.13 feet; thence departing said Easterly boundary, N89°45'59"W, a distance of 56.42 feet; thence N48°11'37"W, a distance of 146.79 feet; thence S41°48'23"W, a distance of 490.58 feet; thence S48°11'37"E, a distance of 165.00 feet; thence S04°15'54"E, a distance of 60.21 feet to the Southeasterly boundary of said parcel, thence along said Southeasterly boundary, N85°44'06"E, a distance of 212.70 feet; thence continuing along said South boundary S66°00'59"E, a distance of 165.58 feet to the Point of Beginning.

## PARCEL 2

Lot 1, of EXECUTIVE PARK ENTRANCE, a Replat of a portion of Lot 19, of EXECUTIVE PARK, as recorded in Plat Book T, Pages 11 through 13, according to the map or plat thereof recorded in Plat Book 7, Pages 49 and 50, of the Public Records of Marion County, Florida, being formerly described as follows:

BEGIN at the Northernmost corner of Lot 19, of the EXECUTIVE PARK SUBDIVISION, as recorded in Plat Book T, Pages 11, 12 and 13, of the Public Records of Marion County, Florida, and run S 68° 39' 23" East, along the boundary of an access road designated on said plat of EXECUTIVE PARK SUBDIVISION as Tract A, a distance of 52.98 feet to a point; thence run South 49° 21' 59" East, along the boundary of said Tract A, a distance of 269.95 feet to a point; thence run South 40° 38' 01" West, a distance of 275.68 feet to a point; thence run South 89°10'24" West, a distance of 88.22 feet to a point; thence run North 00° 55' 03" West, a distance of 105.52 feet to a point; thence run North 49° 21' 59" West, a distance of 183.98 feet to the Southernmost corner of a Drainage Retention Area designated as Tract B on said plat of EXECUTIVE PARK SUBDIVISION; thence run North 40° 38' 01" East, along the

boundary of said Drainage Retention Area, a distance of 237.50 feet to the POINT OF BEGINNING.

LESS AND EXCEPT that portion of the above described property acquired by Marion County, a political subdivision of the State of Florida, by Order of Taking recorded September 29, 2011, in Official Records Book 5575, Page 733, of the Public Records of Marion County, Florida.

PARCEL 3

Lot 18, EXECUTIVE PARK, according to the plat thereof recorded in Plat Book "T", Pages 11 through 13 inclusive, of the Public Records of Marion County, Florida.

PARCEL 4

TOGETHER WITH an easement for the purpose of installation, maintenance, and repair of a drainage pipe and related facilities as set forth and created by Easement Agreement recorded in Official Records Book 4721, Page 330, of the Public Records of Marion County Florida.

**EXHIBIT B**

**SPECIAL WARRANTY DEED**

THE STATE OF FLORIDA	§	
	§	KNOW ALL MEN BY THESE PRESENTS:
COUNTY OF MARION	§	

THAT THE OCALA SHOPPES LLC, Debtor-in-Possession (hereinafter referred to as “Grantor”), for and in consideration of the sum of Ten and No/100 Dollars (\$10.00) and other good and valuable consideration to it in hand paid by \_\_\_\_\_, a \_\_\_\_\_ (hereinafter referred to as “Grantee”), whose mailing address is \_\_\_\_\_, the receipt and sufficiency of which consideration are hereby acknowledged, and upon and subject to the exceptions, liens, encumbrances, terms and provisions hereinafter set forth and described, has GRANTED, BARGAINED, SOLD and CONVEYED, and by these presents does hereby GRANT, BARGAIN, SELL and CONVEY, unto Grantee all of the real property situated in Marion County, Florida, described on Exhibit A attached hereto and made a part hereof for all purposes, together with all and singular the rights, benefits, privileges, easements, tenements, hereditaments and appurtenances thereon or in anywise appertaining thereto, and together with any right, title and interest of Grantor in and to all improvements located thereon and any right, title and interest of Grantor in and to adjacent streets, alleys and rights-of-way (said land, rights, benefits, privileges, easements, tenements, hereditaments, appurtenances, improvements and interests being hereinafter referred to as the “Property”).

This conveyance is made subject and subordinate to those encumbrances and exceptions set forth on Exhibit B attached hereto and made a part hereof for all purposes and all other matters of record affecting the Property (collectively, the “Permitted Exceptions”).

TO HAVE AND TO HOLD the Property, subject to the Permitted Exceptions, as aforesaid, unto Grantee, its successors and assigns, forever; and Grantor does covenant with Grantee that, except for the Permitted Exceptions, at the time of delivery of this Special Warranty Deed, the Property is free from all encumbrances made by Grantor, and Grantor will WARRANT AND DEFEND all and singular the Property unto Grantee, its successors and assigns, against the lawful claims and demands of all persons claiming by, through or under Grantor, but not otherwise.

By acceptance of this Special Warranty Deed, Grantee acknowledges and agrees that any and all liability hereunder of Grantor, its agents, representatives, or employees, including the Special Warranty of title herein contained, shall be limited to and satisfied solely from the Grantor’s proceeds from the Property.

By acceptance of this Special Warranty Deed, Grantee assumes payment of all real property taxes on the Property for the year 2013 and subsequent years.

IN WITNESS WHEREOF, this Special Warranty Deed has been executed by Grantor to be effective as of \_\_\_\_\_, 2013.

**GRANTOR:**

THE OCALA SHOPPES LLC, Debtor-in-Possession

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

THE STATE OF FLORIDA       §  
  §  
COUNTY OF HILLSBOROUGH   §

This instrument was acknowledged before me on \_\_\_\_\_, 2013, by \_\_\_\_\_, the \_\_\_\_\_ of THE OCALA SHOPPES LLC, Debtor-in-Possession, on behalf of said entity.

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
Printed/Typed Name of Notary

My Commission Expires: \_\_\_\_\_

**EXHIBIT A**

Legal Description

PARCEL 1

Ocala Shoppes Main Parcel

Parcel 19 of "Heath Brook North B-2" as per plat thereof, recorded in Plat Book 9, Pages 149 through 152 inclusive, of the Public Records of Marion County, Florida.

AND

The Florida Department of Transportation Water Retention Area right-of-way filed in Official Records Book 2069, Page 1882, of the Public Records of Marion County, Florida, being more particularly described as follows:

The West 1/2 of the Southeast 1/4, lying Southeasterly of State Road No. 200, an existing 100 foot right-of-way of Section 34, Township 15 South, Range 21 East, Marion County, Florida, being further described as follows: Commence at the point of intersection of the base line survey of State Road No. 200 and the Westerly projection of the Southerly boundary of the plat of First Replat of Executive Park as recorded in Plat Book I, Page 31, of the Public Records of Marion County, Florida (said Southerly boundary being the North line of the Southeast 1/4 of Section 34, Township 15 South, Range 21 East, as monumented), said point being 694.42 feet North 89°36'13" West of the Southeast corner of said plat as shown on State of Florida Department of Transportation Right-of-Way Map Section No. 36100-2521; thence South 41°48'37" West, along said base line 1011.65 feet, thence South 48°07'23" East, 79.00 feet to a point on the new right-of-way line of State Road No. 200, said point being 79.00 feet Southeasterly of, as measured perpendicular to, said base line and also being the Southwesterly corner of a State of Florida Department of Transportation 30 foot storm sewer easement and maintenance road right-of-way as shown on said right-of-way map; thence continue South 48°07'23" East, along the Southerly line of said easement 538.45 feet for the Point of Beginning; thence North 63°53'47" East, 165.87 feet; thence South 57°33'33" East, 92.49 feet; thence South 02°55'21" West, 87.95 feet to the beginning of a non-tangent curve concave Northwesterly, having a radius of 94.54 feet, a central angle of 51°03'22", a chord bearing of South 32°24'17" West, and a chord distance of 81.48 feet; thence from a tangent bearing of South 06°52'36" West, run Southwesterly along the arc of said curve, 84.24 feet to a point of non-tangency; thence South 59°42'33" West, 60.60 feet to the beginning of a non-tangent curve concave northeasterly, having a radius of 115.99 feet, a central angle of 84°49'30", a chord bearing of North 70°39'52" West, and a chord distance of 156.46 feet; thence from a tangent bearing of South 66°55'23" West, run Northwesterly along the arc of said curve, 171.72 feet to a point of non-tangency; thence North 47°40'25" West, 88.65 feet; thence North 58°52'01" East, 101.22 feet to the Point of Beginning.

LESS AND EXCEPT: (Parcel "D")

A portion of Parcel 19 of "Heath Brook North B-2" as per plat thereof recorded in Plat Book 9, Pages 149 through 152 of the Public Records of Marion County, Florida, being more particularly described as follows:

Begin at the Southern most corner of said Parcel 19, thence along the Southern boundary of said Parcel 19, N44°55'42"E, a distance of 471.85 feet; thence N39°39'19"W, a distance of 39.58 feet; thence N47°57'34"W, a distance of 1016.87 feet to the Southeasterly right of way of line of State Road No. 200, said point also being on the Northwesterly boundary of aforesaid Parcel 19; thence continue along said Southeasterly right of way line, and Northwesterly boundary of said Parcel 19, S41°47'55"W, a distance of 446.68 feet; thence departing said Southeasterly right of way line, and along Southwesterly boundary of said Parcel 19 the following four courses, S03°11'23"E, a distance of 35.23 feet; thence S48°13'01"E, a distance of 373.89 feet; thence S41°46'39"W, a distance of 10.00 feet; thence S48°13'01"E, a distance of 631.45 feet to the Point of Beginning.

LESS AND EXCEPT: (PARCEL "H")

A portion of Parcel 19 of "Heath Brook North B-2" as per plat thereof recorded in Plat Book 9, Pages 149 through 152 of the Public Records of Marion County, Florida, being more particularly described as follows:

Begin at the Southeast corner of Parcel 19, thence along the Easterly boundary of said Parcel 19, N00°14'01"E, a distance of 489.13 feet; thence departing said Easterly boundary, N89°45'59"W, a distance of 56.42 feet; thence N48°11'37"W, a distance of 146.79 feet; thence S41°48'23"W, a distance of 490.58 feet; thence S48°11'37"E, a distance of 165.00 feet; thence S04°15'54"E, a distance of 60.21 feet to the Southeasterly boundary of said parcel, thence along said Southeasterly boundary, N85°44'06"E, a distance of 212.70 feet; thence continuing along said South boundary S66°00'59"E, a distance of 165.58 feet to the Point of Beginning.

## PARCEL 2

Lot 1, of EXECUTIVE PARK ENTRANCE, a Replat of a portion of Lot 19, of EXECUTIVE PARK, as recorded in Plat Book T, Pages 11 through 13, according to the map or plat thereof recorded in Plat Book 7, Pages 49 and 50, of the Public Records of Marion County, Florida, being formerly described as follows:

BEGIN at the Northernmost corner of Lot 19, of the EXECUTIVE PARK SUBDIVISION, as recorded in Plat Book T, Pages 11, 12 and 13, of the Public Records of Marion County, Florida, and run S 68° 39' 23" East, along the boundary of an access road designated on said plat of EXECUTIVE PARK SUBDIVISION as Tract A, a distance of 52.98 feet to a point; thence run South 49° 21' 59" East, along the boundary of said Tract A, a distance of 269.95 feet to a point; thence run South 40° 38' 01" West, a distance of 275.68 feet to a point; thence run South 89°10'24" West, a distance of 88.22 feet to a point; thence run North 00° 55' 03" West, a distance of 105.52 feet to a point; thence run North 49° 21' 59" West, a distance of 183.98 feet to the Southernmost corner of a Drainage Retention Area designated as Tract B on said plat of EXECUTIVE PARK SUBDIVISION; thence run North 40° 38' 01" East, along the



boundary of said Drainage Retention Area, a distance of 237.50 feet to the POINT OF BEGINNING.

LESS AND EXCEPT that portion of the above described property acquired by Marion County, a political subdivision of the State of Florida, by Order of Taking recorded September 29, 2011, in Official Records Book 5575, Page 733, of the Public Records of Marion County, Florida.

PARCEL 3

Lot 18, EXECUTIVE PARK, according to the plat thereof recorded in Plat Book "T", Pages 11 through 13 inclusive, of the Public Records of Marion County, Florida.

PARCEL 4

TOGETHER WITH an easement for the purpose of installation, maintenance, and repair of a drainage pipe and related facilities as set forth and created by Easement Agreement recorded in Official Records Book 4721, Page 330, of the Public Records of Marion County Florida.

**EXHIBIT B**

Permitted Exceptions

[Insert permitted exceptions]

**EXHIBIT C**

**BILL OF SALE AND ASSIGNMENT**

THAT this BILL OF SALE AND ASSIGNMENT (this "Bill of Sale") is made from THE OCALA SHOPPES LLC, Debtor-in-Possession ("Assignor"), to \_\_\_\_\_, a \_\_\_\_\_ ("Assignee").

**RECITALS**

1. Concurrently with the execution and delivery of this Bill of Sale, Assignor is conveying to Assignee, by Special Warranty Deed (the "Deed") that certain tract of land (the "Land") more particularly described on Exhibit A attached hereto and made a part hereof for all purposes, together with the improvements located thereon (the "Improvements").

2. Assignor desires to assign, transfer, and convey to Assignee, and Assignee desires to obtain the Assigned Properties (as hereafter defined), subject to the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the receipt of Ten and No/100 Dollars (\$10.00) and other good and valuable consideration in hand paid by Assignee to Assignor, the receipt and sufficiency of which are hereby acknowledged by Assignor, Assignor does hereby ASSIGN, TRANSFER, SET OVER, and DELIVER to Assignee the following (collectively, the "Assigned Properties"):

(a) The personal property, if any, owned by Assignor upon the Land or within the Improvements, including specifically, without limitation, heating, ventilation and air conditioning systems and equipment, appliances, furniture, carpeting, draperies and curtains, tools and supplies, and other items of personal property (excluding cash) used in connection with the operation of the Land and the Improvements (collectively, the "Personal Property"); and

(b) All of Assignor's right, title and interest in and to all assignable warranties and guaranties issued in connection with the Improvements or the Personal Property (collectively, the "Warranties"); provided, however, that Assignor makes no representation or warranty with respect to the existence, availability or assignability of any Warranties.

ASSIGNOR MAKES NO WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE IN RESPECT OF THE PERSONAL PROPERTY, AND THE SAME IS SOLD IN "AS IS, WHERE IS" CONDITION, WITH ALL FAULTS. BY EXECUTION OF THIS BILL OF SALE, ASSIGNEE AFFIRMS THAT IT HAS NOT RELIED ON ASSIGNOR'S SKILL OR JUDGMENT TO SELECT OR FURNISH THE PERSONAL PROPERTY FOR ANY PARTICULAR PURPOSE, AND THAT ASSIGNOR MAKES NO WARRANTY THAT THE PERSONAL PROPERTY IS FIT FOR ANY PARTICULAR

PURPOSE, AND THAT THE PERSONAL PROPERTY IS BEING SOLD TO ASSIGNEE WITHOUT REPRESENTATION OR WARRANTY OF ANY KIND, EXPRESS, IMPLIED OR STATUTORY.

This Bill of Sale is made by Assignor and accepted by Assignee subject to the “Permitted Exceptions” described in the Deed, to the extent that same are validly existing and affect the Assigned Properties.

TO HAVE AND TO HOLD the Assigned Properties unto Assignee, its successors and assigns, forever, and Assignor does hereby covenant with Assignee that except for the Permitted Exceptions listed in the Deed, at the time of delivery of this Bill of Sale, the Assigned Properties are free from encumbrances made by Assignor, and Assignor will WARRANT AND DEFEND, all and singular, title to the Assigned Properties unto Assignee, its successors and assigns, against every person whomsoever lawfully claiming or to claim the same, or any part thereof by, through or under Assignor, but not otherwise.

By acceptance of this Bill of Sale and Assignment, Assignee acknowledges and agrees that any and all liability hereunder of Assignor, its agents, representatives, or employees, shall be limited to and satisfied solely from the Assignor’s proceeds from the Assigned Properties.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

EXECUTED to be effective as of \_\_\_\_\_, 2013.

**ASSIGNOR:**

THE OCALA SHOPPES LLC, Debtor-in-Possession

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

**ASSIGNEE:**

\_\_\_\_\_,  
a \_\_\_\_\_

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

## **EXHIBIT A**

### Legal Description

#### PARCEL 1

##### Ocala Shoppes Main Parcel

Parcel 19 of "Heath Brook North B-2" as per plat thereof, recorded in Plat Book 9, Pages 149 through 152 inclusive, of the Public Records of Marion County, Florida.

AND

The Florida Department of Transportation Water Retention Area right-of-way filed in Official Records Book 2069, Page 1882, of the Public Records of Marion County, Florida, being more particularly described as follows:

The West 1/2 of the Southeast 1/4, lying Southeasterly of State Road No. 200, an existing 100 foot right-of-way of Section 34, Township 15 South, Range 21 East, Marion County, Florida, being further described as follows: Commence at the point of intersection of the base line survey of State Road No. 200 and the Westerly projection of the Southerly boundary of the plat of First Replat of Executive Park as recorded in Plat Book I, Page 31, of the Public Records of Marion County, Florida (said Southerly boundary being the North line of the Southeast 1/4 of Section 34, Township 15 South, Range 21 East, as monumented), said point being 694.42 feet North 89°36'13" West of the Southeast corner of said plat as shown on State of Florida Department of Transportation Right-of-Way Map Section No. 36100-2521; thence South 41°48'37" West, along said base line 1011.65 feet, thence South 48°07'23" East, 79.00 feet to a point on the new right-of-way line of State Road No. 200, said point being 79.00 feet Southeasterly of, as measured perpendicular to, said base line and also being the Southwesterly corner of a State of Florida Department of Transportation 30 foot storm sewer easement and maintenance road right-of-way as shown on said right-of-way map; thence continue South 48°07'23" East, along the Southerly line of said easement 538.45 feet for the Point of Beginning; thence North 63°53'47" East, 165.87 feet; thence South 57°33'33" East, 92.49 feet; thence South 02°55'21" West, 87.95 feet to the beginning of a non-tangent curve concave Northwesterly, having a radius of 94.54 feet, a central angle of 51°03'22", a chord bearing of South 32°24'17" West, and a chord distance of 81.48 feet; thence from a tangent bearing of South 06°52'36" West, run Southwesterly along the arc of said curve, 84.24 feet to a point of non-tangency; thence South 59°42'33" West, 60.60 feet to the beginning of a non-tangent curve concave northeasterly, having a radius of 115.99 feet, a central angle of 84°49'30", a chord bearing of North 70°39'52" West, and a chord distance of 156.46 feet; thence from a tangent bearing of South 66°55'23" West, run Northwesterly along the arc of said curve, 171.72 feet to a point of non-tangency; thence North 47°40'25" West, 88.65 feet; thence North 58°52'01" East, 101.22 feet to the Point of Beginning.

LESS AND EXCEPT: (Parcel "D")

A portion of Parcel 19 of "Heath Brook North B-2" as per plat thereof recorded in Plat Book 9, Pages 149 through 152 of the Public Records of Marion County, Florida, being more particularly described as follows:

Begin at the Southern most corner of said Parcel 19, thence along the Southern boundary of said Parcel 19, N44°55'42"E, a distance of 471.85 feet; thence N39°39'19"W, a distance of 39.58 feet; thence N47°57'34"W, a distance of 1016.87 feet to the Southeasterly right of way of line of State Road No. 200, said point also being on the Northwesterly boundary of aforesaid Parcel 19; thence continue along said Southeasterly right of way line, and Northwesterly boundary of said Parcel 19, S41°47'55"W, a distance of 446.68 feet; thence departing said Southeasterly right of way line, and along Southwesterly boundary of said Parcel 19 the following four courses, S03°11'23"E, a distance of 35.23 feet; thence S48°13'01"E, a distance of 373.89 feet; thence S41°46'39"W, a distance of 10.00 feet; thence S48°13'01"E, a distance of 631.45 feet to the Point of Beginning.

LESS AND EXCEPT: (PARCEL "H")

A portion of Parcel 19 of "Heath Brook North B-2" as per plat thereof recorded in Plat Book 9, Pages 149 through 152 of the Public Records of Marion County, Florida, being more particularly described as follows:

Begin at the Southeast corner of Parcel 19, thence along the Easterly boundary of said Parcel 19, N00°14'01"E, a distance of 489.13 feet; thence departing said Easterly boundary, N89°45'59"W, a distance of 56.42 feet; thence N48°11'37"W, a distance of 146.79 feet; thence S41°48'23"W, a distance of 490.58 feet; thence S48°11'37"E, a distance of 165.00 feet; thence S04°15'54"E, a distance of 60.21 feet to the Southeasterly boundary of said parcel, thence along said Southeasterly boundary, N85°44'06"E, a distance of 212.70 feet; thence continuing along said South boundary S66°00'59"E, a distance of 165.58 feet to the Point of Beginning.

## PARCEL 2

Lot 1, of EXECUTIVE PARK ENTRANCE, a Replat of a portion of Lot 19, of EXECUTIVE PARK, as recorded in Plat Book T, Pages 11 through 13, according to the map or plat thereof recorded in Plat Book 7, Pages 49 and 50, of the Public Records of Marion County, Florida, being formerly described as follows:

BEGIN at the Northernmost corner of Lot 19, of the EXECUTIVE PARK SUBDIVISION, as recorded in Plat Book T, Pages 11, 12 and 13, of the Public Records of Marion County, Florida, and run S 68° 39' 23" East, along the boundary of an access road designated on said plat of EXECUTIVE PARK SUBDIVISION as Tract A, a distance of 52.98 feet to a point; thence run South 49° 21' 59" East, along the boundary of said Tract A, a distance of 269.95 feet to a point; thence run South 40° 38' 01" West, a distance of 275.68 feet to a point; thence run South 89°10'24" West, a distance of 88.22 feet to a point; thence run North 00° 55' 03" West, a distance of 105.52 feet to a point; thence run North 49° 21' 59" West, a distance of 183.98 feet to the Southernmost corner of a Drainage Retention Area designated as Tract B on said plat of EXECUTIVE PARK SUBDIVISION; thence run North 40° 38' 01" East, along the



boundary of said Drainage Retention Area, a distance of 237.50 feet to the POINT OF BEGINNING.

LESS AND EXCEPT that portion of the above described property acquired by Marion County, a political subdivision of the State of Florida, by Order of Taking recorded September 29, 2011, in Official Records Book 5575, Page 733, of the Public Records of Marion County, Florida.

PARCEL 3

Lot 18, EXECUTIVE PARK, according to the plat thereof recorded in Plat Book "T", Pages 11 through 13 inclusive, of the Public Records of Marion County, Florida.

PARCEL 4

TOGETHER WITH an easement for the purpose of installation, maintenance, and repair of a drainage pipe and related facilities as set forth and created by Easement Agreement recorded in Official Records Book 4721, Page 330, of the Public Records of Marion County Florida.

## **EXHIBIT D**

### **ASSIGNMENT AND ASSUMPTION OF CONTRACTS**

THAT this ASSIGNMENT AND ASSUMPTION OF CONTRACTS (this "Assignment") is made by and between THE OCALA SHOPPES LLC, Debtor-in-Possession ("Assignor"), and \_\_\_\_\_, a \_\_\_\_\_ ("Assignee").

### **RECITALS**

1. Concurrently with the execution and delivery of this Assignment, Assignor is conveying to Assignee by Special Warranty Deed (the "Deed") that certain tract of land (the "Land") more specifically described in Exhibit A attached hereto and made a part hereof for all purposes, together with the improvements located thereon (the "Improvements") and the personal property owned by Assignor upon the Land or within the Improvements (the "Personal Property").

2. Assignor desires to assign, transfer, and convey to Assignee, and Assignee desires to obtain, all of Assignor's right, title and interest in and to the Contracts (as hereinafter defined), subject to the terms and conditions set forth herein.

NOW, THEREFORE, for and in consideration of the sum of Ten and No/100 Dollars (\$10.00) and other good and valuable consideration to Assignor in hand paid by Assignee, the receipt and sufficiency of which are hereby acknowledged, Assignor does hereby SELL, ASSIGN, CONVEY, TRANSFER, SET-OVER and DELIVER unto Assignee all of Assignor's right, title and interest in and to the following (collectively, the "Contracts"):

(a) all oral or written agreements pursuant to which any portion of the Land or Improvements is used or occupied by anyone other than Assignor (collectively, the "Leases"), including without limitation Leases more particularly described in the rent roll attached hereto as Exhibit B and made a part hereof; provided, however, that Assignor reserves and retains for itself all claims and causes of action accruing to Assignor with respect to the Leases prior to the effective date hereof; and

(b) all assignable contracts and agreements relating to the upkeep, repair, maintenance or operation of the Land, Improvements or Personal Property, including specifically, without limitation, all assignable equipment leases (collectively, the "Operating Agreements"); provided, however, that Assignor makes no representation or warranty with respect to the assignability of any of the Operating Agreements.

This Assignment is made by Assignor and accepted by Assignee subject to the "Permitted Exceptions" described in the Deed, to the extent that same are validly existing and affect the Contracts.

By execution of this Assignment, Assignee assumes and agrees to perform all of the covenants, agreements and obligations under the Contracts binding on Assignor or the Land, Improvements, or Personal Property (such covenants, agreements and obligations being herein collectively referred to as the "Contractual Obligations"), as such Contractual Obligations shall arise or accrue from and after the date of this Assignment. Without limiting the generality of the preceding sentence, Assignee acknowledges the receipt of all security deposits described in the Leases and agrees to apply same in accordance with the terms of the Leases. Assignee hereby agrees to indemnify, hold harmless and defend Assignor from and against any and all third party obligations, liabilities, costs and claims (including reasonable attorney's fees) arising as a result of or with respect to any of the Contractual Obligations that are attributable to the period of time from and after the date of this Assignment.

ASSIGNEE ACKNOWLEDGES THAT IT HAS INSPECTED THE CONTRACTS AND THAT THIS ASSIGNMENT IS MADE BY ASSIGNOR AND ACCEPTED BY ASSIGNEE WITHOUT REPRESENTATION OR WARRANTY OF ANY KIND, EXPRESS, IMPLIED OR STATUTORY, AND WITHOUT RECOURSE AGAINST ASSIGNOR, EXCEPT AS EXPRESSLY SET FORTH HEREIN.

TO HAVE AND TO HOLD all and singular the Contracts unto Assignee, its successors and assigns, and Assignor covenants with Assignee that, except for the Permitted Exceptions described in the Deed, at the time of delivery of this Assignment, the Contracts are free from all encumbrances made by Assignor, and Assignor will WARRANT AND DEFEND all and singular the Contracts unto Assignee, its successors and assigns, against every person whomsoever lawfully claiming or attempting to claim the same, or any part thereof, by, through or under Assignor, but not otherwise.

By acceptance of this Assignment and Assumption of Contracts, Assignee acknowledges and agrees that any and all liability hereunder of Assignor, its agents, representatives, or employees, shall be limited to and satisfied solely from Assignor's proceeds from the sale of the Land and Improvements.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

EXECUTED to be effective as of \_\_\_\_\_, 2013.

**ASSIGNOR:**

THE OCALA SHOPPES LLC, Debtor-in-Possession

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

**ASSIGNEE:**

\_\_\_\_\_,  
a \_\_\_\_\_

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

**EXHIBIT A**

Legal Description

PARCEL 1

Ocala Shoppes Main Parcel

Parcel 19 of "Heath Brook North B-2" as per plat thereof, recorded in Plat Book 9, Pages 149 through 152 inclusive, of the Public Records of Marion County, Florida.

AND

The Florida Department of Transportation Water Retention Area right-of-way filed in Official Records Book 2069, Page 1882, of the Public Records of Marion County, Florida, being more particularly described as follows:

The West 1/2 of the Southeast 1/4, lying Southeasterly of State Road No. 200, an existing 100 foot right-of-way of Section 34, Township 15 South, Range 21 East, Marion County, Florida, being further described as follows: Commence at the point of intersection of the base line survey of State Road No. 200 and the Westerly projection of the Southerly boundary of the plat of First Replat of Executive Park as recorded in Plat Book I, Page 31, of the Public Records of Marion County, Florida (said Southerly boundary being the North line of the Southeast 1/4 of Section 34, Township 15 South, Range 21 East, as monumented), said point being 694.42 feet North 89°36'13" West of the Southeast corner of said plat as shown on State of Florida Department of Transportation Right-of-Way Map Section No. 36100-2521; thence South 41°48'37" West, along said base line 1011.65 feet, thence South 48°07'23" East, 79.00 feet to a point on the new right-of-way line of State Road No. 200, said point being 79.00 feet Southeasterly of, as measured perpendicular to, said base line and also being the Southwesterly corner of a State of Florida Department of Transportation 30 foot storm sewer easement and maintenance road right-of-way as shown on said right-of-way map; thence continue South 48°07'23" East, along the Southerly line of said easement 538.45 feet for the Point of Beginning; thence North 63°53'47" East, 165.87 feet; thence South 57°33'33" East, 92.49 feet; thence South 02°55'21" West, 87.95 feet to the beginning of a non-tangent curve concave Northwesterly, having a radius of 94.54 feet, a central angle of 51°03'22", a chord bearing of South 32°24'17" West, and a chord distance of 81.48 feet; thence from a tangent bearing of South 06°52'36" West, run Southwesterly along the arc of said curve, 84.24 feet to a point of non-tangency; thence South 59°42'33" West, 60.60 feet to the beginning of a non-tangent curve concave northeasterly, having a radius of 115.99 feet, a central angle of 84°49'30", a chord bearing of North 70°39'52" West, and a chord distance of 156.46 feet; thence from a tangent bearing of South 66°55'23" West, run Northwesterly along the arc of said curve, 171.72 feet to a point of non-tangency; thence North 47°40'25" West, 88.65 feet; thence North 58°52'01" East, 101.22 feet to the Point of Beginning.

LESS AND EXCEPT: (Parcel "D")

A portion of Parcel 19 of "Heath Brook North B-2" as per plat thereof recorded in Plat Book 9, Pages 149 through 152 of the Public Records of Marion County, Florida, being more particularly described as follows:

Begin at the Southern most corner of said Parcel 19, thence along the Southern boundary of said Parcel 19, N44°55'42"E, a distance of 471.85 feet; thence N39°39'19"W, a distance of 39.58 feet; thence N47°57'34"W, a distance of 1016.87 feet to the Southeasterly right of way of line of State Road No. 200, said point also being on the Northwesterly boundary of aforesaid Parcel 19; thence continue along said Southeasterly right of way line, and Northwesterly boundary of said Parcel 19, S41°47'55"W, a distance of 446.68 feet; thence departing said Southeasterly right of way line, and along Southwesterly boundary of said Parcel 19 the following four courses, S03°11'23"E, a distance of 35.23 feet; thence S48°13'01"E, a distance of 373.89 feet; thence S41°46'39"W, a distance of 10.00 feet; thence S48°13'01"E, a distance of 631.45 feet to the Point of Beginning.

LESS AND EXCEPT: (PARCEL "H")

A portion of Parcel 19 of "Heath Brook North B-2" as per plat thereof recorded in Plat Book 9, Pages 149 through 152 of the Public Records of Marion County, Florida, being more particularly described as follows:

Begin at the Southeast corner of Parcel 19, thence along the Easterly boundary of said Parcel 19, N00°14'01"E, a distance of 489.13 feet; thence departing said Easterly boundary, N89°45'59"W, a distance of 56.42 feet; thence N48°11'37"W, a distance of 146.79 feet; thence S41°48'23"W, a distance of 490.58 feet; thence S48°11'37"E, a distance of 165.00 feet; thence S04°15'54"E, a distance of 60.21 feet to the Southeasterly boundary of said parcel, thence along said Southeasterly boundary, N85°44'06"E, a distance of 212.70 feet; thence continuing along said South boundary S66°00'59"E, a distance of 165.58 feet to the Point of Beginning.

## PARCEL 2

Lot 1, of EXECUTIVE PARK ENTRANCE, a Replat of a portion of Lot 19, of EXECUTIVE PARK, as recorded in Plat Book T, Pages 11 through 13, according to the map or plat thereof recorded in Plat Book 7, Pages 49 and 50, of the Public Records of Marion County, Florida, being formerly described as follows:

BEGIN at the Northernmost corner of Lot 19, of the EXECUTIVE PARK SUBDIVISION, as recorded in Plat Book T, Pages 11, 12 and 13, of the Public Records of Marion County, Florida, and run S 68° 39' 23" East, along the boundary of an access road designated on said plat of EXECUTIVE PARK SUBDIVISION as Tract A, a distance of 52.98 feet to a point; thence run South 49° 21' 59" East, along the boundary of said Tract A, a distance of 269.95 feet to a point; thence run South 40° 38' 01" West, a distance of 275.68 feet to a point; thence run South 89°10'24" West, a distance of 88.22 feet to a point; thence run North 00° 55' 03" West, a distance of 105.52 feet to a point; thence run North 49° 21' 59" West, a distance of 183.98 feet to the Southernmost corner of a Drainage Retention Area designated as Tract B on said plat of EXECUTIVE PARK SUBDIVISION; thence run North 40° 38' 01" East, along the

boundary of said Drainage Retention Area, a distance of 237.50 feet to the POINT OF BEGINNING.

LESS AND EXCEPT that portion of the above described property acquired by Marion County, a political subdivision of the State of Florida, by Order of Taking recorded September 29, 2011, in Official Records Book 5575, Page 733, of the Public Records of Marion County, Florida.

PARCEL 3

Lot 18, EXECUTIVE PARK, according to the plat thereof recorded in Plat Book "T", Pages 11 through 13 inclusive, of the Public Records of Marion County, Florida.

PARCEL 4

TOGETHER WITH an easement for the purpose of installation, maintenance, and repair of a drainage pipe and related facilities as set forth and created by Easement Agreement recorded in Official Records Book 4721, Page 330, of the Public Records of Marion County Florida.



**EXHIBIT B**

Rent Roll

[Attached]

**EXHIBIT E**

**CLOSING MEMORANDUM AND INDEMNIFICATION AGREEMENT**

THIS CLOSING MEMORANDUM AND INDEMNIFICATION AGREEMENT (the "Agreement") is entered into to be effective as of \_\_\_\_\_, 2013 (the "Closing Date"), by and between THE OCALA SHOPPES LLC, Debtor-in-Possession ("Seller"), and \_\_\_\_\_, a \_\_\_\_\_ ("Purchaser").

In connection with and in consideration of the closing ("Closing") of the transaction contemplated under that certain Purchase Agreement (the "Contract") dated to be effective as of \_\_\_\_\_, 2013 (the "Effective Date"), between Seller and Purchaser, covering that certain property (the "Property") located in Marion County, Florida, and more particularly described in the Contract, Seller and Purchaser hereby agree as follows:

1. **Proration Date.** All prorations have been made as of 12:01 a.m., Ocala, Florida time, on the Closing Date, as if Purchaser were vested with title to the Property during the entire Closing Date.

2. **Indemnification.** Except as otherwise herein provided, any and all costs, expenses and liabilities relating to the operation, management or ownership of the Property which are intended to be pro rated or otherwise adjusted between the Seller and the Purchaser pursuant to the Contract (such costs, expenses and liabilities being herein referred to collectively as the "Ownership Obligations") first arising or accruing during the period of Seller's ownership of the Property prior to the Closing Date, including, but not limited to, accounts and payments under service contracts and utility charges, are the responsibility of Seller and will be paid by Seller promptly upon receipt of billing therefor. Any and all Ownership Obligations arising or accruing during the period from and after the Closing Date, including, but not limited to, accounts and payments under service contracts and utility charges, are the responsibility of Purchaser and will be paid by Purchaser promptly upon receipt of billing therefor, and Purchaser hereby holds Seller harmless with respect to such Ownership Obligations and agrees to indemnify Seller from any loss, liability or claim, including without limitation reasonable attorneys' fees, relating to such Ownership Obligations. To the extent not reflected in the closing statements (the "Closing Statements") evidencing the transaction contemplated under the Contract, Purchaser and Seller agree to adjust between themselves outside of Closing any amounts which are the responsibility of the other pursuant to this paragraph. Nothing herein shall be intended to limit or otherwise modify the "AS IS" "WHERE IS" nature of the sale of the Property from Seller to Purchaser pursuant to the Contract, reference being made to Section 9.1 thereof which is incorporated herein by reference, or to infer that Seller shall have any liability to Purchaser for, any indemnification obligation with respect to, the condition of the Property and other matters more fully described in Section 9.1 the Contract.

3. **Real Estate Taxes.** The 2013 ("Proration Year") real estate taxes with respect to the Property shall be paid by Purchaser prior to their becoming delinquent, with Seller being charged at Closing an amount equal to that portion of such taxes which relate to the period

before the Closing Date. Any apportionment of real estate taxes to be made with respect to a Proration Year for which the tax rate or assessed valuation, or both, have not yet been fixed shall be based upon the tax rate and/or assessed valuation last fixed. To the extent that the actual taxes for the Proration Year differ from the amount so apportioned at Closing, the parties hereto shall make all necessary adjustments by appropriate payments between themselves following the Closing.

4. Rents. Tenant rent and other income for the month of Closing have been apportioned as of the Closing Date, as reflected in the Closing Statements. Unpaid and delinquent rent collected by Seller and Purchaser after the Closing Date shall be delivered as follows: (a) if Seller hereafter collects any unpaid or delinquent rent for the Property, Seller shall deliver to Purchaser any such rent relating to the Closing Date and any period thereafter within fifteen (15) days after the receipt thereof, and (b) if Purchaser hereafter collects any unpaid or delinquent rent from the Property, Purchaser shall deliver to Seller any such rent relating to the period prior to the Closing Date within fifteen (15) days after the receipt thereof. Seller and Purchaser agree that (i) all rent received by Seller after the Closing Date shall be applied first to delinquent rentals, if any, in the order of their maturity, and then to current rentals, and (ii) all rent received by Purchaser after the Closing Date shall be applied first to current rentals and then to delinquent rentals, if any, in inverse order of maturity. Purchaser will make a good faith effort after Closing to collect all rents in the usual course of Purchaser's operation of the Property, but Purchaser will not be obligated to institute any lawsuit or other collection procedures to collect delinquent rents. With respect to percentage rents based upon gross sales or other income generated by the business of a tenant located on the Property during a specified period of time (the "Applicable Period"), Purchaser shall, upon collection of such percentage rent, remit to Seller an amount equal to the product obtained by multiplying the percentage rent so collected by a fraction, the numerator of which is the number of days which have elapsed in the Applicable Period prior to the Closing Date and the denominator of which is the total number of days in the Applicable Period. With respect to additional rent attributable to insurance, taxes, common area maintenance and other operating expenses which are passed through to tenants under the Leases (the "Pass Through Expenses") which have been billed by Seller to tenants prior to the Closing Date but which have not yet been collected, Seller shall be credited at Closing with an amount equal to all such billed but uncollected Pass Through Expenses. With respect to Pass Through Expenses which have not been billed to tenants as of the Closing Date, Purchaser shall bill each tenant for same in accordance with each such tenant's Lease and upon collection of same, Purchaser shall remit to Seller an amount equal to that portion of Pass Through Expenses which accrued prior to Closing.

5. Leasing Commissions. As of the Closing Date, Seller has paid leasing commissions in the amount of \$\_\_\_\_\_ that have become due and payable from and after the Effective Date, which amount shall be reimbursed by Purchaser to Seller simultaneously with the execution hereof. Purchaser hereby assumes responsibility for the payment of any unpaid leasing commissions with respect to the Property which have become due and payable from and after the Effective Date.

6. Tenant Inducement Costs. As of the Closing Date, Seller has paid Tenant Inducement Costs (as defined in the Contract) in the amount of \$\_\_\_\_\_ that have become due

and payable from and after the Effective Date, which amount shall be reimbursed by Purchaser to Seller simultaneously with the execution hereof. Purchaser hereby assumes responsibility for the payment of any unpaid Tenant Inducement Costs which have become due and payable from and after the Effective Date.

7. Brokerage Commissions. Except with respect to the commission payable by Seller to Holliday Fenoglio Fowler, L.P. pursuant to Section 9.1 of the Contract, Seller and Purchaser each hereby indemnify and agree to hold the other harmless from and against any and all loss, cost, or expense (including reasonable attorneys' fees and expenses) resulting from any claim for any fee, commission, or similar payment by any broker, agent, finder, or salesman as a result of any action of Seller or Purchaser, respectively, related to the origination, negotiation, or consummation of the transaction contemplated under the Contract.

8. Errors or Omissions. Seller and Purchaser agree to adjust between themselves after Closing any errors or omissions in the prorations or adjustments set forth in the Closing Statements and any other prorations or adjustments made pursuant to the Contract and/or this Agreement.

9. Interpretation. It is intended that the provisions in this Agreement be construed in pari materia with Article 4 of the Contract so as to maintain consistency between the provisions hereof and the provisions thereof. However, in the event of any unavoidable conflict between a provision in this Agreement and a provision in the Contract, the provision in this Agreement shall govern. In addition, the provisions of this Agreement shall control over any conflicting provisions in the other documents executed in connection with Closing, including specifically, without limitation, that certain Assignment of Contracts of even date herewith executed by Seller and Purchaser.

10. Survival. This Agreement and the agreements and the provisions contained herein shall survive Closing and the execution and delivery of any documents in connection therewith. Notwithstanding the foregoing or anything else contained herein or in the Contract to the contrary, all prorations and apportionments, including, without limitation, any adjustments thereto pursuant to Section 8 of this Agreement, shall be deemed final and not subject to further post Closing adjustments if no such adjustments have been requested upon the earlier to occur of (a) ten (10) days after such time as all necessary information is available to make a complete and accurate determination of such apportionments, or (b) six (6) months following the Closing Date.

11. Limitation of Liability. Purchaser acknowledges and agrees that any and all liability hereunder of Seller, its agents, representatives, or employees, shall be limited to and satisfied solely from the Seller's proceeds from the Property.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

EXECUTED to be effective as of the day and year first above written.

**SELLER:**

THE OCALA SHOPPES LLC, Debtor-in-Possession

By: \_\_\_\_\_

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

Title: \_\_\_\_\_

**PURCHASER:**

\_\_\_\_\_

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

**EXHIBIT F**

**TENANT NOTIFICATION LETTER**

\_\_\_\_\_, 20\_\_\_\_

**[Name and Address of Tenant]**

*Re: Sale of The Ocala Shoppes located at \_\_\_\_\_*

Ladies and Gentlemen:

Please be advised that \_\_\_\_\_, a \_\_\_\_\_  
("Purchaser") has purchased the captioned property, in which you occupy space as a tenant pursuant to a lease (the "Lease"), from THE OCALA SHOPPES LLC, Debtor-in-Possession ("Seller"), the previous owner thereof. In connection with such purchase, Seller has assigned its interest as landlord in the Lease to Purchaser and has transferred your security deposit in the amount of \$\_\_\_\_\_ (the "Security Deposit") to Purchaser. Purchaser specifically acknowledges the receipt of and responsibility for the Security Deposit, the intent of Purchaser and Seller being to relieve Seller of any liability for the return of the Security Deposit.

All rental and other payments that become due subsequent to the date hereof should be payable to \_\_\_\_\_ and should be addressed as follows:

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

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

In addition, all notices from you to the landlord concerning any matter relating to your tenancy should be sent to \_\_\_\_\_ at the address above.

Very truly yours,

THE OCALA SHOPPES LLC, Debtor-in-Possession

By: \_\_\_\_\_

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

Its: \_\_\_\_\_



**PURCHASER:**

\_\_\_\_\_,  
a \_\_\_\_\_

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

**EXHIBIT G****FIRPTA AFFIDAVIT**

STATE OF \_\_\_\_\_ §  
COUNTY OF \_\_\_\_\_ § KNOW ALL MEN BY THESE PRESENTS:

Section 1445 of the Internal Revenue Code provides that a transferee of a U.S. real property interest must withhold tax if the transferor is a foreign person. To inform \_\_\_\_\_, a \_\_\_\_\_ (“Transferee”), that withholding of tax is not required upon the disposition of a U.S. real property interest by THE OCALA SHOPPES LLC, Debtor-in-Possession (“Transferor”), the undersigned hereby certifies as follows:

1. Transferor is not a foreign corporation, foreign partnership, foreign trust or foreign estate (as those terms are defined in the Internal Revenue Code and Income Tax Regulations);
2. Transferor is not a disregarded entity as defined in § 1.1445-2(b)(2)(iii);
3. Transferor’s U.S. employer identification number is: # \_\_\_\_\_;
4. Transferor’s office address is % \_\_\_\_\_.

Transferor understands that this certification may be disclosed to the Internal Revenue Service by the Transferee and that any false statement contained herein could be punished by fine, imprisonment, or both.

Under penalties of perjury, the undersigned, in the capacity set forth below, hereby declares that he has examined this certification and to the best of his knowledge and belief it is true, correct, and complete, and the undersigned further declares that he has authority to sign this document in such capacity.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

EXECUTED effective as of \_\_\_\_\_, 20\_\_\_\_.

**TRANSFEROR:**

THE OCALA SHOPPES LLC, Debtor-in-Possession

By: \_\_\_\_\_

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

Its: \_\_\_\_\_

SWORN TO AND SUBSCRIBED BEFORE ME this \_\_\_\_\_ day of \_\_\_\_\_,  
20\_\_\_\_.

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
Printed or Typed Name of Notary

My Commission Expires: \_\_\_\_\_

**EXHIBIT H****ENVIRONMENTAL INDEMNITY**

In connection with the purchase by \_\_\_\_\_, a \_\_\_\_\_ (“Purchaser”), of certain property in Marion County, Florida, more particularly described on Exhibit A attached hereto and made a part hereof for all purposes (the “Property”) from THE OCALA SHOPPES LLC, Debtor-in-Possession (“Seller”), and in consideration of the conveyance of the Property by Seller, Purchaser hereby unconditionally and irrevocably waives any claim against Seller arising from the presence of asbestos, polychlorinated biphenyl emissions and other hazardous substances, materials or wastes (as those terms may be defined by applicable federal or state law, rule or regulation) on the Property. Further, Purchaser hereby indemnifies Seller and holds Seller harmless from and against all loss, liability, damage and expense, including reasonable attorneys’ fees, suffered or incurred by Seller arising out of or resulting from the introduction of such materials on the Property from and after the date hereof, including, without limitation, (a) any liability under or on account of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as the same may be amended from time to time or related regulations or any similar applicable laws or regulations, including the assertion of any lien thereunder, (b) any loss of value of the Property as a result of the presence of asbestos, polychlorinated biphenyl emissions or other hazardous substance, material or waste, as those terms may be defined by applicable federal or state law, rule or regulation, (c) claims brought by third parties for loss or damage incurred or sustained subsequent to the date hereof, and (d) liability with respect to any other matter affecting the Property within the jurisdiction of the federal Environmental Protection Agency or pursuant to Chapters 370, 372, 373, 376, 381 and 403, Florida Statutes, and in the rules and regulations adopted pursuant to any of said laws.

IN WITNESS WHEREOF, Purchaser has executed this Environmental Indemnity to be effective as of \_\_\_\_\_, 2013.

**PURCHASER:**

\_\_\_\_\_,  
a \_\_\_\_\_

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

\_\_\_\_\_, 2013

The Ocala Shoppes LLC  
c/o Holliday Fenoglio Fowler, L.P.  
Attention: Daniel Finkle  
1450 Brickell Avenue, Suite 2950  
Miami, Florida 33131  
dfinkle@hfflp.com

**Re: Market Street at Heath Brook, Ocala, Florida (the "Property")**

Dear Daniel:

This term sheet ("**Term Sheet**") sets forth certain proposed terms for the purchase of the Property referenced below from The Ocala Shoppes LLC ("**Seller**").

This letter evidences Purchaser's intent to enter into an agreement with Seller to acquire the Property. The transaction shall be upon the following general terms and conditions, which are binding upon the parties, subject to approval of the United States Bankruptcy Court for the Middle District of Florida, Tampa Division ("**Bankruptcy Court**").

**Binding Provisions**

**Purchase Price.** The purchase price for the Property shall be \_\_\_\_\_.

**Bankruptcy Sale.** With the exception of future real estate taxes and certain easements, restrictions, and dedications shown in the pro forma owner's title insurance policy for the Property provided in the Due Diligence Documents, marketable fee simple title to the Property and related improvements will be sold free and clear of all mortgages, liens, pledges, charges, security interests, encumbrances, claims (as defined in 11 U.S.C. § 101(5)), and interests of any kind whatsoever (collectively, the "**Encumbrances**"), with all valid Encumbrances attaching to the proceeds of the sale, pursuant to 11 U.S.C. §§ 363(f) and 1123(a)(5)(D), and all holders of Encumbrances being enjoined from asserting any such claims against the Purchaser.

**As Is Where Is.** Purchaser shall purchase and acquire the Property in its "as-is/where is" shape and condition, with any and all faults, if any, and based solely on Purchaser's own inspection, investigation and evaluation of the Property, without representation or warranty, whether express or implied; and neither Seller nor any agent of Seller has made any representations or warranties, express or implied, concerning the Property, including, but not limited to, any warranties or representations as to habitability, merchantability, fitness or suitability for a particular purpose, or the compliance of the Property with governmental laws.

**No Financing or Other Contingencies.** Purchaser has no financing or other contingencies to closing the purchase of the Property as set forth herein.

**Effective Date.** The Effective Date shall be the date this Term Sheet is executed by both Purchaser and Seller.

**Proof of Funds.** Exhibit A attached hereto contains a statement detailing Purchaser's proof of funds in the amount of the Purchase Price.

**Deposit.** On or before **May 29, 2013**, Purchaser shall deposit 10% of the total Purchase Price (the "**Deposit**") with Jennis & Bowen, P.L., Attention: David S. Jennis, Esq. (Telephone: (813) 229-1700/ Facsimile: (813) 229-1707), which party shall serve as escrow agent in connection with this transaction. The Deposit shall be non-refundable if Purchaser is determined to submit the "Highest and Best" proposal as determined at the time of the Auction and subject to approval by the Bankruptcy Court.

**Auction Date.** The Auction for this Property will commence on **May 14, 2013 at 10:00 a.m. (EST)** and will be conducted at the offices of Bush Ross, P.A., 1801 North Highland Ave., Tampa, Florida 33602. This location is subject to change.

**Closing Date.** The closing shall occur on or before fifteen (15) business days after the entry of an order by the Bankruptcy Court confirming a chapter 11 plan of the Seller and approving the sale (the "**Plan Sale Order**").

**Due Diligence Period.** Purchaser is required to complete due diligence prior to the Auction Date. No property and/or additional inspections will be allowed after the Auction.

**Due Diligence Documents.** Purchaser acknowledges it has received and reviewed the following due diligence items with respect to the Property:

- Aged Receivables
- Argus File
- Development Agreement
- Historical Operating Statements
- Insurance Policies
- Personal Property
- Real Estate Tax Bills
- Rent Roll
- Sinkhole Remediation Plan
- Survey
- Tenant Estoppels
- Tenant Leases
- Tenant Sales
- Title Report
- Utility Ledger
- Vendor Agreements

**Standard Prorations.** Pro-rations shall occur as of the closing date and shall include, but not be limited to utility fees, real estate taxes, and rents.

**Brokers.** Purchaser and Seller agree that no broker is involved with this transaction except Holliday Fenoglio & Fowler (collectively "**HFF**"). Seller shall be responsible for compensating HFF.

**Closing Costs.** The Plan Sale Order shall provide that the transfer taxes, documentary stamps, and related costs to record the instruments necessary to effectuate the sale of the Property shall be avoided as provided in the Bankruptcy Code with any such costs not avoided by the Plan Sale Order to be paid by Seller. Seller shall provide Purchaser, at Seller's expense, an Owner's Policy of Title Insurance covering the Property, in the full amount of the Purchase Price. The title policy may contain as exceptions the standard printed exceptions and the permitted exceptions that are shown as exceptions on Seller's vesting deed, shown as exceptions on Seller's existing title policy, of record in the real property records of Marion County, Florida, or otherwise valid encumbrances affecting the Property existing as of the closing date that are not Encumbrances that will be transferred to the Sale proceeds. Seller shall provide Purchaser with copies of any existing surveys and Phase I environmental reports in its possession, provided Purchaser acknowledges that Purchaser has performed such examinations and investigations of the Property that it deems necessary and is not relying on any surveys or Phase I environmental reports provided by the

**Seller. Purchaser shall be responsible for the payment of all of its due diligence costs. Each party will be responsible for its own attorneys' fees.**

**Purchase Agreement.** Purchaser agrees to review and execute a Purchase Agreement to acquire the Property on or before **April 3, 2013**. In the event Purchaser's final offer is determined to be the Highest and Best, the Purchase Agreement will be binding. Purchaser further agrees to serve as a back-up bidder in the event that its Bid is the second Highest and Best.

**Binding Provision.** For and in consideration of the sum of \$10.00 and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Purchaser and Seller agree to maintain the existence and terms of this Term Sheet and all negotiations relating to the Bankruptcy Sale as confidential between the parties. Purchaser acknowledges and agrees that it may not communicate with the Seller, Creditors or any third party (with the exception of HFF) in connection with this Term Sheet and its due diligence review.

Except for the provisions contained in the "Binding Provision" section above, which is intended to be binding upon the parties, this letter is non-binding and is intended to be solely an expression of Purchaser's intent to purchase the Property and is subject to the execution by all parties of the binding Purchase Agreement and any ancillary documents. Notwithstanding anything to the contrary in this Term Sheet, if Seller and Purchaser are unable to agree upon and execute a binding Purchase Agreement, then neither party shall have any obligation to the other under this Term Sheet. At all times, Seller shall have the right to solicit back-up letters of intent and contracts in connection with the sale of the Property.

[SIGNATURES ON NEXT PAGE]

AGREED and ACCEPTED this \_\_\_\_ day of \_\_\_\_\_.

**PURCHASER**

\_\_\_\_\_

By: \_\_\_\_\_

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

Its: \_\_\_\_\_

**SELLER**

**The Ocala Shoppes LLC**

By: \_\_\_\_\_

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

Its: \_\_\_\_\_



EXHIBIT A

**PROOF OF FUNDS**

EXHIBIT "B"

UNITED STATES BANKRUPTCY COURT  
MIDDLE DISTRICT OF FLORIDA  
TAMPA DIVISION

In re:

Case No: 8:13-bk-00125-MGW

THE OCALA SHOPPES LLC,

Debtor.

Chapter 11

**NOTICE OF ASSUMPTION, ASSIGNMENT, AND CURE AMOUNT  
WITH RESPECT TO EXECUTORY CONTRACTS AND UNEXPIRED  
LEASES RELATED TO THE SALE OF THE ASSETS OF THE DEBTOR**

**PLEASE TAKE NOTICE** that, on March 11, 2013, the above-styled Debtor filed a motion (the “**Procedures Motion**”)<sup>1</sup> seeking the entry of an order (a) authorizing and approving the bid procedures and the sale process for the disposition of certain real and personal property comprising the shopping center and office complex (the “**Sale**”) owned by the Debtor known as the Market Street at Heath Brook, located at 4414 Southwest College Road, Ocala, Florida (the “**Property**”), free and clear of liens, claims, and encumbrances. The Sale is more specifically contemplated in the Plan Support Agreement and the Plan Term Sheet which were are exhibits to the Debtor’s *Motion for Order Authorizing and Approving Plan Support Agreement*,<sup>2</sup> (b) establishing certain deadlines for bids to purchase the Property, (c) scheduling an auction for the sale of the Property (the “**Auction**”) to be conducted prior to a hearing to consider approval of the sale (the “**Sale Approval Hearing**”), and (d) authorizing and approving certain procedures in connection with the assumption or rejection of certain executory contracts and unexpired leases relating to the Property.

**PLEASE TAKE FURTHER NOTICE** that by separate order the Sale Approval Hearing shall be scheduled following an Auction (which Auction is currently set for Tuesday, May 14, 2013) before the Honorable Michael G. Williamson, United States Bankruptcy Judge, in Courtroom 8A, Sam M. Gibbons United States Courthouse, 801 North Florida Avenue, Tampa, Florida, to consider the Debtor’s selection of the highest or otherwise best bid and the approval of the Sale. The Sale Approval Hearing may be held in conjunction with a confirmation hearing and adjourned, from time to time, without further notice to creditors or parties in interest other than by announcement of the adjournment in open Court or on the Court’s docket.

**PLEASE TAKE FURTHER NOTICE** that, in connection with the Sale, the Debtor has or shall seek authorization to assume and assign certain executory contract and unexpired leases relating to the Property conditioned upon consummation of the transactions contemplated by the

<sup>1</sup> To the extent of any conflict or discrepancies between the provisions of this Notice and the Order granting the Debtor’s Procedures Motion, the Order shall control.

<sup>2</sup> All capitalized terms used, but not otherwise defined herein, shall have the same meanings ascribed to them in the Procedures Motion.

Sale. A list of the executory contracts and unexpired leases that the Debtor is considering assuming and assigning to prospective purchasers (the “**Assumed Contracts**”) is available on the internet at myHFF (“**myHFF**” or the “**Data Room**”), or upon request to Holliday Fenoglio Fowler, L.P.’s agent, Daniel Finkle, by phone at (305) 448-1333 or by e-mail at [dfinkle@hfflp.com](mailto:dfinkle@hfflp.com). The Debtor reserves the right to supplement its designation of contracts for assumption and assignment (including specific identification of contracts and leases designated for assumption and assignment in any Stalking Horse Offer), and to remove any contract or lease from the list of Assumed Contracts at any time prior to the conclusion of the Auction.

**YOU ARE RECEIVING THIS NOTICE BECAUSE  
YOU MAY BE A COUNTER-PARTY TO AN AGREEMENT THAT MAY BE  
ASSUMED BY THE DEBTOR AND ASSIGNED TO A THIRD PARTY (OR  
REPRESENT SUCH A COUNTER-PARTY).**

The Debtor has determined what it believes is the appropriate payment or action needed to cure any monetary or non-monetary defaults (the “**Cure Amount**”) for each of the Assumed Contracts, and has listed such Cure Amounts on **Attachment “1”** to this Notice.

To the extent you are a Counter-Party to an Assumed Contract and object to either (i) any aspect of the possible assumption and assignment of your respective Assumed Contract in connection with the Sale (inclusive of any objections based on adequate assurance of a prompt cure) or (ii) the Cure Amount identified on **Attachment “1”** to this Notice, then **you must file with the Bankruptcy Court and serve an objection (an “Assumption Objection”) upon the following parties, so as to be actually received by no later than April 17, 2013 (the “Cure Claim Submission Deadline”):** (a) the Office of the United States Trustee, 501 E. Polk St., Ste. 1200, Tampa, FL 33602, (b) Bank of America, N.A., c/o Jeffrey W. Warren, Bush Ross, P.A., P.O. Box 3913, Tampa, FL 33601-3913, (c) Bank of America, N.A., c/o John C. Leininger, Bryan Cave, LLP, JP Morgan Chase Tower, 2200 Ross Avenue, Suite 3300, Dallas, TX 75201, (d) Holliday Fenoglio Fowler, LLP, 1450 Brickell Avenue, Suite 2950, Miami, FL 33131, and (e) David S. Jennis, Jennis & Bowen, P.L., 400 N. Ashley Drive, Suite 2540, Tampa, FL 33602. **Any objection to the proposed assumption and assignment must state with specificity the legal and factual basis on which the objection is premised. Any objection to the Cure Amount must state with specificity what other Cure Amount is required and provide appropriate documentation in support thereof.**

In connection with the Sale, each Prospective Bidder shall be entitled to include as part of their bids either (1) the Cure Amount it is willing to pay upon the closing or (2) an Adequate Assurance Proposal (as defined below) that, no later than the time of the Auction, it expects to have in place to satisfy the amounts necessary in light of the final list of Assumed Contracts and the Cure Amounts for these contracts. An Adequate Assurance Proposal means a proposal in a purchaser offer describing the amount, timing, and method a prospective purchaser intends to satisfy the Cure Amount and establishing the ability to provide adequate assurance of the ability to provide future performance of such Assumed Contracts.

**PLEASE TAKE FURTHER NOTICE** that as soon as practicable after the conclusion of the Auction, the Debtor shall send a notice to you identifying the successful bidder determined at the Auction and publish same on the Website. If you have previously filed a timely

Assumption Objection then by no later than 4:00 p.m. (EDT) on Wednesday, May 15, 2013, you may file an additional objection based solely on the ability of the successful bidder (or backup bidder) to perform its obligations under such Assumed Contract including the ability to satisfy the terms of any Adequate Assurance Proposal.

**PLEASE TAKE FURTHER NOTICE** that your objection, if any, will be heard and determined at the Sale Approval Hearing.

**PLEASE TAKE FURTHER NOTICE** that, if you file an Assumption Objection, the Debtor reserves the right to delete the subject contract or lease from the list of Assumed Contracts if it cannot reach an agreement with you resolving the Assumption Objection or if the Cure Amount is ultimately determined by order of the Bankruptcy Court to be higher than the Cure Amount set forth on the Debtor's list of Assumed Contracts.

**PLEASE TAKE FURTHER NOTICE** that, if you do not timely file and serve an Assumption Objection then (a) the Counter-Party to such an Assumed Contract shall be deemed to have consented to the assumption and assignment of the Assumed Contract in connection with the Sale and shall be forever barred from asserting any objection with regard to such assumption and assignment, (b) the Cure Amount set forth on the list of Assumed Contracts annexed as Attachment "1" to this Notice shall be controlling, notwithstanding anything to the contrary in any Assumed Contract, or any other document (including any estoppel letter), and (c) the Counter-Party to an Assumed Contract shall be deemed to have consented to the Cure Amount and shall be forever barred from asserting any other claims related to such Assumed Contract against the Debtor, the successful bidder, or the property of any of them.

Dated: March \_\_, 2013

---

Davis S. Jennis  
Florida Bar No. 775940  
Chad S. Bowen  
Florida Bar No. 0138290  
**Jennis & Bowen, P.L.**  
400 N. Ashley Dr., Suite 2540  
Tampa, FL 33602  
Telephone: (813) 229-1700  
Facsimile: (813) 229-1707  
[djennis@jennisbowen.com](mailto:djennis@jennisbowen.com)  
[cbowen@jennisbowen.com](mailto:cbowen@jennisbowen.com)  
*Attorneys for The Ocala Shoppes, LLC*  
*Debtor and Debtor-in-Possession*

**ATTACHMENT “1”**  
**ASSUMED CONTRACTS**

Nature of Contract	Counter-Party or Lessee	Counter-Party Notice Name/Address	Cure Required	
			Monetary	Non-Monetary