

UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ROME DIVISION

In Re: : CASE NO. 15-40844-PWB
:
TRAVIS WADE RAGSDALE, :
: CHAPTER: 11
Debtor. :
----- JUDGE: BONAPFEL

MOTION AND NOTICE OF PROPOSED SALE OF REAL PROPERTY

COMES NOW the Debtor in Possession, **TRAVIS WADE RAGSDALE**, (hereinafter also referred to as "Movant" or "Debtor"), and files this Motion and Notice of Proposed Sale of Real Property, respectfully showing as follows:

JURISDICTION AND VENUE

1.

This Court has jurisdiction over this Motion pursuant to 28 U.S.C. §§ 157 and 1334. Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409. This matter is a core proceeding pursuant to 28 U.S.C. § 157(b)(2). The statutory predicate for the relief sought in this Motion is § 363(b) and (f) of title 11 of the United States Bankruptcy Code (the "Bankruptcy Code"), as contemplated by Rule 6004 of the Federal Rules of Bankruptcy Procedure.

BACKGROUND – THE CHAPTER 11 CASE

2.

On April 14, 2015 (the "Petition Date"), the Debtor filed with this Court a voluntary petition for relief under chapter 11 of the Bankruptcy Code. Pursuant to §§ 1107 and 1108 of the Bankruptcy Code. The Debtor is continuing to operate his business and manage his various properties as a debtor in possession. No trustee or examiner has been appointed in the Debtor's Chapter 11 case.

3.

A critical component to the success of the Debtor's Chapter 11 case is the liquidation and sale of properties to pay debt. The Debtor has a contract to sell the property consisting of approximately 13.33 acres at the corner of Cedarcrest Road and Seven Hills Connector, Dallas GA 30132, and is also described as Land Lot 533 of the 3rd District, 3rd Section of the Paulding County land records, (hereinafter referred to as the "Property").

4.

The gross sales price for the Property is One Million One Hundred Fifty Thousand Dollars (\$1,150,000.00).

RELIEF REQUESTED

5.

By this Motion, the Debtor seeks entry of an Order, pursuant to § 363 and § 105 of the Bankruptcy Code, to sell the Property under the terms and conditions more specifically set forth herein below.

6.

The proposed buyer of the property is H-Damani Investment Group, LLC of 6308 Manassas Pass NW, Acworth, GA 30101 H-Damani Investment Group, LLC is proposing to purchase the Property for the sum of One Million One Hundred Fifty Thousand Dollars (\$1,150,000.00_. A copy of the proposed Purchase Sale Agreement is attached hereto as "Exhibit A."

7.

The Debtor proposes to remit all net proceeds after payment of normal, customary, and necessary realtor commissions, closing costs, and pro-rated taxes, consistent with the Purchase and Sale Agreement to the lienholder, Westside Bank and affiliated loan participants. The

Debtor consents to protective language in the Order stipulating that, as a condition precedent of closing the sale on the Property, not less than two (2) business days prior to closing on the sale of the Property, the Debtor shall cause the closing attorneys for the proposed sale to deliver to the attorneys for Westside Bank, (i) a survey, (ii) legal description, and (iii) proposed HUD-1 showing payment of normal, customary, and necessary realtor commissions, closing costs, and pro-rated taxes, consistent with the Purchase and Sale Agreement, and the net proceeds to be remitted to Westside Bank. Upon review and approval by Westside Bank, the closing may be finalized, and the closing attorneys shall immediately remit all net proceeds from the sale of the Property directly to Westside Bank or its designated counsel. The Debtor anticipates remitting not less than \$1,140,000.00 from sale of the Cedarcrest Property (\$1,150,000 minus his approximation of 50% of the customary, actual, reasonable and necessary closing costs for sale of such property). Any shortfall or excess proceeds shall be subject to the discretion of Westside or any agreement or terms reached prior to closing. In the absence of an agreement or consent, or in the event Westside Bank does not approve of the legal description or HUD-1, then counsel for the Debtor shall coordinate and schedule an expedited hearing on any remaining issues with notice to Westside Bank and the United States Trustee. Further, not more than three (3) business days after the closing of the sale of the Property, the closing attorney or the Debtor will deliver an executed copy of the HUD-1 to the attorneys for Westside Bank.

**APPLICABLE AUTHORITY/
BASIS FOR RELIEF REQUESTED**

8.

Section 363(b) of the Bankruptcy Code provides that a debtor in possession “may use, sell, or lease, other than in the ordinary course of business, property of the estate.” *See* 11 U.S.C. § 363(b). Section 363(f) of the Bankruptcy Code provides that a debtor in possession may sell property under section 363(b) free and clear of any interest in such property of an entity other than the estate upon certain conditions. *See* 11 U.S.C. § 363(f).

9.

It is well-settled that a debtor in possession may sell assets out of the ordinary course of business pursuant to § 363(b) of the Bankruptcy Code if there is a sound business justification for doing so. *See, In re Lionel Corp.*, 722 F.2d 1063, 1070 (2nd Cir. 1983); *In re Naron & Wagner, Chartered*, 89 B.R. 85 (Bankr. D. Md. 1988); see also, *McDow v. Official Committee of Equity Security Holders of Criimi Mae, Inc.* 247 B.R. 156, 149 (D. Md. 1999) (“court may authorize the use of estate property other than in the ordinary course of business when some business justification for doing so exists”).

10.

The sale of the Property is integral to the Debtor’s Chapter 11 bankruptcy case and to fulfill his obligations under contemplated plan of repayment and reorganization. So long as the Debtor continues to own the Property, he is incurring obligations for property taxes, insurance, and maintenance costs. In addition, as landowner, the Debtor is subject to potential lawsuits for premises liability on the property. Disposition of the Property will provide needed cash to the estate and reduce the debt obligations owed, thereby permitting the Debtor to restructure the remaining debt obligations due and owing on remaining property.

11.

The Debtor has conducted an investigation of the Property and has evaluated his option regarding ongoing operations vs. its sale. As a result thereof, the Debtor believes that the Buyer’s offer as set forth herein, in conjunction with the terms of a global agreement that he believes will satisfy his obligations to the bank, represents the best offer and course of action for the estate.

WHEREFORE, Movants pray for the following relief:

- (a) That the Court, after due notice to all interested parties, grant an Order authorizing Movant’s Application to Sell Real Property under the terms outlined herein, and allowing the Debtor to remit the net proceeds to Westside Bank; and

(b) For such other and further relief as this Court may deem just and appropriate.

Dated this 13th day of October, 2017.

Respectfully submitted,

BRIAN R CAHN & ASSOCIATES, LLC

/s/ _____
Brian R. Cahn, Attorney For Movant
Georgia Bar No. 101965
brc@perrottalaw.com

Brian R Cahn & Associates, LLC
The Historic Bradley Building
5 South Public Square
Cartersville, GA 30120
(770) 382-8900

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
ROME DIVISION

In Re: : CASE NO. 15-40844-PWB
:
TRAVIS WADE RAGSDALE, :
: CHAPTER: 11
Debtor. :
----- JUDGE: BONAPFEL

**NOTICE OF ASSIGNMENT OF HEARING ON DEBTOR'S
MOTION AND NOTICE OF PROPOSED SALE OF REAL PROPERTY**

PLEASE TAKE NOTICE that (**Movant/Debtor**) has filed a Motion and Notice of Proposed Sale of Real Property, and related papers with the Court seeking an Order granting such.

PLEASE TAKE FURTHER NOTICE that the Court will hold a hearing on the Motion in Courtroom 342, US Courthouse, 600 East First Street, Rome, GA at 9:25 A.M. on November 7, 2017.

Your rights may be affected by the court's ruling on these pleadings. You should read these pleadings carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one.) If you do not want the Court to grant the relief sought in these pleadings or if you want the Court to consider your views, then you and/or your attorney must attend the hearing. You may also file a written response to the pleading with the Clerk at the address stated below, but you are not required to do so. If you file a written response, you must attach a certificate stating when, how and on whom (including addresses) you served the response. Mail or deliver your response so that it is received by the Clerk at least two business days before the hearing. The address of the Clerk's Office is: **Clerk, U.S. Bankruptcy Court, Room 339, 600 East First Street, Rome, Georgia, 30161-3187**. You must also mail a copy of your response to the undersigned at the address stated below.

If the Motion is a Motion for Relief From the Automatic Stay, and if a hearing on the Motion cannot be held within thirty (30) days, Movant waives the requirement for holding a preliminary hearing within thirty days of filing the Motion and agrees to a hearing on the earliest possible date. Movant consents to the automatic stay remaining in effect until the Court orders otherwise.

Dated this 13th day of October, 2017.

BRIAN R CAHN & ASSOCIATES, LLC

--/s/-----

Brian R. Cahn
Attorney For Movant/Debtor
Georgia Bar No. 101965

5 South Public Square
Cartersville, GA 30120
(770) 386-4752

Certificate of Service

I certify that I have this date served the following parties with a copy of the within and foregoing Motion and Notice of Proposed Sale of Real Property by placing a true copy of same in the United States Mail with adequate postage affixed to insure delivery, addressed to:

Synchrony Bank
Attn: Ramesh Singh
25 SE 2nd Avenue, Suite 1120
Miami, FL 33131-1605
Attn: Ramesh Singh

Judge Paul W Bonapfel
Room 1492 – U.S. Courthouse
75 Spring Street, SW
Atlanta, GA 30303

Bank of America
PO Box 851001
Dallas, TX 75265

Card Services
PO Box 105025
Atlanta, GA 30348

Carroll Fertilizer LLC
PO Box 292
Taylorsville, GA 30178

Chase
PO Box 15153
Wilmington, DE 19886-5153

Chase Auto Finance
PO Box 901076
Fort Worth, TX 79998

Discover Card
P.O. Box 15251
Wilmington, DE 19886

Georgia Department of Revenue
Taxpayer Services Division
PO Box 105499
Atlanta, GA 30348-5499

Gracepoint Church, LLC
7915 Dallas Acworth Highway
Dallas, GA 30132

Greenway Park Owners Association, Inc
PO Box 1247
Santa Rosa, FL 32459

Internal Revenue Service
Suite 400, Stop 334-D
401 W. Peachtree St
Atlanta, GA 30308

J-Rags Investments, LLC
PO Box 1756
Dallas, GA 30132

J.W. Watson, III
240 Constitution Blvd
Room 3009
Dallas, GA 30132

Kubota
PO Box 0559
Carol Stream, IL 60132

Lovett & Myers
530 Forest Hill Rd
Macon, GA 31210

Paulding County Tax Commissioner
240 Constitution Blvd, Room 3006
Dallas, GA 30132

Walton County Tax Commissioner
PO Box 510
Defuniak Springs, FL 32435

Suntrust Bank
PO Box 85024
Richmond, VA 23285

Superior Court of Paulding County
Case NO: 14CV3159
280 Constitution Blvd
Dallas, GA 30132

Westside Bank
Attn: Tren Watson, CEO
56 Hiram Drive
Hiram, GA 30141

Westside Bank
c/o Miller, Martin, PLLC
1180 West Peachtree NW, Ste 210
Atlanta, GA 30309

William A. Dupre, IV
Miller & Martin, PLLC
Suite 2100
1180 West Peachtree Street, N.W.
Atlanta, GA 30309

U. S. Attorney
ATTN: David Weidenbaum
362 Richard B. Russell Bldg.
75 Spring Street, SW
Atlanta GA 30303

U. S. Attorney
600 Richard B. Russell Bldg.
75 Spring Street, SW
Atlanta GA 30303

Shannon Ragsdale
C/O Antonio Mari
Mari Legal Group LLC
605 North Tennessee St.
Cartersville, GA 30120

Atlanta Communities Real
Estate Brokerage, LLC
C/O Jennifer Reed
3405 Dallas Hwy, Ste 720
Marietta, GA 30064

Dated this 13th day of October, 2017.

BRIAN R CAHN & ASSOCIATES, LLC

--/s/-----

Brian R. Cahn
Attorney For Movant/Debtor
Georgia Bar No. 101965

5 South Public Square
Cartersville, GA 30120
(770) 386-4752

EXHIBIT A



COMMERCIAL PURCHASE AND SALE AGREEMENT

Offer Date: October 6, 2017



2016 Printing

A. KEY TERMS AND CONDITIONS

1. Purchase and Sale. The undersigned buyer(s) ("Buyer") agree to buy and the undersigned seller(s) ("Seller") agree to sell the real property described below including all fixtures, improvements and landscaping therein ("Property") on the terms and conditions set forth in this Agreement.	
a. Property Identification: Address: <u>Corner of Cedarcrest Road and the Seven Hills Connector</u> City <u>Dallas</u> , County <u>Paulding</u> , Georgia, Zip Code <u>30132</u> MLS Number: <u>Not in MLS</u> Tax Parcel I.D. Number: <u>034.4.1.025.000</u>	
b. Legal Description: The legal description of the Property is [select one of the following below]: <input type="checkbox"/> (1) attached as an exhibit hereto; <input type="checkbox"/> (2) the same as described in Deed Book _____, Page _____, et. seq., of the land records of the above county; OR <input checked="" type="checkbox"/> (3) Land Lot(s) <u>533</u> of the <u>3</u> District, <u>3</u> Section/ GMD, Lot _____, Block _____, Unit _____, Phase/Section _____ of <u>N/A</u> Subdivision/Development, according to the plat recorded in Plat Book _____, Page _____, et. seq., of the land records of the above county.	
2. Purchase Price of Property to be Paid by Buyer. \$ <u>1,150,000.00</u>	3. Seller's Contribution at Closing. <u>\$ 50,000.00</u>
4. Closing and Possession. a. Closing Date: <u>November 10, 2017</u>	b. Seller Retains Possession of Property Through: <u>Closing</u>
5. Holder of Earnest Money ("Holder"). <u>Jeff Watkins</u>	6. Closing Attorney/Law Firm. <u>Jeff Watkins</u>
7. Earnest Money. Earnest Money shall be paid by <input checked="" type="checkbox"/> check <input type="checkbox"/> cash or <input checked="" type="checkbox"/> wire transfer of immediately available funds as follows: <input type="checkbox"/> a. \$ _____ as of the Offer Date. <input checked="" type="checkbox"/> b. \$ <u>100,000.00</u> within <u>5</u> days from the Binding Agreement Date. <input type="checkbox"/> c. _____	
8. Due Diligence Period: Property is being sold subject to a Due Diligence Period of <u>10</u> days from the Binding Agreement Date.	
9. Buyer shall have <u>21</u> days from the Binding Agreement Date in which to furnish written title objections to Seller.	
10. Seller shall deliver Due Diligence Materials to Buyer within <u>0</u> days from Binding Agreement Date.	
11. Buyer <input checked="" type="checkbox"/> may OR <input type="checkbox"/> may not assign this Agreement in accordance with the terms of this Agreement.	
12. Disputes regarding earnest money shall be resolved by a reasonable interpretation by <input checked="" type="checkbox"/> Holder; OR <input type="checkbox"/> arbitration.	
13. Brokerage Relationships in this Transaction. a. Selling Broker is _____ and is: (1) <input type="checkbox"/> representing Buyer as a client. (2) <input type="checkbox"/> not representing Buyer (Buyer is a customer). (3) <input type="checkbox"/> acting as a dual agent representing Buyer and Seller. (4) <input type="checkbox"/> acting as a designated agent where: _____ has been assigned to exclusively represent Buyer. b. Listing Broker is <u>ATLANTA COMMUNITIES</u> and is: (1) <input checked="" type="checkbox"/> representing Seller as a client. (2) <input type="checkbox"/> not representing Seller (Seller is a customer). (3) <input type="checkbox"/> acting as a dual agent representing Buyer and Seller. (4) <input type="checkbox"/> acting as a designated agent where: _____ has been assigned to exclusively represent Seller.	
c. Material Relationship Disclosure: Broker and/or their affiliated licensees disclose the following material relationships:	
14. Consent to Share Non-Public Information. Buyer and Seller hereby consent to the closing attorney preparing and distributing an American Land Title Association ("ALTA") Estimated Settlement Statement-Combined to Buyer, Seller, Brokers and Broker's affiliated licensees working in this agreement for their various uses.	
15. Time Limit of Offer. The Offer set forth herein expires at _____ o'clock <u>a</u> .m. on the date _____.	
Buyer(s) Initials <u>JAD</u>	Seller(s) Initials <u>[Signature]</u>

THIS FORM IS COPYRIGHTED AND MAY ONLY BE USED IN REAL ESTATE TRANSACTIONS IN WHICH JENNIFER REED IS INVOLVED AS A REAL ESTATE LICENSEE. UNAUTHORIZED USE OF THE FORM MAY RESULT IN LEGAL SANCTIONS BEING BROUGHT AGAINST THE USER AND SHOULD BE REPORTED TO THE GEORGIA ASSOCIATION OF REALTORS® AT (770) 451-1831.

B. CORRESPONDING PARAGRAPHS FOR SECTION A

1. **Purchase Price and Method of Payment.** The Purchase Price shall be paid in U.S. Dollars at closing by wire transfer of immediately available funds, or such other form of payment acceptable to the closing attorney.
2. **Due Diligence.** Buyer has paid Seller the sum of \$25, the receipt of which is hereby acknowledged by Seller, as option money for Buyer having the right to terminate this agreement during the Due Diligence Period. Prior to closing, Buyer and Buyer's agents shall have the right to enter upon Property at Buyer's expense, and at reasonable times, to inspect, survey, examine, and test Property as Buyer may deem necessary as part of Buyer's acquisition of Property. Buyer shall indemnify and hold Seller and all Brokers harmless from and against any and all claims, injuries, and damages to persons and/or property arising out of or related to the exercise of Buyer's rights hereunder. During the Due Diligence Period Buyer may evaluate Property, the feasibility of the transaction, the availability and cost of financing, and any other matter of concern to Buyer. During the Due Diligence Period, Buyer shall have the right to terminate this Agreement upon notice to Seller if Buyer determines, based on an evaluation of the above, that it is not desirable to proceed with the transaction. In such event, Holder shall promptly refund Buyer's earnest money in accordance with the earnest money paragraph below.
3. **Earnest Money.**
 - a. **Receipt:** In the event Buyer terminates this Agreement during the Due Diligence Period or does not otherwise close this transaction, Buyer shall promptly return all Due Diligence materials to Seller. The earnest money shall be deposited in Holder's escrow/trust account (with Holder retaining the interest if the account is interest bearing) within five (5) banking days from the Binding Agreement Date. If Buyer writes a check for earnest money and the same is deposited into Holder's escrow/trust account, Holder shall not be required to return the earnest money until the check has cleared the account on which the check was written. In the event any earnest money check is dishonored for any reason by the bank upon which it is drawn, Holder shall promptly give notice to Buyer and Seller. Buyer shall have 3 banking days after notice to deliver good funds to Holder. In the event Buyer does not timely deliver good funds, Seller shall have the right to terminate this Agreement upon written notice to Buyer.
 - b. **Entitlement to Earnest Money:** Subject to the Disbursement of earnest money paragraph below:
 - (1) Buyer shall be entitled to the earnest money upon: (a) failure of the parties to enter into a binding agreement; (b) failure of any contingency or condition to which this Agreement is subject; (c) termination of this Agreement due to the default of Seller; (d) the termination of this Agreement in accordance with a specific right to terminate set forth in the Agreement; or (e) upon the closing of Property.
 - (2) Seller shall be entitled to the earnest money if this Agreement is terminated due to the default of Buyer. In such event, Holder may pay the earnest money to Seller by check, which if accepted and deposited by Seller, shall constitute liquidated damages in full settlement of all claims of Seller. It is agreed to by the parties that such liquidated damages are not a penalty and are a good faith estimate of Seller's actual damages, which damages are difficult to ascertain.
 - c. **Disbursement of Earnest Money:** Holder shall disburse Earnest Money only as follows: (a) at Closing; (b) upon a subsequent written agreement signed by Buyer and Seller; (c) as set forth below in the event of a dispute regarding earnest money; or (d) the failure of the parties to enter into a binding agreement (where there is no dispute over the formation or enforceability of the Agreement). No party shall seek damages from Holder, nor shall Holder be liable for any such damages, for any matter arising out of or related to the performance of Holder's duties hereunder.
 - d. **Disputes Regarding Earnest Money:** In the event Buyer or Seller notifies Holder of a dispute regarding the disposition of Earnest Money that Holder cannot resolve, Holder shall settle the dispute in accordance with method selected on the cover page of this Agreement.
 - (1) **Reasonable Interpretation by Holder:** In the event earnest money disputes are to be resolved by Holder herein, Holder may disburse the earnest money upon a reasonable interpretation of the Agreement, provided that Holder first gives all parties 10 days notice stating to whom and why the disbursement will be made. Any party may object to the proposed disbursement by giving written notice of the same to Holder within the ten (10) day notice period. Objections not timely made in writing shall be deemed waived. If Holder receives an objection and after considering it, decides to disburse the earnest money as originally proposed, Holder may do so and send notice to the parties of Holder's action. If Holder decides to modify its proposed disbursement, Holder shall first send a new ten (10) day notice to the parties stating the rationale for the modification and to whom the disbursement will now be made. If there is a dispute over the earnest money which the parties cannot resolve after a reasonable period of time, and where Holder has a bona fide question as to who is entitled to the earnest money, Broker may interplead the earnest money into a court of competent jurisdiction. Holder shall be reimbursed for and may deduct from any funds interpleaded, its costs and expenses, including reasonable attorney's fees actually incurred. The prevailing defendant in the interpleader lawsuit shall be entitled to collect its attorney's fees and court costs and the amount deducted by Holder from the non-prevailing defendant.
 - (2) **Arbitration:** In the event arbitration is selected as the method to resolve earnest money disputes, such disputes shall be resolved by arbitration in accordance with the Federal Arbitration Act 9 U.S.C. § 1 *et. seq.* and the rules and procedures of the arbitration company selected to administer the arbitration. Upon making or receiving a demand for arbitration, the parties shall work together in good faith to select a mutually acceptable arbitration company with offices in Georgia to administer and conduct the arbitration. If the parties cannot mutually agree on an arbitration company, the company shall be selected as follows. Each party shall simultaneously exchange with the other party a list of three arbitration companies with offices in Georgia acceptable to that party to administer and conduct the arbitration. If there is only one (1) arbitration company that is common to both lists, that company shall administer and conduct the arbitration. If there is more than one arbitration company that is common to both lists, the parties shall either mutually agree on which arbitration company shall be selected or flip a coin to select the arbitration company. If there is not initially a common arbitration company on the lists, the parties shall repeat the process by expanding their lists by two each time until there is a common name on the lists selected by the parties. The decision of the arbitrator shall be final and the arbitrator shall have authority to award attorneys' fees and allocate the costs of arbitration as part of any final award.

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4. **Seller's Obligations at Closing.** At Closing, Seller shall deliver to Buyer: (a) a Closing Statement; (b) Limited Warranty Deed; (c) FIRPTA Affidavit (indicating that Seller is not a "foreign person" or "foreign corporation" as that term is defined in Section 1445(f)(3) of the Internal Revenue Code of 1986); (d) an Affidavit of Seller's Residence Regarding Georgia Withholding Tax, establishing that Seller is exempt from the requirements of O.C.G.A. § 48-7-128, the Georgia Withholding Statute (or Affidavit of Exemption or Affidavit of Seller's Gain, if withholding is required); (e) a transfer tax declaration form properly signed and executed by Seller; and, (f) all documents which Seller must execute under the terms of this Agreement to cause the Title Company to deliver to Buyer the Title Policy, including, without limitation, a title affidavit from Seller to Buyer and to the Title Company in the form customarily used in Georgia commercial real estate transactions so as to enable the Title Company to issue Buyer the Title Policy with all standard exceptions deleted and subject only to the Permitted Exceptions and evidence reasonably satisfactory to Title Company of its due and proper authority and power to perform its obligations hereunder. In addition, Seller shall deliver to Buyer at Closing all documents/items indicated in Exhibit "C", if any. (All documents to be delivered by Seller under this paragraph, including all documents/items indicated in Exhibit "C" are collectively "Seller's Closing Documents".)
5. **Conditions to Closing.**
- a. **Conditions in Favor of Buyer:** The obligation of Buyer to consummate the transaction contemplated herein is conditioned upon the following conditions precedent as of the Closing Date:
- (1) All representations and warranties of Seller made herein shall remain true and correct;
 - (2) Seller shall have performed all of the covenants undertaken by Seller in this Agreement to be performed by Seller at or prior to Closing;
 - (3) Seller shall have delivered to the Buyer properly executed originals of Seller's Closing Documents;
 - (4) There shall have been no material adverse change in the physical condition of Property, except as otherwise provided for in this Agreement; and
 - (5) The issuance at Closing of the Title Policy (or marked binder), with all standard exceptions deleted and subject only to the Permitted Exceptions.
- b. **Conditions in Favor of Seller:** The obligation of Seller to consummate the transaction contemplated herein is conditioned upon the following conditions precedent as of the Closing Date:
- (1) All representations and warranties of Buyer made herein shall remain true and correct;
 - (2) Buyer shall have performed all of the covenants undertaken by Buyer in this Agreement to be performed by Buyer at or prior to Closing; and
 - (3) Buyer shall have: (a) delivered to the Seller properly executed originals of the transfer tax declaration form, title policy documents, closing statement, and any other documents identified in Exhibit "C" that require Buyer's signature; and (b) paid the Purchase Price, plus or minus prorations and adjustments, to Seller.
6. **Costs.**
- a. **Seller's Costs:** Seller shall pay the amount of Seller's Monetary Contribution at Closing, if any, referenced in this Agreement, the cost of recording any title curative document, including, without limitation, satisfactions of deeds to secure debt, quitclaim deeds and financing statement terminations; all deed recording fees and the fees of Seller's counsel.
- b. **Buyer's Costs:** Buyer shall pay the cost of Buyer's counsel and consultants; all transfer taxes; any costs in connection with Buyer's inspection of Property and any costs associated with obtaining financing for the acquisition of Property (including any intangibles tax, all deed recording fees and the cost of recording Buyer's loan documents); and the cost of any title examination, survey of the Property obtained by Buyer and any owner's or lender's title insurance.
7. **Taxes and Prorations.** Ad valorem property taxes, community association fees, solid waste and governmental fees and utility bills for which service cannot be terminated as of the date of closing; rents, tenant improvements costs and leasing commissions on Property for the calendar year in which the Closing takes place shall be prorated as of 12:01 a.m. on the Closing Date. In the event ad valorem property taxes are based upon an estimated tax bill or tax bill under appeal, Buyer and Seller shall, upon the issuance of the actual tax bill or the appeal being resolved, promptly make such financial adjustments between themselves as are necessary to correctly prorate the tax bill. In the event there are tax savings resulting from a tax appeal, third party costs to handle the appeal may be deducted from the savings for that tax year before re-prorating. Any pending tax appeal shall be deemed assigned to Buyer at closing.
8. **Title.**
- a. **Warranties of Seller:** Seller warrants that at Closing, Seller shall convey good and marketable, fee simple title to Property to Buyer by limited warranty deed, subject only to the following exemptions:
- (1) Liens for ad valorem taxes not yet due and payable;
 - (2) Those exceptions to which Buyer does not object or which Buyer waives in accordance with the Title Objections paragraph below.
 - (3) Those Permitted Exceptions attached hereto and incorporated herein as an exhibit to which Buyer has agreed not to object. For all purposes under this Agreement, "Good and marketable, fee simple title" with respect to Property shall be such title: (a) as is classified as "marketable" under the Title Standards of the State Bar of Georgia; and (b) as is acceptable to and insurable by a title insurance company doing business in Georgia ("Title Company"), at standard rates on an American Land Title Association Owner's Policy ("Title Policy").

- b. **Title Objections:** Seller shall have until the Closing to cure all valid title objections ("Title Cure Period"). Seller shall satisfy any existing liens or monetary encumbrances identified by Buyer as title objections which may be satisfied by the payment of a sum certain prior to or at Closing. Except for Seller's obligations in the preceding sentence, if Seller fails to cure any other valid title objections of Buyer within the Title Cure Period (and fails to provide Buyer with evidence of Seller's cure satisfactory to Buyer and to the Title Company), Buyer may, as Buyer's sole remedies: (1) rescind the transaction contemplated hereby, in which case, Buyer shall be entitled to the return of Buyer's earnest money; (2) waive any such objections and elect to close the transaction contemplated hereby irrespective of such title objections and without reduction of the Purchase Price; or (3) extend the Closing Date for a period of time not to exceed fifteen (15) days to allow Seller further time to cure such valid title objections. Failure to act in a timely manner under this paragraph shall constitute a waiver of Buyer's rights hereunder. Buyer shall have the right to re-examine title prior to Closing and notify Seller at Closing of any title objections which appear of record after the date of Buyer's initial title examination and before Closing.
9. **Destruction of Property Prior to Closing.** If the Property is destroyed or substantially destroyed prior to Closing, Seller shall give Buyer prompt notice thereof, which notice shall include Seller's reasonable estimate of: (1) the cost to restore and repair the damage; (2) the amount of insurance proceeds, if any, available for the same; and (3) whether the damage will be repaired prior to Closing. Upon notice to Seller, Buyer may terminate this Agreement within 7 days of receiving such notice from Seller. If Buyer does not terminate this Agreement, Buyer shall be deemed to have accepted Property with the damage and shall receive at Closing: (1) any insurance proceeds which have been paid to Seller but not yet spent to repair the damage; and (2) an assignment of all unpaid insurance proceeds on the claim.
10. **Representations and Warranties.**
- a. **Seller's Representations and Warranties:** As of the Binding Agreement Date and the Closing Date, Seller makes the representations and warranties to Buyer, if any, as indicated in Exhibit "D", if attached.
- b. **Buyer's Representations and Warranties:** As of the Binding Agreement Date and the Closing Date, Buyer represents and warrants to Seller that Buyer has the right, power and authority to enter into this Agreement and to consummate the transaction contemplated by the terms and conditions of this Agreement; and the persons executing this Agreement on behalf of Buyer have been duly and validly authorized by Buyer to execute and deliver this Agreement and shall have the right, power and authority to enter into this Agreement and bind Buyer.
11. **Brokerage.** Seller has agreed to pay Listing Broker(s) a real estate commission pursuant to that certain brokerage engagement agreement entered into between the parties and incorporated herein by reference ("Listing Agreement"). Pursuant to the terms of the Listing Agreement, the Listing Broker has agreed to share that commission with the Selling Broker.
- The closing attorney is hereby authorized and directed to pay the Broker(s) at closing, their respective commissions out of the proceeds of the sale. If the sale proceeds are insufficient to pay the full commission, the party owing the commission shall pay any shortfall at closing. If more than one Broker is involved in the transaction, the closing attorney is directed to pay each Broker its respective portion of said commission. The acceptance by the Broker(s) of a partial real estate commission at the closing shall not relieve the Seller of the obligation to pay the remainder thereof after the closing unless the Broker(s) have expressly and in writing agreed to accept the lesser amount in full satisfaction of the Broker(s) claim to a commission.
12. **Disclaimer.** Buyer and Seller have not relied upon any advice or representations of Brokers other than what is included in this Agreement. Brokers shall have no duty to advise Buyer and Seller on any matter relating to the Property which could have been revealed through a survey, title search, Official Georgia Wood Infestation Report, inspection by a professional home inspector or construction expert, utility bill review, an appraisal, inspection by an environmental engineering inspector, consulting governmental officials or a review of this Agreement and transaction by an attorney, financial planner, mortgage consultant or tax planner. Buyer and Seller should seek independent expert advice regarding any matter of concern to them relative to the Property and this Agreement.
13. **Assignment.** If Buyer does not have the right to assign this Agreement, then Buyer cannot assign this Agreement without the prior written permission of Seller. Any such approved assignment shall not release the original Buyer from any liabilities or obligations herein. Notice of such assignment shall be delivered to the Seller within 2 working days of execution, but not less than 5 days from closing. If Buyer has the right to assign this Agreement, then this Agreement may be assigned by the Buyer to any legal entity of which the Buyer or a principal or principals of Buyer own at least a 25% interest.
14. **Time Limit of Offer.** The Time Limit of the Offer shall be the date and time referenced herein when the Offer expires unless prior to that date and time both of the following have occurred: (a) the Offer has been accepted by the party to whom the Offer was made; and (b) notice of acceptance of the Offer has been delivered to the party who made the Offer.

C. OTHER TERMS AND CONDITIONS

1. **Notices.**

- a. **Generally:** All notices given hereunder shall be in writing, legible and signed by the party giving the notice. In the event of a dispute regarding notice, the burden shall be on the party giving notice to prove delivery. The requirements of this notice paragraph shall apply even prior to this Agreement becoming binding. Notices shall only be delivered: (1) in person; (2) by courier, overnight delivery service or by certified or registered U.S. mail (hereinafter collectively "Delivery Service"); or (3) by e-mail or facsimile. The person delivering or sending the written notice signed by a party may be someone other than that party.

- b. **Delivery of Notice:** A notice to a party shall be deemed to have been delivered and received upon the earliest of the following to occur: (1) the actual receipt of the written notice by a party; (2) in the case of delivery by a Delivery Service, when the written notice is delivered to an address of a party set forth herein (or subsequently provided by the party following the notice provisions herein), provided that a record of the delivery is created; (3) in the case of delivery electronically, on the date and time the written notice is electronically sent to an e-mail address or facsimile number of a party herein (or subsequently provided by the party following the notice provisions herein). Notice to a party shall not be effective unless the written notice is sent to an address, facsimile number or e-mail address of the party set forth herein (or subsequently provided by the party following the notice provisions herein).
- c. **When Broker Authorized to Accept Notice for Client:** Except where the Broker is acting in a dual agency capacity, the Broker and any affiliated licensee of the Broker representing a party in a client relationship shall be authorized agents of the party and notice to any of them shall for all purposes herein be deemed to be notice to the party. Notice to an authorized agent shall not be effective unless the written notice is sent to an address, facsimile number or e-mail address of the authorized agent set forth herein (or subsequently provided by the authorized agent following the notice provisions herein). Except as provided for herein, the Broker's staff at a physical address set forth herein of the Broker or the Broker's affiliated licensees are authorized to receive notices delivered by a Delivery Service. The Broker, the Broker's staff and the affiliated licensees of the Broker shall not be authorized to receive notice on behalf of a party in any transaction in which a brokerage engagement has not been entered into with the party or in which the Broker is acting in a dual agency capacity. In the event the Broker is practicing designated agency, only the designated agent of a client shall be an authorized agent of the client for the purposes of receiving notice.
2. **Default.**
- a. **Rights of Buyer or Seller:** A party defaulting under this Agreement shall be liable for the default. The non-defaulting party may pursue any lawful remedy against the defaulting party.
- b. **Rights of Broker:** In the event a party defaults under this Agreement, the defaulting party shall pay as liquidated damages to every broker involved in this transaction with whom the defaulting party does not have a brokerage engagement agreement an amount equal to the share of the commission the broker would have received had the transaction closed. For purposes of determining the amount of liquidated damages to be paid by the defaulting party, the written offer(s) of compensation to such broker and/or other written agreements establishing such broker's commission are incorporated herein by reference. The liquidated damages referenced above are a reasonable pre-estimate of the Broker(s) actual damages and are not a penalty. In the event a Broker referenced herein either has a brokerage engagement agreement or other written agreement for the payment of a real estate commission with a defaulting party, the Broker shall only have such remedies against the defaulting party as are provided for in such agreement.
3. **Other Provisions.**
- a. **Warranties Transfer:** Seller agrees to transfer to Buyer, at closing, subject to Buyer's acceptance thereof (and at Buyer's expense, if there is any cost associated with said transfer), Seller's interest in any existing manufacturer's warranties, service contracts, termite treatment and/or repair guarantee and/or other similar warranties which, by their terms, may be transferable to Buyer.
- b. **Repairs:** All agreed upon repairs and replacements shall be performed in a good and workmanlike manner prior to closing.
- c. **Entire Agreement, Modification and Assignment:** This Agreement constitutes the sole and entire agreement between all of the parties, supersedes all of their prior written and verbal agreements and shall be binding upon the parties and their successors, heirs and permitted assigns. No representation, promise or inducement not included in this Agreement shall be binding upon any party hereto. This Agreement may not be amended or waived except upon the written agreement of Buyer and Seller. This Agreement may not be assigned by Buyer except with the written agreement of Seller. Any assignee shall fulfill all the terms and conditions of this Agreement.
- d. **Survival of Agreement:** The following shall survive the closing of this Agreement: (1) the obligation of a party to pay a real estate commission; (2) any warranty of title; (3) all representations of Seller regarding the Property; and (4) any obligations which the parties herein agree shall survive the closing or may be performed or fulfilled after the closing.
- e. **Governing Law and Interpretation:** This Agreement may be signed in multiple counterparts each of which shall be deemed to be an original and shall be interpreted in accordance with the laws of Georgia. No provision herein, by virtue of the party who drafted it, shall be interpreted less favorably against one party than another. All references to time shall mean the time in Georgia.
- f. **Time of Essence:** Time is of the essence of this Agreement.
- g. **Terminology:** As the context may require in this Agreement: (1) the singular shall mean the plural and vice versa; and (2) all pronouns shall mean and include the person, entity, firm, or corporation to which they relate. The letters "N.A." or "N/A", if used in this Agreement, shall mean "Not Applicable", except where the context would indicate otherwise.
- h. **Binding Agreement Date:** The Binding Agreement Date shall be the date when a party to this transaction who has accepted an offer or counteroffer to buy or sell real property delivers notice of that acceptance to the party who made the offer or counteroffer in accordance with the Notices section the Agreement. Notice of the Binding Agreement Date may be delivered by either party (or the Broker working with or representing such party) to the other party. If notice of accurate Binding Agreement Date is delivered, the party receiving notice shall sign the same and immediately return it to the other party.
- i. **Duty to Cooperate:** All parties agree to do all things reasonably necessary to timely and in good faith fulfill the terms of this Agreement. Buyer and Seller shall execute and deliver such certifications, affidavits, and statements required by law or reasonably requested by the closing attorney, mortgage lender and/or the title insurance company to meet their respective requirements.
- j. **Electronic Signatures:** For all purposes herein, an electronic or facsimile signature shall be deemed the same as an original signature; provided, however, that all parties agree to promptly re-execute a conformed copy of this Agreement with original signatures if requested to do so by, the buyer's mortgage lender or the other party.
- k. **Extension of Deadlines:** No time deadline under this Agreement shall be extended by virtue of it falling on a Saturday, Sunday or federal holiday except for the date of closing.

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- l. GAR Forms:** The Georgia Association of REALTORS®, Inc. ("GAR") issues certain standard real estate forms. These GAR forms are frequently provided to the parties in real estate transactions. No party is required to use any GAR form. Since these forms are generic and written with the interests of multiple parties in mind, they may need to be modified to meet the specific needs of the parties using them. If any party has any questions about his or her rights and obligations under any GAR form he or she should consult an attorney. The parties hereto agree that the GAR forms may only be used in accordance with the licensing agreement of GAR. While GAR forms may be modified by the parties, no GAR form may be reproduced with sections removed, altered or modified unless the changes are visible on the form itself or in a stipulation, addendum, exhibit or amendment thereto.
- m. No Authority to Bind:** No Broker or affiliated licensee of Broker, by virtue of this status, shall have any authority to bind any party hereto.

- 4. Exhibits and Addenda.** All exhibits and/or addenda attached hereto, listed below, or referenced herein are made a part of this Agreement. If any such exhibit or addendum conflicts with any preceding paragraph, said exhibit or addendum shall control:

- ☐ Exhibit "A" Legal Description
- ☐ Exhibit "B" Due Diligence Materials
- ☐ Exhibit "C" Addition to Seller's Closing Documents
- ☐ Exhibit "D" Seller's Warranties and Representations
- ☐ Exhibit "E" Permitted Title Exceptions
- ☐ Other _____
- ☐ Other _____
- ☐ Other _____
- ☐ Other _____

SPECIAL STIPULATIONS: The following Special Stipulations, if conflicting with any exhibit, addendum, or preceding paragraph (including any changes thereto made by the parties), shall control:

1. All parties do hereby agree that this contract is contingent on the buyer being able to obtain a beer & wine permit, prior to closing. If said permit is not able to be acquired prior to closing, by providing a written denial letter to the seller, the buyer shall receive earnest money back in full.
2. All parties do hereby agree this sale is contingent on the court approving sale. If the court does not approve the sale, the buyer will receive the earnest money back in full.

Additional Special Stipulations ☐ are or ☒ are not attached.

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Buyer Acceptance and Contact Information

1. Buyer's Signature [Signature]
Print or Type Name H-Damani Investment Group
Buyer's Address 6308 Manassas Pass NW Acworth GA 30101
E-Mail lizz_lopez78@yahoo.com
Buyer's Phone # _____ Fax # _____

2. Buyer's Signature _____
Print or Type Name _____
Buyer's Address _____
E-Mail _____
Buyer's Phone # _____ Fax # _____

Selling Broker/Affiliated Licensee Contact Information:

Selling Broker _____
By: _____
Broker or Broker's Affiliated Licensee
Print or Type Name _____
MLS Office Code _____ Brokerage Firm License Number _____
Selling Broker's Address _____
Phone # _____ Fax # _____
E-Mail _____
Selling Agent's Georgia Real Estate License Number _____

Member of: _____ of REALTORS®

Seller Acceptance and Contact Information

1. Seller's Signature [Signature]
Print or Type Name Travis Wade Ragsdale
Seller's Address 1735 Cochran Road Dallas, GA 30132
E-Mail _____
Seller's Phone # _____ Fax # _____

2. Seller's Signature _____
Print or Type Name _____
Seller's Address _____
E-Mail _____
Seller's Phone # _____ Fax # _____

Listing Broker/Affiliated Licensee Contact Information:



ATLANTA COMMUNITIES
Listing Broker _____
By: Jennifer Reed
Broker or Broker's Affiliated Licensee
Print or Type Name Jennifer Reed
MLS Office Code ATCM04 Brokerage Firm License Number H-61807
Listing Broker's Address _____
Phone # 770-529-7780 Fax # 770-240-5404
E-Mail soldbyjenreed@gmail.com

183217
Listing Agent's Georgia Real Estate License Number

Member of: Cobb of REALTORS®

Binding Agreement Date: The Binding Agreement Date in this transaction is the date of _____ and has been filled in by _____.

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HOLD DOCUMENT UP TO THE LIGHT TO VIEW TRUE WATERMARK		OFFICIAL CHECK		HOLD DOCUMENT UP TO THE LIGHT TO VIEW TRUE WATERMARK	
BRANCH 313100		 RENASANT		372211101 NEW 08/08 8810039765	
Corporate Offices Tupelo, MS		BANK		10479785	
DATE October 10, 2017		\$ *****100,000.00		88-129/842	
PAY TO THE ORDER OF *JEFFREY A WATKINS PC ATTORNEY*		ONE HUNDRED THOUSAND DOLLARS AND ZERO CENTS			
NAME OF REMITTER H-DAMANT INVESTMENT GROUP LLC		Notice to Customer: The purchase of an indemnity bond may be required before this check will be replaced or refunded in the event it is lost, misplaced or stolen.			
ADDRESS EARNEST MONEY FOR CRN OF CEDAR CREST & SEVEN HILLS		AUTHORIZED SIGNATURE <i>Archie Heng</i> <i>Angie Guillemette</i>			

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