

UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

IN RE:

WILLIAM MAC VANDERPOOL, JR.
KIMBERLY D. VANDERPOOL

CASE NO. 8:15-bk-06078-MGW

DEBTORS

**DEBTORS' MOTION TO SELL PROPERTY
OUTSIDE THE ORDINARY COURSE OF
BUSINESS AND FREE AND CLEAR OF LIENS**

Debtors, WILLIAM MAC VANDERPOOL, JR. and KIMBERLY D. VANDERPOOL (hereinafter referred to as the "Debtors"), by and through their undersigned counsel, and files this their Motion to Sell Property Outside the Ordinary Course of Business and Free and Clear of Liens (the "Motion"), and in support thereof would state:

1. The statutory predicates for this Motion include, without limitation, 11 U.S.C. Section 363(b)(1) and (b)(3). This is core proceeding pursuant to 28 U.S.C. Section 157 (b)(2)(L).
2. This Court has jurisdiction herein pursuant to 28 U.S.C. § 1334 and § 158; and the Debtors anticipate that creditors and other parties-in-interest of the Debtors will take the position that this is a core matter.
3. On June 11, 2015, Debtors filed their voluntary Petition for Relief under Chapter 11 of Title 11 of the United States Code (the "Bankruptcy Code").
4. The Debtors are operating its business and managing its property as debtor-in-possession pursuant to §§1107(a) and 1108 of the Bankruptcy Code.
5. No trustee or examiner has been appointed in this case and no official committees have yet been appointed pursuant to §1102 of the Bankruptcy Code.

6. At the time of the filing of this action the Debtors were the owners of the following described property located in Polk County, Florida, to wit:

Begin at the Northwest corner of Section 22, Township 28 South, Range 25 East, Polk County, Florida, run thence South along the West boundary thereof 2623.50 feet to the Northerly right of way line of State Road S-542, thence Easterly along said right of way line 330.03 feet to the Point of Beginning, run thence Easterly 330.03 feet, thence North 641.33 feet, thence Westerly 330.00 feet, thence South 645.66 feet to the Point of Beginning.

Parcel Identification Number: 222825-000000-034050

7. The property is subject to a first mortgage lien of Wells Fargo Bank, N.A. in the approximate amount of \$220,000.00.
8. The Debtors' Plan of Reorganization (which has been confirmed by this Court) proposed to sell the above-described property and satisfy liens thereon and distribute any proceeds in excess of the amount due for said liens to their unsecured creditors. The Debtors were to complete the sale within 90 days after the Effective Date of the Plan.
9. Debtors have entered into a contract to sell the above-described property to David Deboer for \$162,000.00. A copy of that contract is attached hereto as Exhibit "A" and reference made a part hereof.
10. The contract between the Debtors and David Deboer has been approved by Wells Fargo Bank, N.A.
11. The proposed method of sale is fair and equitable and is in the best interest of the bankruptcy estate and its creditors.

WHEREFORE, the Debtors, WILLIAM MAC VANDERPOOL, JR. and KIMBERLY D. VANDERPOOL, respectfully requests that this Court enter its Order:

- a. Granting its Motion to Sell Property Outside the Ordinary Course of Business and Free and Clear of Liens to David Deboer for \$162,000.00.
- b. Authorizing the Closing Agent or other appropriate party to pay out of the proceeds of the sale to the first mortgagee Wells Fargo Bank, N.A. (in the approximate amount of \$220,000.00); all incidental closing costs, including *ad valorem* taxes, title insurance, and related costs, if any;
- c. Directing the Closing Agent or other appropriate party to provide the United States Trustee's Office a Closing Statement within fourteen (14) days from the closing;
- d. any further relief this Court may deem just and proper.

Respectfully submitted this 7th day of August, 2017.

The Guard Law Group, PLLC

/s/ Pierce J. Guard, Jr.

Pierce J. Guard, Jr., Esquire

Fla. Bar No. 162388

2511 Orleans Avenue

Lakeland, FL 33803

(863) 619-7331

Attorney for Debtors

(This space is intentionally left blank)

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been delivered electronically or by regular U.S. Mail to the following:

| | |
|--|---|
| U.S. TRUSTEE 501 E. Polk Street, STE 1200 Tampa, FL 33602 | Wells Fargo Bank, N.A. 420 Montgomery Street San Francisco, CA 94163 |
| Corporation Service Company as Resident Agent for Wells Fargo Bank, N.A. 1201 Hays Street Tallahassee, FL 32301-2525 | Matthew Holtsinger, Esquire Kass Shuler, P.A. 1505 N. Florida Avenue Tampa, FL 33602 |

and to all parties in interest on the attached matrix on this 7th day of August, 2017.

/s/ Pierce J. Guard, Jr.
PIERCE J. GUARD, JR., ESQ.

EXHIBIT “A”

EXHIBIT “A”

EXHIBIT “A”

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EXHIBIT “A”



Vacant Land Contract

1- 1. Sale and Purchase: WILLIAM MAC VANDERPOOL JR AND KIMBERLY D. VANDERPOOL ("Seller")
2- and DAVID DEBOER ("Buyer")
3- (the "parties") agree to sell and buy on the terms and conditions specified below the property ("Property")
4- described as:
5- Address: US HIGHWAY 542 W Winter Haven FL 33880
6- Legal Description: BEG NW COR OF SEC RUN S 2623.5 FT TO NLY R/W SR S-542 E 330.03 FT FOR POB
7- CONT E 330.03 FT N 641.33 FT W 330 FT S 645.66 FT TO POB LESS RD R/W, PER COUNTY RECORDS.

8-
9-
10-
11- SEC /TWP /RNG of County, Florida. Real Property ID No.: 25282200000034050
12- including all improvements existing on the Property and the following additional property:
13-

14- 2. Purchase Price: (U.S. currency) \$ 162,000.00
15- All deposits will be made payable to "Escrow Agent" named below and held in escrow by:
16- Escrow Agent's Name: Integrity First Title Karen Nunez
17- Escrow Agent's Contact Person: Karen Nunez
18- Escrow Agent's Address: 3205 South Florida Ave, Lakeland, FL 33803
19- Escrow Agent's Phone: 813-646-7538
20- Escrow Agent's Email: knunez@integrity1st.com

- (a) Initial deposit (\$0 if left blank) (Check if applicable)
[] accompanies offer
[X] will be delivered to Escrow Agent within 3 days (3 days if left blank) after Effective Date following 3rd party approval \$ 1,000.00
(b) Additional deposit will be delivered to Escrow Agent (Check if applicable)
[] within days (10 days if left blank) after Effective Date
[] within days (3 days if left blank) after expiration of Feasibility Study Period \$ 0.00
(c) Total Financing (see Paragraph 5) (express as a dollar amount or percentage) \$ 0.00
(d) Other: \$ 0.00
(e) Balance to close (not including Buyer's closing costs, prepaid items, and prorations) to be paid at closing by wire transfer or other Collected funds \$ 161,000.00
(f) [] (Complete only if purchase price will be determined based on a per unit cost instead of a fixed price.) The unit used to determine the purchase price is [] lot [] acre [] square foot [] other (specify): prorating areas of less than a full unit. The purchase price will be \$ per unit based on a calculation of total area of the Property as certified to Seller and Buyer by a Florida licensed surveyor in accordance with Paragraph 7(c). The following rights of way and other areas will be excluded from the calculation:

38- 3. Time for Acceptance; Effective Date: Unless this offer is signed by Seller and Buyer and an executed copy
39- delivered to all parties on or before March 31, 2017, this offer will be withdrawn and Buyer's deposit, if
40- any, will be returned. The time for acceptance of any counter offer will be 3 days after the date the counter offer is
41- delivered. The "Effective Date" of this contract is the date on which the last one of the Seller and Buyer
42- has signed or initialed and delivered this offer or the final counter offer.

43- 4. Closing Date: This transaction will close on April 28, 2017 ("Closing Date"), unless specifically
44- extended by other provisions of this contract. The Closing Date will prevail over all other time periods including,
45- but not limited to, Financing and Feasibility Study periods. However, if the Closing Date occurs on a Saturday,
46- Sunday, or national legal holiday, it will extend to 5:00 p.m. (where the Property is located) of the next business
47- day. In the event insurance underwriting is suspended on Closing Date and Buyer is unable to obtain property
48- insurance, Buyer may postpone closing for up to 5 days after the insurance underwriting suspension is lifted. If
49- this transaction does not close for any reason, Buyer will immediately return all Seller provided documents and
50- other items.

Buyer (DD) and Seller (WV) acknowledge receipt of a copy of this page, which is 1 of 7 pages.

5. Financing: (Check as applicable)

(a) Buyer will pay cash for the Property with no financing contingency.
(b) This contract is contingent on Buyer qualifying for and obtaining the commitment(s) or approval(s) specified below ("Financing") within _____ days after Effective Date (Closing Date or 30 days after Effective Date, whichever occurs first, if left blank) ("Financing Period"). Buyer will apply for Financing within _____ days after Effective Date (5 days if left blank) and will timely provide any and all credit, employment, financial, and other information required by the lender. If Buyer, after using diligence and good faith, cannot obtain the Financing within the Financing Period, either party may terminate this contract and Buyer's deposit(s) will be returned.

(1) New Financing: Buyer will secure a commitment for new third party financing for \$ _____ or _____% of the purchase price at (Check one) a fixed rate not exceeding _____% an adjustable interest rate not exceeding _____% at origination (a fixed rate at the prevailing interest rate based on Buyer's creditworthiness if neither choice is selected). Buyer will keep Seller and Broker fully informed of the loan application status and progress and authorizes the lender or mortgage broker to disclose all such information to Seller and Broker.

(2) Seller Financing: Buyer will execute a first second purchase money note and mortgage to Seller in the amount of \$ _____, bearing annual interest at _____% and payable as follows: _____ N/A
The mortgage, note, and any security agreement will be in a form acceptable to Seller and will follow forms generally accepted in the county where the Property is located; will provide for a late payment fee and acceleration at the mortgagee's option if Buyer defaults; will give Buyer the right to prepay without penalty all or part of the principal at any time(s) with interest only to date of payment; will be due on conveyance or sale; will provide for release of contiguous parcels, if applicable; and will require Buyer to keep liability insurance on the Property, with Seller as additional named insured. Buyer authorizes Seller to obtain credit, employment, and other necessary information to determine creditworthiness for the financing. Seller will, within 10 days after Effective Date, give Buyer written notice of whether or not Seller will make the loan.

(3) Mortgage Assumption: Buyer will take title subject to and assume and pay existing first mortgage to _____ N/A
LN# _____ in the approximate amount of \$ _____ currently payable at \$ _____ per month, including principal, interest, taxes and insurance, and having a fixed other (describe) _____ N/A
interest rate of _____% which will will not escalate upon assumption. Any variance in the mortgage will be adjusted in the balance due at closing with no adjustment to purchase price. Buyer will purchase Seller's escrow account dollar for dollar. If the interest rate upon transfer exceeds _____% or the assumption/transfer fee exceeds \$ _____, either party may elect to pay the excess, failing which this contract will terminate; and Buyer's deposit(s) will be returned. If the lender disapproves Buyer, this contract will terminate; and Buyer's deposit(s) will be returned.

6. Assignability: (Check one) Buyer may assign and thereby be released from any further liability under this contract, may assign but not be released from liability under this contract, or may not assign this contract.

7. Title: Seller has the legal capacity to and will convey marketable title to the Property by statutory warranty deed special warranty deed other (specify) _____, free of liens, easements, and encumbrances of record or known to Seller, but subject to property taxes for the year of closing; covenants, restrictions, and public utility easements of record; existing zoning and governmental regulations; and (list any other matters to which title will be subject) _____ provided there exists at closing no violation of the foregoing.

(a) Title Evidence: The party who pays for the owner's title insurance policy will select the closing agent and pay for the title search, including tax and lien search if performed, and all other fees charged by closing agent. Seller will deliver to Buyer, at

(Check one) Seller's Buyer's expense and (Check one) within _____ days after Effective Date at least _____ days before Closing Date, (Check one)

(1) a title insurance commitment by a Florida licensed title insurer setting forth those matters to be discharged by Seller at or before closing and, upon Buyer recording the deed, an owner's policy in the amount of the purchase price for fee simple title subject only to the exceptions stated above. If Buyer is paying for the owner's title insurance policy and Seller has an owner's policy, Seller will deliver a copy to Buyer within 15 days after Effective Date.

Buyer (DD) () and Seller (MM) () acknowledge receipt of a copy of this page, which is 2 of 7 pages.
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(2) an abstract of title, prepared or brought current by an existing abstract firm or certified as correct by an existing firm. However, if such an abstract is not available to Seller, then a prior owner's title policy acceptable to the proposed insurer as a base for reissuance of coverage may be used. The prior policy will include copies of all policy exceptions and an update in a format acceptable to Buyer from the policy effective date and certified to Buyer or Buyer's closing agent together with copies of all documents recited in the prior policy and in the update. If such an abstract or prior policy is not available to Seller, then (1) above will be the title evidence.

(b) **Title Examination:** After receipt of the title evidence, Buyer will, within _____ days (10 days if left blank) but no later than Closing Date, deliver written notice to Seller of title defects. Title will be deemed acceptable to Buyer if (i) Buyer fails to deliver proper notice of defects or (ii) Buyer delivers proper written notice and Seller cures the defects within _____ days (30 days if left blank) ("Cure Period") after receipt of the notice. If the defects are cured within the Cure Period, closing will occur within 10 days after receipt by Buyer of notice of such cure. Seller may elect not to cure defects if Seller reasonably believes any defect cannot be cured within the Cure Period. If the defects are not cured within the Cure Period, Buyer will have 10 days after receipt of notice of Seller's inability to cure the defects to elect whether to terminate this contract or accept title subject to existing defects and close the transaction without reduction in purchase price.

(c) **Survey:** Buyer may, at Buyer's expense, have the Property surveyed and must deliver written notice to Seller, within 5 days after receiving survey but not later than 5 days before Closing Date, of any encroachments on the Property, encroachments by the Property's improvements on other lands, or deed restriction or zoning violations. Any such encroachment or violation will be treated in the same manner as a title defect and Seller's and Buyer's obligations will be determined in accordance with Paragraph 7(b).

(d) **Ingress and Egress:** Seller warrants that the Property presently has ingress and egress.

8. **Property Condition:** Seller will deliver the Property to Buyer at closing in its present "as is" condition, with conditions resulting from Buyer's inspections and casualty damage, if any, excepted. Seller will not engage in or permit any activity that would materially alter the Property's condition without the Buyer's prior written consent.

(a) **Inspections:** (Check (1) or (2))

(1) **Feasibility Study:** Buyer will, at Buyer's expense and within 20 days (30 days if left blank) ("Feasibility Study Period") after Effective Date and in Buyer's sole and absolute discretion, determine whether the Property is suitable for Buyer's intended use. During the Feasibility Study Period, Buyer may conduct a Phase 1 environmental assessment and any other tests, analyses, surveys, and investigations ("Inspections") that Buyer deems necessary to determine to Buyer's satisfaction the Property's engineering, architectural, and environmental properties; zoning and zoning restrictions; subdivis on statutes; soil and grade; availability of access to public roads, water, and other utilities; consistency with local, state, and regional growth management plans; availability of permits, government approvals, and licenses; and other inspections that Buyer deems appropriate. If the Property must be rezoned Buyer will obtain the rezoning from the appropriate government agencies. Seller will sign all documents Buyer is required to file in connection with development or rezoning approvals. Seller gives Buyer, its agents, contractors, and assigns, the right to enter the Property at any time during the Feasibility Study Period for the purpose of conducting Inspections, provided, however, that Buyer, its agents, contractors, and assigns enter the Property and conduct Inspections at their own risk. Buyer will indemnify and hold Seller harmless from losses, damages, costs, claims, and expenses of any nature, including attorneys' fees, expenses, and liability incurred in application for rezoning or related proceedings, and from liability to any person, arising from the conduct of any and all Inspections or any work authorized by Buyer. Buyer will not engage in any activity that could result in a construction lien being filed against the Property without Seller's prior written consent. If this transaction does not close, Buyer will, at Buyer's expense, (i) repair all damages to the Property resulting from the Inspections and return the Property to the condition it was in before conducting the Inspections and (ii) release to Seller all reports and other work generated as a result of the Inspections.

Before expiration of the Feasibility Study Period, Buyer must deliver written notice to Seller of Buyer's determination of whether or not the Property is acceptable. Buyer's failure to comply with this notice requirement will constitute acceptance of the Property as suitable for Buyer's intended use in its "as is" condition. If the Property is unacceptable to Buyer and written notice of this fact is timely delivered to Seller, this contract will be deemed terminated, and Buyer's deposit(s) will be returned.

(2) **No Feasibility Study:** Buyer is satisfied that the Property is suitable for Buyer's purposes, including being satisfied that either public sewerage and water are available to the Property or the Property will be approved for the installation of a well and/or private sewerage disposal system and that existing zoning

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and other pertinent regulations and restrictions, such as subdivision or deed restrictions, concurrency, growth management, and environmental conditions, are acceptable to Buyer. This contract is not contingent on Buyer conducting any further investigations.

- (b) **Government Regulations:** Changes in government regulations and levels of service which affect Buyer's intended use of the Property will not be grounds for terminating this contract if the Feasibility Study Period has expired or if Paragraph 8(a)(2) is selected.
- (c) **Flood Zone:** Buyer is advised to verify by survey, with the lender, and with appropriate government agencies which flood zone the Property is in, whether flood insurance is required, and what restrictions apply to improving the Property and rebuilding in the event of casualty.
- (d) **Coastal Construction Control Line ("CCCL"):** If any part of the Property lies seaward of the CCCL as defined in Section 161.053, Florida Statutes, Seller will provide Buyer with an affidavit or survey as required by law delineating the line's location on the Property, unless Buyer waives this requirement in writing. The Property being purchased may be subject to coastal erosion and to federal, state, or local regulations that govern coastal property, including delineation of the CCCL, rigid coastal protection structures, beach nourishment, and the protection of marine turtles. Additional information can be obtained from the Florida Department of Environmental Protection, including whether there are significant erosion conditions associated with the shore line of the Property being purchased.
 Buyer waives the right to receive a CCCL affidavit or survey.

9. **Closing Procedure; Costs:** Closing will take place in the county where the Property is located and may be conducted by mail or electronic means. If title insurance insures Buyer for title defects arising between the title binder effective date and recording of Buyer's deed, closing agent will disburse at closing the net sale proceeds to Seller (in local cashier's check if Seller requests in writing at least 5 days before closing) and brokerage fees to Broker as per Paragraph 19. In addition to other expenses provided in this contract, Seller and Buyer will pay the costs indicated below.

- (a) **Seller Costs:**
 - Taxes on deed
 - Recording fees for documents needed to cure title
 - Title evidence (if applicable under Paragraph 7)
 - Other: _____

- (b) **Buyer Costs:**
 - Taxes and recording fees on notes and mortgages
 - Recording fees on the deed and financing statements
 - Loan expenses
 - Title evidence (if applicable under Paragraph 7)
 - Lender's title policy at the simultaneous issue rate
 - Inspections
 - Survey
 - Insurance
 - Other: _____

- (c) **Prorations:** The following items will be made current and prorated as of the day before Closing Date: real estate taxes (including special benefit tax liens imposed by a CDD), interest, bonds, assessments, leases, and other Property expenses and revenues. If taxes and assessments for the current year cannot be determined, the previous year's rates will be used with adjustment for any exemptions.
- (d) **Special Assessment by Public Body:** Regarding special assessments imposed by a public body, Seller will pay (i) the full amount of liens that are certified, confirmed, and ratified before closing and (ii) the amount of the last estimate of the assessment if an improvement is substantially completed as of Effective Date but has not resulted in a lien before closing; and Buyer will pay all other amounts. If special assessments may be paid in installments, Seller Buyer (Buyer if left blank) will pay installments due after closing. If Seller is checked, Seller will pay the assessment in full before or at the time of closing. Public body does not include a Homeowners' or Condominium Association.
- (e) **PROPERTY TAX DISCLOSURE SUMMARY:** BUYER SHOULD NOT RELY ON THE SELLER'S CURRENT PROPERTY TAXES AS THE AMOUNT OF PROPERTY TAXES THAT BUYER MAY BE OBLIGATED TO PAY IN THE YEAR SUBSEQUENT TO PURCHASE. A CHANGE OF OWNERSHIP OR PROPERTY IMPROVEMENTS TRIGGERS REASSESSMENTS OF THE PROPERTY THAT COULD RESULT IN HIGHER PROPERTY TAXES. IF YOU HAVE ANY QUESTIONS CONCERNING VALUATION, CONTACT THE COUNTY PROPERTY APPRAISER'S OFFICE FOR FURTHER INFORMATION.

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- (f) **Foreign Investment in Real Property Tax Act ("FIRPTA"):** If Seller is a "foreign person" as defined by FIRPTA, Seller and Buyer will comply with FIRPTA, which may require Seller to provide additional cash at closing.
 - (g) **1031 Exchange:** If either Seller or Buyer wish to enter into a like-kind exchange (either simultaneously with closing or after) under Section 1031 of the Internal Revenue Code ("Exchange"), the other party will cooperate in all reasonable respects to effectuate the Exchange including executing documents, provided, however, that the cooperating party will incur no liability or cost related to the Exchange and that the closing will not be contingent upon, extended, or delayed by the Exchange.

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10. Computation of Time: Calendar days will be used when computing time periods, except time periods of 5 days or less. Time periods of 5 days or less will be computed without including Saturday, Sunday, or national legal holidays specified in 5 U.S.C. 6103(a). Any time period ending on a Saturday, Sunday, or national legal holiday will extend until 5:00 p.m. (where the Property is located) of the next business day. Time is of the essence in this contract.

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11. Risk of Loss; Eminent Domain: If any portion of the Property is materially damaged by casualty before closing or Seller negotiates with a governmental authority to transfer all or part of the Property in lieu of eminent domain proceedings or an eminent domain proceeding is initiated, Seller will promptly inform Buyer. Either party may terminate this contract by written notice to the other within 10 days after Buyer's receipt of Seller's notification, and Buyer's deposit(s) will be returned, failing which Buyer will close in accordance with this contract and receive all payments made by the governmental authority or insurance company, if any.

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12. Force Majeure: Seller or Buyer will not be required to perform any obligation under this contract or be liable to each other for damages so long as the performance or non-performance of the obligation is delayed, caused, or prevented by an act of God or force majeure. An "act of God or force majeure" is defined as hurricanes, earthquakes, floods, fire, unusual transportation delays, wars, insurrections, and any other cause not reasonably within the control of Seller or Buyer and which by the exercise of due diligence the non-performing party is unable in whole or in part to prevent or overcome. All time periods, including Closing Date, will be extended for the period that the act of God or force majeure is in place. However, in the event that such act of God or force majeure event continues beyond 30 days, either party may terminate this contract by delivering written notice to the other; and Buyer's deposit(s) will be returned.

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13. Notices: All notices will be in writing and delivered to the parties and Broker by mail, personal delivery, or electronic means. Buyer's failure to timely deliver written notice to Seller, when such notice is required by this contract, regarding any contingency will render that contingency null and void, and this contract will be construed as if the contingency did not exist. Any notice, document, or item delivered to or received by an attorney or licensee (including a transactions broker) representing a party will be as effective as if delivered to or received by that party.

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14. Complete Agreement; Persons Bound: This contract is the entire agreement between Seller and Buyer. Except for brokerage agreements, no prior or present agreements will bind Seller, Buyer, or Broker unless incorporated into this contract. Modifications of this contract will not be binding unless in writing, signed or initialed, and delivered by the party to be bound. Electronic signatures will be acceptable and binding. This contract, signatures, initials, documents referenced in this contract, counterparts, and written modifications communicated electronically or on paper will be acceptable for all purposes, including delivery, and will be binding. Handwritten or typewritten terms inserted in or attached to this contract prevail over preprinted terms. If any provision of this contract is or becomes invalid or unenforceable, all remaining provisions will continue to be fully effective. Seller and Buyer will use diligence and good faith in performing all obligations under this contract. This contract will not be recorded in any public record. The terms "Seller," "Buyer," and "Broker" may be singular or plural. This contract is binding on the heirs, administrators, executors, personal representatives, and assigns, if permitted, of Seller, Buyer, and Broker.

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15. Default and Dispute Resolution: This contract will be construed under Florida law. This Paragraph will survive closing or termination of this contract.

(a) **Seller Default:** If Seller fails, neglects, or refuses to perform Seller's obligations under this contract, Buyer may elect to receive a return of Buyer's deposit(s) without thereby waiving any action for damages resulting from Seller's breach and may seek to recover such damages or seek specific performance. Seller will also be liable for the full amount of the brokerage fee.

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(b) Buyer Default: If Buyer fails, neglects, or refuses to perform Buyer's obligations under this contract, including payment of deposit(s), within the time(s) specified, Seller may elect to recover and retain the deposit(s), paid and agreed to be paid, for the account of Seller as agreed upon liquidated damages, consideration for execution of this contract, and in full settlement of any claims, whereupon Seller and Buyer will be relieved from all further obligations under this contract, or Seller, at Seller's option, may proceed in equity to enforce Seller's rights under this contract.

16. Escrow Agent; Closing Agent: Seller and Buyer authorize Escrow Agent and closing agent (collectively "Agent") to receive, deposit, and hold funds and other items in escrow and, subject to Collection, disburse them upon proper authorization and in accordance with Florida law and the terms of this contract, including disbursing brokerage fees, "Collection" or "Collected" means any checks tendered or received have become actually and finally collected and deposited in the account of Agent. The parties agree that Agent will not be liable to any person for misdelivery of escrowed items to Seller or Buyer, unless the misdelivery is due to Agent's willful breach of this contract or gross negligence. If Agent interpleads the subject matter of the escrow, Agent will pay the filing fees and costs from the deposit and will recover reasonable attorneys' fees and costs to be paid from the escrowed funds or equivalent and charged and awarded as court costs in favor of the prevailing party.

17. Professional Advice; Broker Liability: Broker advises Seller and Buyer to verify all facts and representations that are important to them and to consult an appropriate professional for legal advice (for example, interpreting this contract, determining the effect of laws on the Property and this transaction, status of title, foreign investor reporting requirements, the effect of property lying partially or totally seaward of the CCCL, etc.) and for tax, property condition, environmental, and other specialized advice. Buyer acknowledges that Broker does not reside in the Property and that all representations (oral, written, or otherwise) by Broker are based on Seller representations or public records. Buyer agrees to rely solely on Seller, professional inspectors, and government agencies for verification of the Property condition and facts that materially affect Property value. Seller and Buyer respectively will pay all costs and expenses, including reasonable attorneys' fees at all levels, incurred by Broker and Broker's officers, directors, agents, and employees in connection with or arising from Seller's or Buyer's misstatement or failure to perform contractual obligations. Seller and Buyer hold harmless and release Broker and Broker's officers, directors, agents, and employees from all liability for loss or damage based on (i) Seller's or Buyer's misstatement or failure to perform contractual obligations; (ii) the use or display of listing data by third parties, including, but not limited to, photographs, images, graphics, video recordings, virtual tours, drawings, written descriptions, and remarks related to the Property; (iii) Broker's performance, at Seller's or Buyer's request, of any task beyond the scope of services regulated by Chapter 475, Florida Statutes, as amended, including Broker's referral, recommendation, or retention of any vendor; (iv) products or services provided by any vendor; and (v) expenses incurred by any vendor. Seller and Buyer each assume full responsibility for selecting and compensating their respective vendors. This Paragraph will not relieve Broker of statutory obligations. For purposes of this Paragraph, Broker will be treated as a party to this contract. This Paragraph will survive closing.

18. Commercial Real Estate Sales Commission Lien Act: If the Property is commercial real estate as defined by Section 475.701, Florida Statutes, the following disclosure will apply: The Florida Commercial Real Estate Sales Commission Lien Act provides that when a broker has earned a commission by performing licensed services under a brokerage agreement with you, the broker may claim a lien against your net sales proceeds for the broker's commission. The broker's lien rights under the act cannot be waived before the commission is earned.

19. Brokers: The brokers named below are collectively referred to as "Broker." Instruction to closing agent: Seller and Buyer direct closing agent to disburse at closing the full amount of the brokerage fees as specified in separate brokerage agreements with the parties and cooperative agreements between the Brokers, except to the extent Broker has retained such fees from the escrowed funds. This Paragraph will not be used to modify any MLS or other offer of compensation made by Seller or Seller's Broker to Buyer's Broker.

(a) CENTURY 21 MYERS REALTY (Seller's Broker) will be compensated by Seller Buyer both parties pursuant to a listing agreement other (specify):

(b) LAMOND REALTY INC. (Buyer's Broker) will be compensated by Seller Buyer both parties Seller's Broker pursuant to a MLS offer of compensation other (specify):

Buyer DD and Seller MM/NOY acknowledge receipt of a copy of this page, which is 6 of 7 pages.

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20. Additional Terms: SALE CONTINGENT UPON SELLER'S LENDER APPROVAL.

SELLER AGREES THAT THE INSPECTION PERIOD WILL BEGIN
WHEN BUYER IS NOTIFIED OF BANK/LENDER APPROVAL OF CONTRACT.
THE ESCROW DEPOSIT WILL BE MADE WITHIN 3 DAYS OF
THE BUYER BEING NOTIFIED OF BANK/LENDER APPROVAL OF
CONTRACT.

341 This is intended to be a legally binding contract. If not fully understood, seek the advice of an attorney before
342 signing.

343 Buyer: David deBoer
344 Print name: _____ Date: 3/29/2017

345 Buyer: _____
346 Print name: _____ Date: _____

347 Buyer's address for purpose of notice: _____
348 Address: _____

349 Phone: _____ Fax: _____ Email: _____

350 Seller: William Mac Vandepool Jr.
351 Print name: William Mac Vandepool Jr Date: 3-30-17

352 Seller: Kimberly D. Vandepool
353 Print name: Kimberly D. Vandepool Date: 3-30-17

354 Seller's address for purpose of notice: _____
355 Address: _____

356 Phone: _____ Fax: _____ Email: _____

357 **Effective Date:** 3/30/17 (The date on which the last party signed or initialed and delivered the
358 **final offer or counter offer.**)

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