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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

United States Securities and Exchange
Commission,

Plaintiff,

v.

Jonathan Larmore, et al.,

Defendants, and

Michelle Larmore; Marcia Larmore;
CSL Investments, LLC;
MML Investments, LLC;
Spike Holdings, LLC;
and JMMAL Investments, LLC,

Relief Defendants.

No. CV-23-02470-PHX-DLR

**ORDER (I) APPROVING (A) THE
SALE OF THE REAL PROPERTY
LOCATED AT 900 WEST MARION
AVENUE, PUNTA GORDA,
FLORIDA, AND OWNED BY 900
WEST MARION AVENUE FL, LLC,
FREE AND CLEAR OF ALL LIENS,
CLAIMS, ENCUMBRANCES AND
INTERESTS, AND (B) GRANTING
RELATED RELIEF**

The Court having considered the Receiver’s Motion for Orders: (I) approving (a) the Receiver’s engagement and compensation of Marcus & Millichap Real Estate Investment Services (“Marcus & Millichap”) as broker for the sale of real property located at 900 West Marion Avenue, Punta Gorda, Florida 33950, including all buildings, equipment, furniture and fixtures located thereon (the “Property”), owned by Receivership Entity, 900 West Marion Avenue FL, LLC (“900 West Marion”), and (b) the proposed bidding and auction procedures (the “Sale Procedures”) for the sale of the Property; and (II) approving the sale of the Property to Harborview Property Holdings LLC (“Stalking Horse Buyer”) pursuant to the Asset Purchase Agreement dated as of

1 November 11, 2024 (the “Stalking Horse Agreement”) or such other bidder that submits a
2 higher and better offer at a public auction, free and clear of all liens, claims,
3 encumbrances and interests (the “Motion”); and upon consideration of any and all
4 responses and replies relating to the Motion, including the letter submitted by the Military
5 Heritage Museum (the “Museum”) dated January 20, 2025 (Doc. 298) (the “Museum
6 Letter”) setting forth certain concerns with its lease (the “Museum Lease”); and upon
7 finding that due and sufficient notice of the Motion has been given and no other or further
8 notice need be given; and after due deliberation and it appearing that the relief sought in
9 the Motion is in the best interest of the Receivership Estate, its creditors, and other parties
10 in interest,

11 **IT IS HEREBY FOUND, DETERMINED, AND CONCLUDED THAT:¹**

12 1. This Court has jurisdiction over this matter, the above-captioned defendants
13 and relief defendants, and over the property of each Receivership Estate.

14 2. The approval of the sale of the Property is within the sound legal discretion
15 of this Court.

16 3. It is necessary and appropriate for this Court to retain jurisdiction to, among
17 other things, (a) interpret, implement, and enforce the terms and provisions of this Order,
18 the Stalking Horse Agreement, all amendments to the Stalking Horse Agreement, any
19 waivers and consents under the Stalking Horse Agreement, and each of the agreements
20 executed in connection with the Stalking Horse Agreement, (b) any agreement provided
21 by a Qualified Bidder in connection with the Auction (a “Qualified Bid PSA”), all
22 amendments to any Qualified Bid PSA, any waivers and consents under any Qualified
23 Bid PSA, and each of the agreements executed in connection with any Qualified Bid
24 PSA, and (c) to adjudicate, if necessary, any and all disputes concerning or relating in any
25 way to the sale of the Property, and such jurisdiction is retained.

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¹ Capitalized, undefined terms shall have the meanings ascribed to them in the Motion.

1 Bidder”) was selected by the Receiver as the Successful Bidder with a cash offer in the
2 amount of \$3,050,000.00 for the Property (the “Successful Bid”).

3 15. A true and correct copy of the Stalking Horse Agreement applicable to the
4 Successful Bidder is attached to this Order as Exhibit A and incorporated in this
5 paragraph by reference.

6 16. The Successful Bidder submitted the highest or otherwise best offer to
7 purchase the Property.

8 17. Neither the sale of the Property nor the Stalking Horse Agreement violate
9 or are otherwise inconsistent with the Sale Procedures Order, the Sale Procedures, or
10 applicable law.

11 18. The Successful Bid and Stalking Horse Agreement constitute the highest
12 and best offer for the Property and will provide a greater recovery for each Receivership
13 Estate’s creditors than would be provided by any other practical alternative.

14 19. The Receiver’s determination that the Successful Bid and Stalking Horse
15 Agreement constitute the highest and best offer for the Property constitutes a valid and
16 sound exercise of the Receiver’s reasonable business judgment.

17 20. The Successful Bid and Stalking Horse Agreement represent a fair and
18 reasonable offer to purchase the Property under the circumstances of this receivership
19 case.

20 21. The Receiver’s decision to sell the Property to the Successful Bidder
21 pursuant to the Stalking Horse Agreement and this Order is supported by good business
22 reasons and sound justification based upon the Receiver’s experience and the
23 circumstances presented in this case.

24 **GOOD FAITH OF THE SUCCESSFUL BIDDER**

25 22. The Successful Bidder is an independent legal entity separate and distinct
26 from the Receiver or any other party to this case. The Successful Bidder is not an
27 affiliate, subsidiary, or other insider of any of the parties to this case or the Receiver. The
28 Successful Bidder has no common equity holders, directors, managers, or officers with

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2 any of the parties to this case or the Receiver. The Successful Bidder is not a mere
3 continuation of the Defendants and there is no continuity of enterprise among the parties
4 to this case or the Receiver. The Successful Bidder is not holding itself out to the public
5 as a continuation of the Defendants or the Receiver.

6 23. The terms of the sale of the Property, as set forth more specifically in the
7 Stalking Horse Agreement, are fair and reasonable under the circumstances.

8 24. The sale of the Property to the Successful Bidder in all respects complies
9 with the Sale Procedures, Sale Procedures Order, and applicable law.

10 25. The Successful Bidder negotiated the terms and conditions of the sale of the
11 Property in good faith and at arm's length.

12 26. The Successful Bidder is entering into the Stalking Horse Agreement and
13 sale of the Property in good faith and is a good faith purchaser for value.

14 27. The Successful Bidder will be acting in good faith in closing the sale of the
15 Property pursuant to the Stalking Horse Agreement after entry of this Order.

16 28. This Court has found that the Successful Bidder has acted in good faith in
17 all respects in connection with this case, the Sale Procedures, the Auction, and the sale of
18 the Property.

19 **NO FRAUDULENT TRANSFER**

20 29. The consideration provided for the Property under the Stalking Horse
21 Agreement: (a) is fair and reasonable; (b) is the highest or otherwise best offer for the
22 Property; and (c) constitutes reasonably equivalent value for the Property.

23 **VALIDITY OF TRANSFER**

24 30. The Receiver's transfer of the Property including fee title to the real
25 property along with this Order will be a legal, valid, and effective transfer of the Property
26 including fee title to the real property and will indefeasibly vest the Successful Bidder
27 with good and valid title in and to the Property free and clear of any Liens and
28 Encumbrances (as defined below).

1 31. The Receiver has full power and authority to execute and consummate the
2 Stalking Horse Agreement and all related documents and is directed to do so, and no
3 consents or approvals (other than those expressly provided for in the Stalking Horse
4 Agreement) are required to consummate the transactions contemplated by the Stalking
5 Horse Agreement and this Order.

6 32. The Receiver (i) has all rights and powers with respect to the Receivership
7 Estate, including the Property, (ii) possesses good, valid, and marketable title to the
8 Property, and (iii) has the ability and authority to convey the Property to the Successful
9 Bidder on the terms and conditions set forth in the Stalking Horse Agreement and this
10 Order.

11 33. The Receiver and Successful Bidder proposed, negotiated, and entered into
12 the Stalking Horse Agreement without collusion, in good faith, and from arm's length
13 bargaining positions.

14 34. Neither the Receiver nor the Successful Bidder have engaged in any
15 conduct that would cause or permit the Stalking Horse Agreement or transactions
16 contemplated thereby to be avoided or otherwise set aside.

17 **THE SALE IS IN THE BEST INTEREST OF**
18 **THE RECEIVERSHIP ESTATE AND ITS CREDITORS**

19 35. The approval and consummation of the sale of the Property pursuant to and
20 in accordance with the Stalking Horse Agreement and this Order is in the best interest of
21 the Receivership Estate and its creditors.

22 **NOW, THEREFORE, BASED UPON THE FOREGOING FINDINGS**
23 **AND THE RECORD BEFORE THIS COURT, IT IS HEREBY**

24 **ORDERED** that the Motion (Doc. 286) is **GRANTED** as set forth in this Order;
25 and it is further

26 **ORDERED** that all objections to the Motion concerning the Auction, Successful
27 Bid, Successful Bidder, marketing process employed by the Receiver, Stalking Horse
28 Agreement or otherwise relating to the sale of the Property and relief granted in this

1 Order that have not been withdrawn, waived, resolved, sustained, or settled are expressly
2 denied and overruled in their entirety; and it is further

3 **ORDERED** that the Stalking Horse Agreement, as set forth in Exhibit A to this
4 Order, is approved in its entirety; and it is further

5 **ORDERED** that the Property includes fee title to the real estate, free and clear of
6 all Liens and Encumbrances in accordance with the Stalking Horse Agreement and this
7 Order; and it is further

8 **ORDERED** that the Receiver is authorized to take all actions to consummate the
9 sale of the Property pursuant to and in accordance with the Stalking Horse Agreement
10 and this Order, including transferring and conveying the Property to the Successful
11 Bidder; and it is further

12 **ORDERED** that the Receiver is authorized, directed, and empowered to
13 consummate and implement fully the Stalking Horse Agreement, together with all
14 additional instruments and documents that may be necessary or desirable to implement
15 and consummate the sale of the Property in accordance with the Stalking Horse
16 Agreement and this Order; and it is further

17 **ORDERED** that the Receiver is authorized and directed to take all actions
18 necessary or desirable for the purpose of assigning, transferring, granting, conveying, and
19 conferring the Property to the Successful Bidder; and it is further

20 **ORDERED** that, time being of the essence, the Successful Bidder is directed to
21 use its best efforts to close the sale of the Property in accordance with the terms of the
22 Stalking Horse Agreement and this Order, but in no event shall closing occur more than
23 thirty-five (35) days after entry of this Order; and it is further

24 **ORDERED** that, in the Receiver's sole discretion, any agreements, documents, or
25 other instruments executed in connection with the Stalking Horse Agreement may be
26 modified, amended, or supplemented by the Receiver and Successful Bidder in
27 accordance with the terms of the Stalking Horse Agreement, without further notice or
28 order of this Court, provided that any such modification, amendment, or supplement does

1 not have a material adverse effect on the Receivership Estate; and it is further

2 **ORDERED** that at the closing of the sale to the Successful Bidder, the Receiver is
3 authorized to pay the undisputed amounts due and owing to the Mortgage Lender in
4 accordance with the Carveout Agreement executed as of August 20, 2024 (the “Carveout
5 Agreement”) between the Receiver and StanCorp Mortgage Investors, LLC
6 (“StanCorp”), as representative and servicer for the Mortgage Lender; and it is further

7 **ORDERED** that the transfer of the Property to the Successful Bidder shall be free
8 and clear of any and all liens, encumbrances, claims, charges, defenses, offsets,
9 recoupments, and interests on the foregoing and against the foregoing of whatever type or
10 description, including, without limitation, the Mortgage, tax claims and tax liens, and any
11 restrictions on or conditions to transfer or assignment, liens, mortgages, security interests,
12 pledges, hypothecations, control agreements, equities and other claims and interests
13 having arisen, existed, or accrued prior to and through the Closing Date (as defined in the
14 Stalking Horse Agreement), whether direct or indirect, monetary or non-monetary,
15 arising at law or in equity, contract or tort, absolute or contingent, matured or unmatured,
16 voluntary or involuntary, liquidated or unliquidated, of, by, or against the Property
17 (collectively, the “Liens and Encumbrances”); and it is further

18 **ORDERED** that any and all Liens and Encumbrances not satisfied or waived at
19 closing on the sale will attach to the net proceeds of the sale of the Property with the
20 same effect, validity, enforceability, and priority as such Liens and Encumbrances had
21 against the Property prior to the sale authorized by this Order, subject to any rights,
22 claims, defenses, and objections of the Receiver and all interested parties with respect to
23 such Liens and Encumbrances; and it is further

24 **ORDERED** that the provisions of this Order authorizing the sale of the Property
25 free and clear of any and all Liens and Encumbrances shall be, and are, self-executing,
26 and the Receiver and Successful Bidder shall not be required, but are permitted in their
27 discretion, to execute or file releases, termination statements, assignments, consents, or
28 other instruments in order to effectuate, consummate, and implement the provisions of

1 the Stalking Horse Agreement and this Order; and it is further

2 **ORDERED** that this Order is effective as a determination that any and all Liens
3 and Encumbrances, if any, will be, and are, without further action by any person or entity,
4 unconditionally released, discharged, and terminated with respect to the Property; and it
5 is further

6 **ORDERED** that all persons who hold Liens and Encumbrances against the
7 Property are forever estopped and permanently enjoined from asserting or prosecuting
8 any claims or causes of action against the Successful Bidder, its affiliates, successors or
9 assigns, or any of their respective officers, directors, employees, attorneys or advisors,
10 arising out of or in connection with the sale of the Property or any liabilities owed by the
11 above-captioned Defendants and Relief Defendants; and it is further

12 **ORDERED** that the transfer of the Property to the Successful Bidder may not be
13 avoided under any applicable law, because the Successful Bidder is providing the
14 Receivership Estates with reasonably equivalent value; and it is further

15 **ORDERED** that no party shall have any rights of redemption with respect to the
16 Property; and it is further

17 **ORDERED** that all entities that are presently, or upon the Closing Date may be,
18 in possession of some or all of the Property are directed to surrender possession of the
19 Property to the Receiver or the Receiver's designee; and it is further

20 **ORDERED** that neither the purchase of the Property nor the subsequent operation
21 of the Property by the Successful Bidder shall cause the Successful Bidder or its
22 affiliates, successors, or assigns or their respective properties to be deemed a successor in
23 any respect of the Receivership Entities' or the above-captioned Defendants' business
24 operations within the meaning of any laws, rules, or regulations relating to any tax,
25 revenue, pension, benefit, ERISA, environmental, labor, employment, products liability,
26 or other law, rule, or regulation of any federal, state, or local government; and it is further

27 **ORDERED** that the sale to the Successful Bidder shall be subject to the Museum
28 Lease, and, notwithstanding anything contained in the Sale Agreement, the only assets

1 transferred, conveyed and sold to the Successful Bidder are assets that are property of the
2 Seller and no assets or property belonging to the Museum shall be transferred, conveyed
3 or sold to the Successful Bidder; and it is further

4 **ORDERED** that, prior to the Closing Date, Seller shall reimburse the Museum for
5 certain expenses in connection with the Museum Lease as set forth in invoices delivered
6 to the Receiver on January 31, 2025, in an amount not to exceed \$23,800; and it is further

7 **ORDERED** that, upon the Closing Date, this Order and the documents executed
8 in connection with and pursuant to this Order constitute a full and complete general
9 assignment, conveyance, and transfer of the Property or a deed or a bill of sale
10 transferring good and marketable title in the Property to the Successful Bidder on the
11 Closing Date free and clear of all Liens and Encumbrances, and each and every federal,
12 state, and local governmental agency or department is directed to accept this Order as
13 such an assignment, deed, or bill of sale or any and all documents and instruments
14 necessary and appropriate to consummate the transactions contemplated by the Stalking
15 Horse Agreement and this Order; and it is further

16 **ORDERED** that, if necessary, this Order shall be accepted for recordation on or
17 after the Closing Date as conclusive evidence of the free and clear, unencumbered
18 transfer of title to the Property to the Successful Bidder; and it is further

19 **ORDERED** that this Court retains exclusive jurisdiction to (a) enforce and
20 implement the Stalking Horse Agreement and any other agreements, documents, and
21 instruments executed in connection with the Stalking Horse Agreement, (b) compel
22 delivery of possession of the Property (or any part of the Property) to the Successful
23 Bidder, (c) resolve any disputes, controversies, or claims arising out of or relating to the
24 Stalking Horse Agreement, this Order, or the sale of the Property, and (d) interpret,
25 implement, and enforce the provisions of this Order; and it is further

26 **ORDERED** that the terms and conditions of the Stalking Horse Agreement and
27 this Order will be binding in all respects upon, and will inure to the benefit of, the
28 Receiver, the Receivership Estate, each of the Receivership Entities, the Successful

1 Bidder, and their respective affiliates, successors and assigns, and any affected third
2 parties; and it is further

3 **ORDERED** that, the Receiver, Marcus & Millichap and their representatives and
4 professionals shall not be liable or bound to any person including the Successful Bidder,
5 in any manner by expressed or implied warranties, guarantees, promises, statements,
6 representations or information pertaining to the Property, made or furnished by any of
7 them or any other real estate broker, agent, employee, servant or other person or
8 professional representing or purporting to represent the Receiver and Marcus &
9 Millichap, unless such warranties, guaranties, promises, statements, representations or
10 information are expressly and specifically set forth in writing within the Stalking Horse
11 Agreement; and it is further

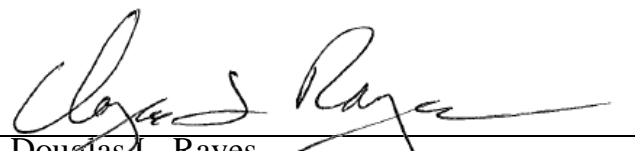
12 **ORDERED** that, to the extent of any inconsistency between the provisions of any
13 agreements, documents, or other instruments executed in connection with the Stalking
14 Horse Agreement and this Order, the provisions of this Order control; and it is further

15 **ORDERED** that the Receiver is authorized to pay Marcus & Millichap its
16 commission in accordance with the M&M Agreement on the Closing Date at the closing
17 of the sale of the Property; and it is further

18 **ORDERED** that the Receiver shall hold all excess proceeds of the sale not
19 necessary to close on the sale of the Property in accordance with this Order and the
20 Stalking Horse Agreement, in a designated account pending further order of the Court;
21 and it is further

22 **ORDERED** that there is no just delay for the implementation of this Order and,
23 for all purposes, this Order shall be a final order upon its entry with respect to the sale of
24 the Property and other relief granted in this Order.

25 Dated this 4th day of February, 2025.

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Douglas L. Rayes
Senior United States District Judge

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EXHIBIT A

EXECUTION COPY

ASSET PURCHASE AGREEMENT

his Asset Purchase Agreement (this “**Agreement**”) is entered into as of November __, 2024 (the “**Effective Date**”) by and between HARBORVIEW PROPERTY HOLDINGS, LLC, a Florida limited liability company, and its permitted assigns (“**Buyer**”), and 900 West Marion Avenue FL LLC (the “**Seller**”), by Allen D. Applbaum as Receiver in the matter of Securities and Exchange Commission v. Jonathan Larmore, et al., Case No. 2:23-cv-02470-PHX-DLR in the United States District Court for the District of Arizona (the “**Receiver**”).

WITNESSETH

WHEREAS, the Receiver has been appointed as receiver for Jonathan M. Larmore, ArciTerra Companies, LLC and related entities, including Seller (collectively, the “**Receivership Estates**”) pursuant to that certain Order Appointing Receiver and Freezing Assets and Imposing Litigation Injunction dated May 6, 2024 (the “**Receivership Order**”) issued by the United States District Court for the District of Arizona (the “**Court**”), Case No. 23-CV-02470-PHX-DLR; and

WHEREAS, pursuant to the Receivership Order, the Receiver is authorized to take and have complete and exclusive control, possession, and custody of all of Seller’s rights, title, and interests in the Seller’s property; and

WHEREAS, Seller is the owner of certain real property consisting of approximately 3.98 acres located at 900 W Marion Ave, Punta Gorda, FL 33950 (the “**Real Property**”), together with any buildings and improvements thereon, more particularly described on **Schedule A-1** annexed hereto and made a part hereof, and related personal property as described on **Schedule A-2** (the “**Personal Property**” and together with the Real Property and the Intangible Property, as hereinafter defined, collectively the “**Property**”); and

WHEREAS, the Receiver has determined that it is in the best interests of the Receivership Estates and their beneficiaries to consummate the transactions provided for herein, subject to approval by the Court, and Buyer desires to purchase the Property pursuant to those terms and conditions and this Agreement.

NOW, THEREFORE, in consideration of the premises and the respective undertakings of Seller and Buyer hereinafter set forth, and other good and valuable consideration, the receipt and sufficiency of which consideration are hereby acknowledged, it is hereby agreed as follows:

I.
DEFINITIONS

1.1 Definitions.

For purposes of this Agreement, the following terms have the meanings specified or referenced below.

“**Agreement**” has the meaning set forth in the introductory paragraph.

“**Auction**” shall mean the auction scheduled by the Court in the Bidding Procedures Order to consider higher and better offers as determined by the Receiver for the purchase of the Property.

“**Auction Price**” means the highest and best sale price for the Property established at the conclusion of the Auction.

“**Bidding Procedures Order**” shall mean such Order entered by the Court, substantially in the form annexed hereto as Exhibit G, that, *inter alia*: (i) schedules the Auction and Sale Hearing, (ii) approves bidding procedures for bidders to submit offers for the Property at the Auction, and (iii) approves and authorizes payment of the Breakup Fee from the Prevailing Bidder sale proceeds to the Buyer, in the event the Prevailing Bidder is not the Buyer.

“**Breakup Fee**” means 3.3% of the Purchase Price (\$100,000) and payable to Buyer from the sale proceeds of sale to a Prevailing Bidder other than Buyer.

“**Buyer**” has the meaning set forth in the Preamble to the Agreement.

“**Broker**” shall mean Marcus and Millichap Real Estate Investment Services.

“**Closing**” has the meaning set forth in Section 5.1 of the Agreement.

“**Closing Date**” has the meaning set forth in Section 5.1 of the Agreement.

“**Contracts**” means all leases, contracts, including service, landscaping or other contracts (if and as applicable), and other agreements, if any, relating to the ownership and maintenance of the Property, copies of which are provided to Buyer with the Due Diligence Materials, together with, as applicable and to the extent applicable and in Seller’s actual possession (a) all related written warranties and guaranties, and (b) all other contracts, leases, and agreements entered into by Seller after the Effective Date as permitted pursuant to Section 7.1.

“**Court**” means the United States District Court for the District of Arizona.

“**Due Diligence Materials**” means the Contracts, Real Estate Agreements, and any other data, documents or other information supplied by the Receiver, the Receivership Estate, the Broker and their representatives to Buyer in connection with Buyer’s purchase and inspection of the Property.

“**Earnest Money**” has the meaning set forth in Section 3.2 of the Agreement.

“**Encumbrances**” means liens, mortgages, pledges, security interests, restrictions, judgments, prior assignments, liabilities, obligations, encumbrances, charges, tenancies, licenses, covenants, successor or transferee liabilities and claims of any and all nature and description whatsoever.

“**Excluded Assets**” means the Excluded Documents, cash, cash equivalents, checks and other funds, including, without limitation, Seller’s Accounts Receivable (other than the proration of rent for the Current Month, as set forth in Article XI below), notes, securities, balances on deposit to the credit of Seller with banking institutions (all of which shall be retained by Seller).

“**Excluded Documents**” means all (a) the corporate minute books and stock registers of Seller, (b) internal memoranda, correspondence, analyses, documents or reports prepared by or for

Seller or its Affiliates in connection with the sale of the Property, including, without limitation, tax returns or financial statements of Seller for or in connection with its ownership or operation of the Property, and (c) communications between Seller or any Affiliate and their respective attorneys.

“**Insurable Title**” means good and marketable title to the Real Property, free and clear of any and all Encumbrances, except Permitted Encumbrances.

“**Intangible Property**” means, if any, (a) all transferable certificates (including the certificates of occupancy for the Real Property), licenses, permits and warranties (specifically including all construction and equipment warranties and guarantees) now in effect with respect to the Property, at no cost to Seller, and (b) all development rights and goodwill related to any portion of the Property, but excluding the Excluded Assets.

“**Leases**” means those unexpired leases, occupancy or other written agreements entered into with tenants or occupants of the Property, and all amendments, modifications, supplements, renewals, and extensions thereof in the actual possession or control of Seller, copies of which have been provided to Buyer.

“**Licenses**” shall mean licenses, permits, approvals, entitlements, and other governmental authorizations (including, but not limited to, certificates of occupancy, certificates of need, insurance commission approvals, or other approvals, if applicable) issued by a governmental or administrative agency or authority (whether federal, state or local) in Seller’s possession or control in connection with the ownership, operation, planning, development, construction, use, or maintenance of the Property.

“**Parties**” refers to the Buyer and Seller together.

“**Permitted Encumbrances**” has the meaning given thereto in Section 6.2.

“**Prevailing Bidder**” means the bidder who submits the Auction Price.

“**Qualified Bid**” means a bid submitted in the Auction by a Qualified Bidder.

“**Real Property**” has the meaning set forth in in the Preamble to the Agreement.

“**Receivership Estates**” has the meaning set forth in the Preamble to the Agreement.

“**Sale Hearing**” means the hearing date scheduled by the Court to consider and approve the sale of the Property and entry of the Sale Order.

“**Sale Motion**” means that certain motion filed by the Receiver on behalf of the Receivership Estates and Seller seeking entry of the Bidding Procedures Order and Sale Order.

“**Sale Order**” means an Order of the Court authorizing and approving, *inter alia*, the sale of the Property to Buyer on the terms and conditions set forth herein, free and clear of all Encumbrances.

“**Seller**” has the meaning set forth in the introductory paragraph of the Agreement.

II.
AUCTION PROCESS; PURCHASE AND SALE

2.1 Purchased Assets. Subject to the terms and conditions hereof including approval of this Agreement by the Court, Seller shall sell, assign, transfer and convey to Buyer, free and clear of all Encumbrances other than Permitted Encumbrances, Seller's right, title and interest in and to the Property, including:

2.1.1 The Real Property, together with all rights, easements, tenements, and appurtenances pertaining to or inuring to the benefit of Seller or the Real Property;

2.1.2 All improvements, structures and fixtures owned by Seller and placed, constructed on or installed on the Real Property (including buildings, structures, fixtures, and other permanent improvements located thereon or therein, including, without limitation, walkways, driveways, parking lots, plumbing, lighting, electrical, mechanical and HVAC systems, components, equipment and fixtures installed thereon, and all rights, benefits and privileges appurtenant thereto, collectively, the "**Improvements**");

2.1.3 The Leases, with the collected rents prorated through the date of Closing and the credit for security deposits thereon pursuant to Section 11.1.3 herein;

2.1.4 All records, surveys, title notes, title policies, environmental studies and other reports, which relate to the Property, which are in the present possession or control of the Seller (the "**Records**"); and

2.1.5 All Contracts and other Intangible Property, except for those Contracts listed on Exhibit A (the "**Excluded Contracts**").

2.2 Assumption of the Contracts. Buyer or its assignee shall, on and as of the Closing Date, at its sole cost and expense, assume and agree to pay all sums and perform, fulfill and comply with all other covenants and obligations which are to be paid, performed and complied with by Seller under the Contracts, except for the Excluded Contracts, which first arise or accrue on and after the Closing Date.

2.3 Assumption of the Leases. Buyer or its assignee shall, on and as of the Closing Date, at its sole cost and expense, assume and agree to perform, fulfill and comply with all covenants and obligations which are to be performed and complied with by Seller under the Leases which first arise or accrue on and after the Closing Date.

III. PURCHASE PRICE AND EARNEST MONEY

3.1 Purchase Price. The purchase price (the "**Purchase Price**") for the Property shall be the higher of (a) Three Million Fifty Thousand and 00/100 Dollars (\$3,050,000.00), or (b) the Auction Price submitted by the Buyer at the Auction. The Purchase Price shall be payable by wire transfer in immediately available funds to the Title Company for disbursement to Seller or as Seller directs at Closing.

3.2 Earnest Money. An earnest money deposit in the amount of One Hundred Thousand and 00/100 Dollars (\$100,000) (the "**Initial Earnest Money**") shall be deposited by wire transfer in escrow with Chicago Title NCS California, 3780 Kilroy Airport Way, Suite 100, Long Beach, CA 90806; attention Jody Kelly, 213-330-3027, Jody.Kelly@ctt.com (the "**Title Company**") no later than

two days (2) days following execution of this Agreement by Buyer. If Buyer is selected as the Prevailing Bidder or Backup Bidder (as defined below) at the Auction, then within two days following such selection, Buyer shall deposit an additional earnest money deposit, such that the earnest money deposit shall be equal to five percent (5%) of the Purchase Price after the Auction (the “**Additional Earnest Money**” and together with the Initial Earnest Money, the “**Earnest Money**”).

3.3 Transfer Taxes. All transfer taxes (including, without limitation, real estate transfer taxes) shall be paid by Buyer at Closing.

IV.

SALE SUBJECT TO AUCTION AND APPROVAL OF THE COURT

4.1 Sale Motion. In connection with the transactions contemplated by this Agreement, the Receiver shall accept only the “highest and best” offer for the Property (in Receiver’s discretion and as approved in the Auction). The Parties acknowledge it is a condition precedent to the Closing that Receiver obtain approval of the sale from the Court. Upon execution of this Agreement by each of the Parties and the Receiver’s receipt of the Initial Earnest Deposit, the Receiver, on behalf of the Receivership Estates and Seller, shall file with the Court, the Sale Motion seeking entry of the Bidding Procedures Order and Sale Order. The Receiver shall affix a true and complete copy of this Agreement to the Sale Motion filed with the Court.

4.2 Court Filings. The Receiver agrees to diligently prosecute the Sale Motion and seek entry of the Bidding Procedures Order and Sale Order. The Receiver shall use his best efforts to cause the Sale Order to be entered and become a Final Order as soon as practicable after entry. Notwithstanding the foregoing, nothing in this Agreement precludes the Parties from consummating the transactions contemplated by this Agreement if the Sale Order has been entered and has not been stayed.

4.3 Auction. The Auction shall be held at a place approved by the Bidding Procedures Order and will be held to consider higher and/or better offers submitted by Qualified Bidders, as defined in Section 4.4, to purchase the Property on such date as determined by the Court. The Auction shall continue until there is only one bid that is the highest and best bid, which is the Auction Price. The Earnest Money submitted by Buyer shall be irrevocable and nonrefundable until the closing of the sale of the Property to the Prevailing Bidder, at which time, the Earnest Money shall be repaid to Buyer, together with the Breakup Fee, in the event the Buyer is not the Prevailing Bidder, as provided by the Bidding Procedures Order.

4.4 Qualified Bidders. To be determined a qualified bidder (a “**Qualified Bidder**”), one must:

(i) provide a fully executed purchase and sale agreement for the Property in form substantially similar to this Agreement (“**Qualified Bid PSA**”), acceptable to the Receiver in his sole discretion;

(ii) provide an earnest money deposit (the “**Bid Deposit**”) by wire transfer or cashier’s check in the amount of five percent (5%) payable to the Receiver, which amount shall be non-refundable to the Qualified Bidder that is deemed the Prevailing Bidder at the Auction if for any reason (a) the Prevailing Bidder fails to finally close the purchase and sale such that title transfers by

no later than the Closing Date or (b) the Prevailing Bidder fails to provide the balance of the purchase price to the Receiver one day prior to the Closing Date;

(iii) provide proof of funds in such form as shall be required by Receiver. Each Qualified Bidder must provide the Qualified Bid PSA and Bid Deposit to the Receiver no later than five (5) business days prior to the Auction; and Qualified Bidders shall appear at the Auction in person, or through a duly authorized representative. If there are multiple Qualified Bidders at the Auction, the Receiver shall obtain the Court's approval of the Prevailing Bidder and also the Qualified Bidder with the next highest bid at the Auction (the "**Backup Bidder**"). At the conclusion of the Auction, the Prevailing Bidder and Backup Bidder shall increase the Bid Deposit amount to ten percent (10%) of the Purchase Price after Auction. The Receiver shall retain the Backup Bidder's Bid Deposit until (a) the closing for the Prevailing Bidder occurs, in which event the Backup Bidder's Bid Deposit shall immediately be returned to the Backup Bidder, or (b) the closing for the Prevailing Bidder fails to occur, in which event the Backup Bidder's Bid Deposit shall be applied to the purchase price for the Backup Bidder's closing as set forth herein below. If the Prevailing Bidder fails to close the purchase and sale of the Property, the Backup Bidder shall be deemed to be the Prevailing Bidder and the Receiver shall provide written notice thereof to the Backup Bidder. Within ten (10) days after the Backup Bidder's receipt of such notice from the Receiver, the closing for the Backup Bidder's purchase of the Property shall occur. Pursuant to the foregoing, if the initial Prevailing Bidder fails to close the purchase and sale of the Property and the Court has approved a Backup Bidder, the Receiver shall proceed to close with the Backup Bidder without any obligation to conduct another auction as a condition precedent to such closing. The Prevailing Bidder's Bid Deposit shall be applied to the purchase price at closing, if the sale is approved by the Court and the Prevailing Bidder closes the purchase and sale of the Property.

4.5 Overbids, Bid Increments, and Auction. The minimum initial overbid shall be Five Hundred Thousand and No/100 Dollars (\$500,000.00). If any overbids are received and are Qualified Bids, the sale of the Property will be subject to the Auction. As applicable, the Receiver will provide the Auction instructions to all Qualified Bidders and only Qualified Bidders may make bids at the Auction. All bids will be subject to overbids in increments of Fifty Thousand and No/100 Dollars (\$50,000.00).

4.6 Consent to Court Jurisdiction. All Qualified Bidders appearing at the Auction shall have deemed to have consented to the Court's jurisdiction. The Court shall be the exclusive forum for any disputes arising in connection with any agreements to purchase the Property.

4.7 Court Approval if No Qualified Bids are Received. In the event no Qualified Bids are received by the Receiver, the Receiver will ask the Court to approve the sale to Buyer pursuant to this Agreement.

4.8 Receiver's Right to Determine Conduct of Auction. The Receiver reserves the right to deny any person admittance to the Auction, to postpone or cancel the Auction, and to change any terms or procedures of the Auction or the particular conditions of sale, as necessary, upon notice to Buyer, and any Qualified Bidders, prior to or at the Auction, without further Court order.

4.9 No Contingencies. There is no contingency of any kind or nature that will permit the Buyer or any Qualified Bidder to withdraw its bid and receive a return of the Earnest Money other than (a) the Court's denial of the Sale Motion, (b) the Receiver's inability to deliver Insurable Title to

the Real Property, or (c) the Buyer not being selected as the Prevailing Bidder after the Auction (the “**Excluded Contingencies**”). The Receiver shall have the right in his sole and absolute option to adjourn the Closing for a period not to exceed sixty (60) days in order to obtain approval of the Sale Motion and remedy any defect to title. The failure to Close for any reason whatsoever, except the Excluded Contingencies, will result in the Receiver retaining the Earnest Money and the termination of the Buyer’s right to acquire the Property. The Buyer shall have no recourse to any other property or assets of the Receiver and the Receivership Estate, which shall be exempt from levy, execution or other enforcement procedure for the satisfaction of Buyer’s remedies. The provisions of this section will survive the Closing.

4.10 Sale Free and Clear of Encumbrances. Except to the extent specifically provided for in this Agreement, the Sale Order shall provide that the Property shall be sold and conveyed to the Buyer at the Closing free and clear of any and all Encumbrances, except for Permitted Encumbrances.

V. CLOSING

5.1 Time and Place of Closing. The closing of the purchase and sale of the Property (the “**Closing**”) pursuant to this Agreement shall take place within thirty-five (35) days immediately following the entry of the Sale Order (the “**Closing Date**”), it being expressly understood by the Parties that time is of the essence. Failure to consummate the Closing shall not result in the termination of this Agreement or relieve Buyer of any obligation hereunder. Notwithstanding the actual time of Closing on the Closing Date, the Closing shall be deemed, for accounting and financial reporting purposes, to have occurred as of 12:00:01 a.m. on the Closing Date. The Closing shall be held by remote escrow through the office of the Title Company, or at such other location as may be acceptable to the Parties.

5.2 Seller’s Deliveries at Closing. At the Closing, the Seller shall cause to be delivered to the Title Company (unless otherwise noted herein) the items, documents and instruments in the form specified herein, each being duly executed and acknowledged, and in recordable form, where required:

5.2.1.1. A receiver’s deed (the “**Deed**”) conveying fee simple title to the Property to Buyer, free and clear of all Encumbrances excepting only the Permitted Encumbrances, in the form of Exhibit B attached to this Agreement and made a part hereof;

5.2.1.2. An Assignment and Assumption of the Leases (the “**Lease Assignment**”), in the form of Exhibit C attached to this Agreement and made a part hereof, assigning and conveying to Buyer, at no cost or expense to Seller, and without representation or warranty, all of Seller’s right, title and interest in the Leases;

5.2.1.3. Intentionally Omitted;

5.2.1.4. An Assignment and Assumption of Intangible Property, in the form and substance reasonably acceptable to Buyer and Seller, executed by Seller, assigning and conveying to Buyer, at no cost or expense to Seller, and without representation or warranty, all of Seller’s right, title and interest in the Intangible Property (“**Assignment of Intangibles**”), in the form of Exhibit D attached to this Agreement and made a part hereof;

5.2.1.5. An Assignment and Assumption of Contracts, in the form and substance reasonably acceptable to Buyer and Seller, executed by Seller, assigning and conveying to Buyer, at no cost or expense to Seller, and without representation or warranty, all of Seller's right, title and interest in the Contracts ("**Assignment of Contracts**"), in the form of Exhibit E attached to this Agreement and made a part hereof;

5.2.1.6. The Title Company's standard form of owner's affidavit dated as of the Closing Date, provided that any representation made therein shall be to the Receiver's actual knowledge only (without investigation) and that such affidavit shall contain no surviving indemnity obligations (other than, if any, in connection with loss resulting from an inaccuracy in any representation in such affidavit resulting from a failure by the Receiver to disclose information of which it was actually aware);

5.2.1.7. An affidavit stating that Seller is not a "foreign person" within the meaning of Section 1445(0)(3) of the Internal Revenue Code of 1986, in the form of Exhibit F attached to this Agreement and made a part hereof;

5.2.1.8. Customary documents sufficient to cause the Title Company to issue its policy of title insurance without exception for any lien or claim for brokerage services as of the Closing Date, subject only to the Permitted Encumbrances, including customary and recordable discharges of monetary liens to be satisfied out of Closing proceeds;

5.2.1.9. Counterparts of a closing statement (the "**Closing Statement**") summarizing all adjustments in respect of the Purchase Price made at the Closing;

5.2.1.10. The Sale Order;

5.2.1.11. Any and all other documents described in this Agreement, required by law, or otherwise customary, necessary or appropriate to consummate and evidence the transaction contemplated hereby; and

5.2.1.12. All keys to the Property, if applicable, which are in the possession or control of Seller.

5.3 Buyer's Deliveries at Closing. At the Closing, the Buyer shall cause to be delivered to Seller or the Title Company:

5.3.1.1. The Purchase Price, less the Earnest Money deposited;

5.3.1.2. Counterparts of the following documents, duly executed by Buyer: (i) Closing Statement; (ii) Assignment of Intangibles; and (iii) Assignment of Contracts;

5.3.1.3. A copy of resolutions, consents or other evidence satisfactory to Seller which authorize the transactions contemplated by this Agreement and the execution of this Agreement and the documents, instruments and agreements to be executed and delivered by Buyer pursuant hereto, together with, if necessary, proof as to the authority of the person(s) executing and delivering this Agreement and such documents, instruments and agreements on behalf of Buyer; and

5.3.1.4. Any and all other documents described in this Agreement, required by law, or otherwise necessary or appropriate to consummate and evidence the transaction contemplated hereby.

VI.
PROPERTY CONVEYED “AS-IS”

6.1 No Representations or Warranties. The Receiver, his Broker and their representatives and professionals have not made and do not make any representations or warranties as to the physical (including without limitation environmental) condition, expenses, operations, value of the Property, or any other matter or thing affecting or related to the Property or this sale, which might be pertinent to the purchase of the Property. Buyer hereby expressly agrees and acknowledges that no such representations or warranties, express or implied, have been made. The Receiver, the Broker and their representatives and professionals shall not be liable or bound in any manner by expressed or implied warranties, guarantees, promises, statements, representations or information pertaining to the Property, made or furnished by the Broker or the Receiver or any real estate broker, agent, employee, servant or other person or professional representing or purporting to represent the Broker or the Receiver unless such warranties, guaranties, promises, statements, representations or information are expressly and specifically set forth in writing within this Agreement.

6.2 “As Is”, “Where Is”, “With All Faults”. The Property is being conveyed and sold **“AS IS”, “WHERE IS”, “WITH ALL FAULTS”**, without any representations, covenants, guarantees or warranties of any kind or nature, and free and clear of any Encumbrances (other than Permitted Encumbrances), with such Encumbrances, if any, to attach to the proceeds of sale in such order and priority as they existed immediately prior to the Closing, and the sale of the Real Property is subject to, among other things (a) any state of facts that an accurate survey may show; (b) any covenants, restrictions and easements of record and any other matters set forth as exceptions to title in any title commitment obtained Buyer, other than monetary liens to be discharged at Closing from closing proceeds; (c) any state of facts a physical inspection may show; (d) any building or zoning ordinances or other applicable municipal regulations and violations thereof; (e) environmental conditions; (f) rights of parties in possession pursuant to Leases which are disclosed to Buyer; (g) governmental laws, regulations, statutes, codes, ordinances and restrictions now or hereafter in effect to the extent affecting or applicable to the Real Property, including, without limitation, zoning ordinances (and amendments and additions relating thereto), the Americans with Disabilities Act of 1990, as amended, and any other laws or regulations applicable to the operation of the Property; (h) liens for taxes not yet payable, and (i) any liens resulting from the actions or omissions of the Buyer (the matters in the foregoing clauses (a) through (i), each and collectively, **“Permitted Encumbrances”**).

6.3 Due Diligence. By delivering its Initial Earnest Money, Buyer acknowledges that it had the opportunity to review and inspect the Property, the state of title thereof and laws, rules and regulations applicable thereto, and will rely solely thereon and on its own independent investigations and inspections of the Property in executing this Agreement. Neither the Broker, the Receiver nor any of their representatives or professionals makes any representations or warranties with respect to the permissible uses of the Property including, but not limited to, the zoning of the Real Property. The Real Property will be sold subject to any and all violations or conditions requiring corrective action. The Receiver, the Receivership Estates, including the Seller, the Broker and their representatives and professionals, make no representations or warranties as to the truth, accuracy or completeness of the Due Diligence Materials (e.g., that such materials are complete, accurate or the

final version thereof, or that all such materials are in Seller's possession), and shall have no obligation to revise, update or augment such materials. It is the Parties' express understanding and agreement that the Due Diligence Materials are provided only for Buyer's convenience in making its own examination and determination as to whether it wishes to purchase the Property, and, in doing so, Buyer shall rely exclusively on its own independent investigation and evaluation of every aspect of the Property and not on any materials supplied by the Receiver, the Receivership Estates, the Seller, Broker and their representatives and professionals. Buyer expressly disclaims any intent to rely on any such materials provided to it in connection with this Agreement and the purchase of the Property and agrees that it shall rely solely on its own independently developed or verified information.

6.4 The Receiver shall not be obligated to deliver at closing a Certificate of Occupancy, Certificate of Completion or any equivalent local document for the Real Property and/or any and all changes or additions thereto that would require a Certificate of Occupancy or Certificate of Completion.

6.5 If the Receiver is unable to deliver the Property in accordance with the terms and conditions of this Agreement for any reason whatsoever, the Receiver's only obligation will be to refund the Earnest Money, without interest, to the Buyer and, upon such refund, the Buyer shall have no claim or recourse against the Receiver, the Receivership Estates, the Broker or their representatives and professionals and shall have no further rights under this Agreement.

6.6 Buyer agrees, except to the extent required by applicable law, not to submit any reports, studies or other documents or information to any governmental agency prior to the Closing unless first approved by Seller, such approval not to be unreasonably conditioned, withheld or delayed. Specifically, Seller may object to any disclosure of adverse information or documentation relating to the Property. To the extent Buyer claims any disclosure is required by applicable law, Buyer shall afford Seller a reasonable opportunity to evaluate such claim and make any legal objection Seller is permitted by such law to make.

6.7 From and after the Closing, Buyer shall protect, defend, indemnify and hold the Receiver, the Receivership Estates, including the Seller, its member(s), affiliates and subsidiaries, and their respective members, partners, directors, officers, participants, employees and agents, free and harmless from and against any and all claims, including, without limitation, investigatory expenses, clean-up costs and reasonable attorneys' fees and related court costs of whatever kind or nature arising from or in any way connected with the physical condition of the Property or any other aspect of the Property, which first arise or accrue after the Closing. Buyer's obligations of indemnity set forth herein shall expressly survive the Closing hereof.

VII.
CONDITION; CASUALTY

7.1 Until the Closing, Seller or Seller's agent shall operate and maintain the Property in a businesslike manner, subject to and in accordance with the terms of the Leases. Notwithstanding the foregoing, prior to the Closing, (i) Seller shall not enter into any new lease or (ii) enter into any new service contract relating to the operation of the Property that will be binding on the Buyer or the Property after the Closing, without the prior written consent of Buyer (such consent not to be unreasonably, withheld, delayed or conditioned).

7.2 If, prior to the Closing, a material portion of the Property is materially damaged, destroyed or taken under power of eminent domain (or any entity having condemnation authority shall take any steps preliminary thereto), then Seller shall promptly deliver to Buyer written notice thereof and Buyer shall be entitled, as its sole remedy, to terminate this Agreement and receive a prompt refund of the Earnest Money upon written notice to Seller given prior to Closing. In the event that Buyer does not terminate this Agreement pursuant to the immediately preceding sentence, Buyer shall close this transaction on the date and at the Purchase Price herein agreed, and Seller will assign to Buyer Seller's right in and to any insurance proceeds payable in connection with the casualty or Seller's portion of any condemnation award, if any, up to the amount of the Purchase Price. For purposes of this **section**, a "**material portion**" of the Property shall mean that portion which, if damaged, destroyed, taken or condemned, would (i) eliminate access to any portion of the remainder to which access is available as of the date of this Agreement, (ii) cause any non-compliance with any applicable law, ordinance, rule or regulation of any federal, state or local authority or governmental agency having jurisdiction over the Property, (iii) materially breach any reciprocal easement agreement, covenant or similar agreement with or obligation to a third party, (iv) materially adversely reduce Buyer's expected economic return from its contemplated ownership of the Property or materially reduce the market value of the Property as a result thereof.

VIII.
REPRESENTATIONS AND WARRANTIES

8.1 Buyer warrants and represents to Seller as follows:

8.1.1 Buyer is a limited liability company duly organized, validly existing and in good standing under the laws of the State of Florida.

8.1.2 Buyer has full power and authority to enter into this Agreement and perform its obligations hereunder in accordance with the terms hereof. The execution, delivery and performance of this Agreement by Buyer and the documents to be executed by Buyer pursuant hereto have been duly and validly authorized by all necessary action on the part of Buyer, and this Agreement and any other such documents executed by Buyer document shall constitute the valid, binding obligation and agreement of Buyer, enforceable against Buyer in accordance with their respective terms. No bankruptcy, insolvency, reorganization, arrangement or moratorium proceeding or allegation of fraudulent conveyance is now pending or threatened against Buyer.

8.2 Such representations and warranties, shall survive the Closing hereof until six (6) months after the date of Closing. Any claim not asserted in writing by Seller or Buyer within such period shall lapse and be forever null and void.

IX.
CONDITIONS TO CLOSING

9.1 Seller's Obligation to Close. The obligation of Seller to close under this Agreement is expressly conditioned upon the fulfillment by and as of the Closing Date of each of the conditions listed below, provided that Seller, at its election, may waive all or any of such conditions except the entry of the Sale Order.

9.1.1 Buyer shall have paid to Seller the Purchase Price required under this Agreement and all other amounts due to Seller hereunder.

9.1.2 All representations and warranties of Buyer set forth herein shall be true and correct in all material respects on and as of the Closing Date as if made on and as of such date.

9.1.3 Buyer shall have executed and/or delivered or caused to be delivered at Closing all documents and executed counterparts of documents and instruments required by this Agreement to be executed and/or delivered by Buyer and shall have taken all other actions and fulfilled all other covenants and conditions required of Buyer under this Agreement in all material respects.

9.1.4 To the extent required by any of the Leases or applicable law, Buyer shall (a) have supplied all replacement insurance required of landlord under the Leases and shall otherwise be in a position to assume all of landlord's obligations thereunder and (b) provide at Closing customary Certificates of Insurance evidencing all required coverage.

9.1.5 The transaction contemplated by this Agreement shall be approved by the Court and the Sale Order shall have been entered.

9.2 Buyer's Obligation to Close. The obligation of Buyer to close under this Agreement is expressly conditioned upon the fulfillment by and as of the Closing Date of each of the conditions listed below, provided that Buyer, at its election, may either (i) terminate this Agreement and receive a refund of its Earnest Money if any such condition is not satisfied as of the Closing Date or (ii) waive all or any of such conditions (other than Section 9.2.1), which election shall be conclusively evidenced by Buyer's proceeding with and completing the Closing of the transaction provided for herein:

9.2.1 The transaction contemplated by this Agreement shall be approved by the Court as evidenced by entry of the Sale Order.

9.2.2 Seller shall have executed and/or delivered or caused to be delivered at Closing all of the documents and executed counterparts of documents and instruments required by this Agreement to be executed and/or delivered by Seller.

9.2.3 Title Company shall be prepared to issue to Buyer an owner's policy of title insurance for the Property in an amount equal to the Purchase Price.

X.
COSTS

10.1 Buyer will pay the following costs of Closing this transaction:

10.1.1 the fees and disbursements of its counsel, inspecting architect and engineer, surveyor, environmental consultants and other consultants and agents, if any;

10.1.2 any fees incurred in connection with any Survey;

10.1.3 all expenses pertaining to any financing obtained by Buyer;

10.1.4 all recording fees, transfer taxes and intangible taxes;

10.1.5 any escrow or Closing fees; and

10.1.6 the cost of any owner's and lender's title insurance policy(ies), including any extended coverage title insurance policy or endorsements issued in connection with this Agreement or the transaction contemplated hereby.

10.2 Seller will pay the following costs of Closing this transaction:

10.2.1 fees and disbursements of Seller's counsel.

XI. **PRORATIONS**

11.1 The following provisions shall govern the apportionment of income and expenses with respect to the Property between Seller and Buyer:

11.1.1 If the Property is served by any utilities, Seller shall arrange for final meter (if any) readings on all utilities at the Property to be taken prior to the Closing Date. Seller shall be responsible for the payment of utilities used through the day preceding the Closing Date and Buyer shall be responsible for the payment of utilities used on or after the Closing Date. With respect to any connected utility actually serving the Property, if any, for which there is no meter, the expenses for such utility shall be prorated between Seller and Buyer at Closing based upon the most current bill for such utility. Buyer shall use reasonable efforts to cause the transfer of any applicable utility company accounts from Seller to Buyer on the Closing Date, provided that the same shall be transferred within not later than thirty (30) days thereafter in any event. All deposits with utility companies will be returned to Seller upon Buyer's receipt of the same.

11.1.2 Real estate taxes (including ad valorem and equivalent taxes) and assessments assessed prior to the Closing Date shall be prorated between the Buyer and the Seller as of the Closing Date. Seller shall pay, or Buyer shall receive a credit against the Purchase Price for, all taxes and assessments assessed in and for 2023, regardless of the date of assessment, and payable in 2024, and its proportionate share of the taxes and assessments assessed in 2024, and payable in 2025, based on the number of days in 2024 that Seller owned the Property. Thereafter, Seller shall have no further liability to pay taxes or assessments due after the Closing Date. If at the time of Closing the tax assessment for the Property for the succeeding year has been completed, taxes payable shall be computed based on the current tax assessment. If at the time of Closing the tax assessment for the Property for the succeeding year has not been completed, the taxes payable shall be assumed to be the same as the prior year for the purpose of such proration and credit for due but unpaid taxes, and this shall be a final settlement.

11.1.3 Lease rents (including, without limitation, all tenant reimbursement obligations related to taxes, common area expenses, operating expenses and/or additional charges of any nature to the extent applicable under any Lease) shall be pro-rated between Seller and Buyer as of the Closing Date. Lease rents that Buyer (and/or its property manager) receives after the Closing Date shall be promptly remitted if any, to Seller to the extent any pre-Closing Date Lease rents under such tenant's Lease remains unpaid. All prepaid rents and other income from the Property shall be credited to Buyer at Closing to the extent same is attributable to a period of time after Closing.

11.1.4 To the extent not specifically addressed above, all obligations for taxes, common area expenses, operating expenses or additional charges of any nature related to the Property will be pro-rated between Seller and the Buyer as of the Closing Date. If the actual amount of such amounts is not known as of such date, the proration at the Closing will be on an equitable basis and will be based on the most current and accurate billing information available. If, upon receipt of the actual bills, such proration proves to be inaccurate, then Seller and Buyer (and/or its property manager) shall correct the proration as soon as possible and make the appropriate payments to reflect same, provided that no payments shall be made to the extent the amount thereof is less than \$2,000.00 in the aggregate. For the avoidance of doubt, the foregoing shall include all obligations and liabilities (for services and materials ordered, or otherwise in the ordinary course of business) and accounts payable for the Real Property owing as of the Closing Date for merchandise, equipment, supplies and other materials and services paid, incurred or ordered shall be paid by Seller.

11.1.5 The pro-rations described in this Section shall be made as of 12:00 a.m. EST on the Closing Date, as if Buyer were vested with title to the Property during the entire day upon which Closing occurs. All pro-rations described in this Section shall be effectuated by increasing or decreasing, as the case may be, the amount of cash to be paid by Buyer to Seller at Closing. Seller and Buyer (and/or its property manager) agree to adjust between themselves after Closing, as promptly as practicable, any errors or omissions in the pro-rations made at Closing.

11.1.6 All of Seller's Accounts Receivable, if any, shall be and remain the property of Seller subsequent to the Closing of the transaction contemplated hereby.

11.1.7 The provisions of this Section shall survive Closing.

XII.
INTENTIONALLY OMITTED

XIII.
DEFAULT AND REMEDIES

13.1 If Buyer is not then in default hereunder, and Seller fails to close the transaction contemplated hereby, Buyer shall be entitled, as its sole and exclusive remedy, to terminate this Agreement by giving written notice of termination and receive a full and immediate refund of any and all Earnest Money previously deposited.

13.2 If Buyer fails to close the transaction contemplated hereby for any reason other than the Excluded Contingencies, Seller shall be entitled to receive the Earnest Money as liquidated damages; provided Seller does not waive and, in particular, reserves any rights against and indemnities from Buyer which are herein intended to survive the termination of this Agreement pursuant to the express provisions hereof. Seller and Buyer recognize and agree that, under the circumstances existing as of the date of execution of this Agreement, the liquidated damages set forth above are a reasonable estimate of the damages which Seller would incur as a result of such a failure and are reasonable in the context of the transaction in which a complete measure of damages is not feasible.

13.3 The provisions of this Article XII shall survive the termination of this Agreement.

XIV.
NOTICES

14.1 Any notice, request, demand, instruction or other communication to be given to either party hereunder, except those required to be delivered at Closing, shall be in writing, and shall be given and received (a) upon receipt if hand delivered, (b) the following business day after being sent by recognized overnight courier service, or (c) the date sent by electronic mail (including, without limitation, by PDF) shall be deemed given when sent, provided any such notice by electronic mail is sent on a business day during regular business hours (otherwise it shall be deemed received on the following business day). All notices shall be addressed as follows:

IF TO SELLER: 900 West Marion Avenue FL, LLC
 c/o Allen D. Applbaum, Receiver
 StoneTurn
 17 State Street, 2nd Floor
 New York, New York 1004
 Tel. (212) 430-3449
 Email: aapplbaum@stoneturn.com

And

StoneTurn
6429 Wilshire Blvd, Suite 880
Los Angeles, California 90048
Attn: Randall Coxworth
Tel. (213) 459-1859
Email: rcoxworth@stoneturn.com

WITH A COPY TO: Archer & Greiner, P.C.
 1025 Laurel Oak Road
 Voorhees, New Jersey 08043
 Attn: Jawad H. Salah
 Tel. (856) 673-7143
 Email: jsalah@archerlaw.com

And

Archer & Greiner, P.C.
1211 Avenue of the Americas
New York, New York 10036
Attn: Gerard DiConza
Tel. (212) 682-4940
Email: gdiconza@archerlaw.com

IF TO BUYER: Harborview Property Holdings LLC

24211 Harborview Road
Punta Gorda, FL 33980
Tel. (941) 979-2336
Attn: Anthony Dubbaneh
Email: anthony@harborviewcapitalgroup.com

14.2 The addresses and addressees for the purpose of this article may be changed by either party by giving notice of such change to the other party in the manner provided herein for giving notice. For the purpose of changing such addresses or addressees only, unless and until such written notice is received, the last address and addressee stated herein shall be deemed to continue in effect for all purposes.

XV.
ESCROW INSTRUCTIONS

15.1 Upon execution of this Agreement, the Parties shall deliver an executed counterpart of this Agreement to the Title Company to serve as the instructions to the Title Company as the escrow holder for consummation of the transaction contemplated herein. Seller and Buyer agree to execute such additional and supplementary escrow instructions as may be required by the Title Company to comply with the terms of this Agreement, provided, however, that in the event of any conflict between the provisions of this Agreement and any supplementary escrow instructions, the terms of this Agreement shall prevail as between Buyer and Seller.

XVI.
MISCELLANEOUS

16.1 This Agreement, together with the exhibits attached hereto, all of which are incorporated by reference, is the entire agreement between the Parties with respect to the subject matter hereof, and no alteration or modification hereof shall be binding unless in writing and signed by both Parties.

16.2 If any provision of this Agreement or application to any party or circumstances shall be determined by any court of competent jurisdiction to be invalid and unenforceable to any extent, the remainder of this Agreement or the application of such provision to such person or circumstances, other than those as to which it is so determined invalid or unenforceable, shall not be affected thereby, and each provision hereof shall be valid and shall be enforced to the fullest extent permitted by law.

16.3 This Agreement shall be construed and enforced in accordance with the laws of the State of New York.

16.4 Buyer may not assign this Agreement without first obtaining Seller's written consent, except that, to the extent permissible under (or not prohibited by) the Sale Order, Buyer may assign this Agreement to an entity controlled by, controlling or under common control with Buyer. Any assignment in contravention of this provision shall be void. No assignment shall release the Buyer herein named from any obligation or liability under this Agreement. Any permitted assignee shall be deemed to have made any and all representations and warranties made by Buyer hereunder, as if the assignee were the original signatory hereto.

16.5 Subject to the limitations of **Section 16.4**, this Agreement shall be binding upon and inure to the benefit of Buyer and Seller and their successors and permitted assigns.

16.6 Buyer shall make no public disclosure of the terms of this transaction without the prior written consent of Seller unless legally compelled to do so (by deposition, interrogatory, request for documents, subpoena, civil investigation, court order or demand or similar process or by law), except that Buyer may discuss the transaction in confidence with its members, attorneys, lenders, representatives, agents, contractors, proposed joint ventures or prospective mortgagees.

16.7 The captions in this Agreement are inserted only as a matter of convenience and for reference and in no way define, limit or describe the scope of this Agreement or the scope or content of any of its provisions.

16.8 In the event of any litigation arising out of this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees and costs. The term "prevailing party" as used in this Agreement shall include, but not be limited to, a party who obtains legal counsel or brings an action against the other by reason of the other's breach or default and obtains substantially the relief sought whether by compromise, mediation, settlement, judgment or otherwise (and regardless of whether formal litigation is commenced).

16.9 Nothing contained in this Agreement shall be construed to create a partnership or joint venture between the Parties or their successors in interest.

16.10 Time is of the essence in this Agreement.

16.11 This Agreement may be executed and delivered in any number of counterparts, and/or by email (.pdf format) or by facsimile each of which so executed and delivered shall be deemed to be an original and all of which shall constitute one and the same instrument.

16.12 Buyer and Seller agree not to record this Agreement or any memorandum hereof.

16.13 If as a result of any tax protest or otherwise any refund or reduction of any real property or other tax or assessment relating to the Property during the period for which, under the terms of this Agreement, Seller is responsible, Seller shall be entitled to receive or retain such refund or the benefit of such reduction, less equitable prorated costs of collection.

16.14 Buyer agrees that it does not have and will not have any claims or causes of action against any disclosed or undisclosed officer, director, employee, trustee, member, shareholder, partner, principal, parent, subsidiary or other affiliate of the Receiver, the Receivership Estates, and Seller (collectively, the "**Seller's Affiliates**"), arising out of or in connection with this Agreement or the transactions contemplated hereby. Buyer agrees to look solely to Seller's assets directly attributable to the Property (including any consideration received by Seller from the sale of all or any part thereof) for the satisfaction of Seller's liability or obligation arising under this Agreement or the transaction contemplated hereby, or for the performance of any of the covenants, warranties or other agreements of Seller contained herein, and further agrees not to sue or otherwise seek to enforce any personal obligation against any of the Seller's Affiliates with respect to any matters arising out of or in connection with this Agreement or the transactions contemplated hereby.

16.15 The formal tender of an executed Deed by Seller is hereby waived, but nothing herein contained shall be construed as a waiver of Seller's obligation to deliver the Deed and/or of the concurrent obligation of Buyer to pay the portion of the Purchase Price payable at Closing, if any.

16.16 The parties each agree to do such other and further acts and things, and to execute and deliver such instruments and documents (not creating any obligations additional to those otherwise imposed by this Agreement) as either may reasonably request from time to time, whether at or after the Closing, in furtherance of the purposes of this Agreement. The provisions of this Section 16.16 shall survive the Closing.


16.17 THE PARTIES HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVE ANY RIGHT THAT EITHER PARTY MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION BASED HEREON, OR ARISING OUT OF, UNDER OR IN CONNECTION WITH THE PROPERTY, THE CONVEYANCE INSTRUMENT OR ANY OTHER DOCUMENTS EXECUTED IN CONNECTION HERewith, OR IN RESPECT OF ANY COURSE OF CONDUCT, STATEMENTS (WHETHER ORAL OR WRITTEN), OR ACTIONS OF EITHER PARTY. THIS PROVISION IS A MATERIAL INDUCEMENT FOR EACH OF THE PARTIES TO ENTER INTO THIS TRANSACTION AND SHALL SURVIVE THE CLOSING OR THE TERMINATION OF THIS AGREEMENT.

[Signatures on following pages]

IN WITNESS WHEREOF, the undersigned parties have caused this Agreement to be executed as of the date first above written.


“SELLER”

**900 WEST MARION AVE FL, LLC, a
Delaware limited liability company**

Signed by:

By: 8F2188CF34F645E...
Allen D. Applbaum as Receiver in the
matter of Securities and Exchange
Commission v. Jonathan Larmore, et
al., Case No. 2:23-cv-02470-PHX-
DLR in the United States District Court
for the District of Arizona

“BUYER”

**HARBORVIEW PROPERTY HOLDINGS,
LLC, a Florida limited liability company**

By: 
Anthony Dubbaneh (Nov 7, 2024 17:32 EST)

Name: Anthony Dubbaneh

Title: Manager - Member

EXECUTED by the Title Company the ____ day of _____, 2024, for the purposes of acknowledging receipt of the Earnest Money and agreeing to the provisions relating to the rights and obligations of the Title Company, as set forth herein.

Chicago Title Insurance Company

By: _____

Name: _____

Title: _____

SCHEDULE A-1

Legal Description of Real Property

[To be attached by Title Company]

SCHEDULE A-2

Personal Property

EXHIBIT A

Excluded Contracts

[TO BE PROVIDED]

EXHIBIT B

FORM of Deed

RECEIVER'S DEED

WHEREAS, the United States District Court for the _____ District of _____, in a civil action titled Securities and Exchange Commission v. _____ et al., Case No. _____, having on _____ ordered the appointment of _____ as Receiver to, *inter alia*, take possession, and arrange for the sale, of that certain property located at _____; and

WHEREAS, the Court having entered an order confirming the sale of the real property to _____ of _____, and approving this form of deed; and

WHEREAS, _____ whose address is _____ was duly authorized and directed to convey the real property to the purchaser; and

WHEREAS, the real property has been sold pursuant to the Court's order, for the sum of \$ _____, and

WHEREAS, the real property is more particularly described as follows:

NOW KNOW YE, THAT _____, pursuant to the authority and direction given to it, does hereby bargain, sell, transfer and convey to _____ all the right, title, claims, and interest in the above-described real property, to have and to hold, with appurtenances thereto, by _____ and her heirs and assigns, forever, for their own use and disposition.

AND ALSO, _____ does hereby covenant with _____, and its assigns, that it has full power and authority to grant and convey the aforesaid premises in the manner and form aforesaid.

Said premises are conveyed to _____ free and clear of any of the rights, titles, claims or interests, subject to any sums which may be due for municipal property, water or sewer taxes, or any special use charges or assessments, and subject to all laws, ordinances and governmental regulations affecting said premises, and any easements and restrictions appearing of record, if any.

I have hereunto set my hand and seal, this _____ day of _____, 200_.

Receiver

STATE OF _____
COUNTY OF _____

On this date _____, the signer and sealer of the foregoing instrument, personally appeared before me and acknowledged the same to be his free act and deed.

_____ day of _____, 200_.

(Name)
Notary Public

Return to: _____

EXHIBIT C

FORM of Lease Assignment

ASSIGNMENT AND ASSUMPTION AGREEMENT

(Leases)

THIS ASSIGNMENT AND ASSUMPTION AGREEMENT (the “**Assignment and Assumption of Leases**”) is dated this __ day of _____, 202_, (the “**Effective Date**”) by and between [_____] a [_____] (“**Assignor**”), and [_____] a [_____] (“**Assignee**”).

1. Concurrently with the execution and delivery of this Assignment and Assumption of Leases, Assignor, in its capacity as Seller, is conveying to Assignee, in its capacity as Buyer, certain real property located in _____, together with the buildings and improvements thereon, and related personal property contained therein and certain rights appurtenant thereto, collectively comprising a retail center known as [“ _____ ”] (the “**Property**”); pursuant to that certain Asset Purchase Agreement dated as of [_____], between Assignor and Assignee (the “**APA**”)

2. Pursuant to the APA, Assignor has agreed to assign and transfer to Assignee all of Assignor’s right, title and interest in and to the Leases applicable to the Property as of the date hereof.

3. Subject to the terms and conditions herein, Assignor desires to assign and Assignee desires to assume all of Assignor’s obligations under the Leases.

4. All capitalized terms used by not defined in this Assignment and Assumption of Leases shall have the meanings given thereto in the APA.

NOW, THEREFORE, in consideration of the mutual covenants and agreements set forth herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and intending to be legally bound hereby, the parties agree as follows:

- (a) Assignment of Leases. As of the Effective Date, Assignor hereby transfers, assigns, conveys and sets over to Assignee, its successors and assigns (i) all of Assignor’s obligations, covenants, rights, title and interest in, to and under the Leases, together with all amendments, extensions, renewals and other modifications thereto, and (ii) without limiting the provisions of Article XI of the APA (including the retention by Seller of its rights to pre-closing rents collected and Accounts Receivable) any and all rights of Assignor under the Leases to collect (or to cause its property manager to collect) rents, additional rents, escrow

or security deposits, fees, income, charges, and profits arising and having arisen thereunder.

- (b) Assumption of Leases. As of the Effective Date, Assignee hereby accepts the assignment of Assignor's rights, title and interest in, to and under the Leases and assumes all of Assignor's obligations thereunder with respect to the period from and after the Effective Date.
- (c) No Warranty; Release. Assignor makes no representation or warranty regarding the Leases, and Assignee releases and shall have no recourse to Assignor in connection with any claims, liabilities or costs arising under the Leases, including without limitation for the collection of rents or other charges thereunder.
- (d) Successors and Assigns. This Assignment and Assumption of Leases shall inure to the benefit of, and be binding upon, the parties hereto and their respective successors and assigns. This Assignment and Assumption of Leases shall be governed by, and construed and enforced in accordance with, the internal laws of the State of [_____].
- (e) Counterparts. This Assignment may be executed in one or more counterparts, each of which, taken together, shall constitute but one original.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the undersigned have executed this Assignment and Assumption of Leases as of the date first set forth above.

ASSIGNOR:

[_____]

By: _____

Name: _____

Title: _____

ASSIGNEE:

[_____]

By: _____

Name: _____

Title: _____

EXHIBIT D

FORM of Assignment of Intangibles

**ASSIGNMENT AND ASSUMPTION AGREEMENT
(Intangibles)**

THIS ASSIGNMENT AND ASSUMPTION AGREEMENT (the “**Assignment and Assumption of Intangibles**”) is dated this ___ day of _____, 202_, (the “**Effective Date**”) by and between [] a [] (“**Assignor**”), and [] a [] (“**Assignee**”).

5. Concurrently with the execution and delivery of this Assignment and Assumption of Intangibles, Assignor, in its capacity as Seller, is conveying to Assignee, in its capacity as Buyer, certain vacant real property located in _____, together with certain rights appurtenant thereto (the “**Property**”); pursuant to that certain Asset Purchase Agreement dated as of [], between Assignor and Assignee (the “**APA**”)

6. Pursuant to the APA, Assignor has agreed to assign and transfer to Assignee all of Assignor’s right, title and interest in and to the Intangibles applicable to the Property as of the date hereof (the “**Intangibles**”).

7. Subject to the terms and conditions herein, Assignor desires to assign and Assignee desires to assume all of Assignor’s obligations under the Intangibles.

8. All capitalized terms used by not defined in this Assignment and Assumption of Intangibles shall have the meanings given thereto in the APA.

NOW, THEREFORE, in consideration of the mutual covenants and agreements set forth herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and intending to be legally bound hereby, the parties agree as follows:

(a) Assignment of Intangibles. As of the Effective Date, Assignor hereby sells, transfers, assigns, conveys and sets over to Buyer, its successors and assigns, and to the extent applicable, any/all (a) all transferable certificates (including the certificates of occupancy for the Real Property), licenses, permits and now in effect with respect to the Property, at no cost to Seller, and (b) all development rights and goodwill related to any portion of the Property, if any, owned by Seller and relating solely to the Property.

(b) Assumption of Intangibles. As of the Effective Date, Assignee hereby accepts the assignment of Assignor’s obligations, rights, title and interest in, to and under the Intangibles.

(c) No Warranty; Release. Assignor makes no representation or warranty regarding the Intangibles, and Assignee releases and shall have no recourse to Assignor in connection with any claims, liabilities or costs arising under the Intangibles.

(d) Successors and Assigns. This Assignment and Assumption of Intangibles shall inure to the benefit of, and be binding upon, the parties hereto and their respective successors and assigns. This Assignment and Assumption of Intangibles shall be governed by, and construed and enforced in accordance with, the internal laws of the State of [_____].

(e) Counterparts. This Assignment may be executed in one or more counterparts, each of which, taken together, shall constitute but one original.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the undersigned have executed this Assignment and Assumption of Intangibles as of the date first set forth above.

ASSIGNOR:

[_____]

By: _____

Name: _____

Title: _____

ASSIGNEE:

[_____]

By: _____

Name: _____

Title: _____

EXHIBIT E

FORM of Assignment of Contracts

**ASSIGNMENT AND ASSUMPTION AGREEMENT
(Contracts)**

THIS ASSIGNMENT AND ASSUMPTION AGREEMENT (the “**Assignment and Assumption of Contracts**”) is dated this ___ day of _____, 202_, (the “**Effective Date**”) by and between [] a [] (“**Assignor**”), and [] a [] (“**Assignee**”).

1. Concurrently with the execution and delivery of this Assignment and Assumption of Contracts, Assignor, in its capacity as Seller, is conveying to Assignee, in its capacity as Buyer, certain vacant real property located in _____, together with certain rights appurtenant thereto (the “**Property**”); pursuant to that certain Asset Purchase Agreement dated as of [], between Assignor and Assignee (the “**APA**”)

2. Pursuant to the APA, Assignor has agreed to assign and transfer to Assignee all of Assignor’s right, title and interest in and to the Contracts (other than Excluded Contracts) applicable to the Property as of the date hereof (the “**Contracts**”).

3. Subject to the terms and conditions herein, Assignor desires to assign and Assignee desires to assume all of Assignor’s obligations under the Contracts.

9. All capitalized terms used by not defined in this Assignment and Assumption of Contracts shall have the meanings given thereto in the APA.

NOW, THEREFORE, in consideration of the mutual covenants and agreements set forth herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and intending to be legally bound hereby, the parties agree as follows:

(f) Assignment of Contracts. As of the Effective Date, Assignor hereby transfers, assigns, conveys and sets over to Assignee, its successors and assigns (i) all of Assignor’s obligations, covenants, rights, title and interest in, to and under the Contracts, together with all amendments, extensions, renewals and other modifications thereto, and (ii) any and all rights of Assignor under the Contracts (other than any indemnification obligations, awards or payments in favor of or belonging to Assignor, if any, relating to periods or events prior to the Effective Date, which shall expressly be retained by Assignor).

(g) Assumption of Contracts. As of the Effective Date, Assignee hereby accepts the assignment of Assignor’s obligations, rights, title and interest in, to and under the Contracts and assumes all of Assignor’s obligations thereunder with respect to the period from and after the Effective Date.

(h) No Warranty; Release. Assignor makes no representation or warranty regarding the Contracts, and Assignee releases and shall have no recourse to Assignor in connection with any claims, liabilities or costs arising under the Contracts.

(i) Successors and Assigns. This Assignment and Assumption of Contracts shall inure to the benefit of, and be binding upon, the parties hereto and their respective successors and assigns. This Assignment and Assumption of Contracts shall be governed by, and construed and enforced in accordance with, the internal laws of the State of [_____].

(j) Counterparts. This Assignment may be executed in one or more counterparts, each of which, taken together, shall constitute but one original.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the undersigned have executed this Assignment and Assumption of Contracts as of the date first set forth above.

ASSIGNOR:

[_____]

By: _____

Name: _____

Title: _____

ASSIGNEE:

[_____]

By: _____

Name: _____

Title: _____

EXHIBIT "A" TO ASSIGNMENT AND ASSUMPTION AGREEMENT

CONTRACTS

[LIST CONTRACTS]

EXHIBIT F
FORM of FIRPTA
FIRPTA AFFIDAVIT

Section 1445 of the Internal Revenue Code provides that a transferee (Buyer) of a U.S. real property interest must withhold tax if the transferor (Seller) is a foreign person. To inform the transferee [_____] , a [_____] (“**Buyer**”), that withholding of tax is not required upon the disposition of a U.S. real property interest [_____] , a [_____] (“**Seller**”), hereby certifies to Purchaser the following:

- 1. Seller 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) for purposes of U.S. income taxation;
- 2. Seller’s U.S. taxpayer identifying number (EIN number) is [] ; and
- 3. Seller’s address is [] .

Seller understands that this certification may be disclosed to the Internal Revenue Service by Purchaser and that any false statement Seller has made here could be punished by fine, imprisonment or both.

Under penalties of perjury, Seller declares that it has examined this certification and to the best of Seller’s knowledge and belief, it is true, correct, and complete.

SELLER:

[_____] ,
a [_____]

By: _____
Name: _____
Title: _____

Date: _____

EXHIBIT G

FORM BIDDING PROCEDURES ORDER

1 **IN THE UNITED STATES DISTRICT COURT**
2 **FOR THE DISTRICT OF ARIZONA**

3 Securities and Exchange Commission,

4 Plaintiff,

5 v.

6 Jonathan Larmore; ArciTerra Companies,
7 LLC; ArciTerra Note Advisors II, LLC;
8 ArciTerra Note Advisors III, LLC;
9 ArciTerra Strategic Retail Advisor, LLC;
and Cole Capital Funds, LLC,

10 Defendants, and

11 Michelle Larmore; Marcia Larmore;
12 CSL Investments, LLC;
13 MML Investments, LLC;
14 Spike Holdings, LLC;
and JMMAL Investments, LLC,

15 Relief Defendants.
16

Case No. 23-cv-02470-DLR

[PROPOSED] ORDER (I)
APPROVING THE ENGAGEMENT
AND COMPENSATION OF
MARCUS & MILLICHAP REAL
ESTATE INVESTMENT SERVICES
AS BROKER FOR THE SALE OF
PROPERTY LOCATED AT 900
WEST MARION AVENUE, PUNTA
GORDA, FLORIDA; (II)
APPROVING THE AUCTION AND
BIDDING PROCEDURES FOR THE
SALE OF THE PROPERTY; AND
(III) GRANTING RELATED
RELIEF

17
18 Having considered the Receiver’s Motion for orders: (A) approving (i) the
19 Receiver’s engagement and compensation of Marcus & Millichap Real Estate Investment
20 Services (“Marcus & Millichap”) as broker for the sale of real property owned by
21 Receivership Entity,¹ 900 West Marion Ave FL, LLC (“900 West Marion”), and located
22 at 900 West Marion Avenue, Punta Gorda, Florida, including all buildings, equipment,
23 furniture and fixtures (the “Property”), and (ii) the proposed auction and bidding
24 procedures for the sale of the Property (the “Bidding Procedures”), including scheduling
25
26

27
28 ¹ Capitalized undefined terms shall have the meanings ascribed to them in the Motion.

1 an auction and sale hearing date to consider the sale of the Property; (B) approving the sale
2 of the Property to Harborview Property Holdings LLC (“Stalking Horse Buyer”) or such
3 other bidder that submits a higher and better offer at a public auction, free and clear of all
4 liens, claims, encumbrances and interests; and (C) granting related relief (the “Motion”);
5 and upon consideration of any and all responses and replies relating to the Motion; and
6 upon finding that due and sufficient notice of the Motion has been given and no other or
7 further notice need be given; and after due deliberation and it appearing that the relief
8 sought in the Motion is in the best interest of the Receivership Estate, its creditors, and
9 other parties in interest,
10
11

12 **IT IS HEREBY FOUND, DETERMINED, AND CONCLUDED THAT:**

13
14 1. This Court has jurisdiction over this matter, the above-captioned defendants
15 and relief-defendants, and over all property of the Receivership Estate.

16 2. Proper, timely, adequate, and sufficient notice of the Motion has been
17 provided, such notice was sufficient and appropriate under the particular circumstances,
18 and no other or further notice of the Motion or relief sought in the Motion is necessary or
19 required.
20

21 3. A reasonable opportunity to object or be heard regarding the requested relief
22 in the Motion and this Order has been afforded to all interested parties, including, without
23 limitation, all parties to this action and all persons or entities known to the Receiver that
24 have or may have an interest in any portion of the Property.
25

26 4. The Receiver has the power and authority to sell the Property, or any portion
27 of the Receivership Estate, at a public sale pursuant to and in accordance with the Bidding
28

1 Procedures, free and clear of liens, claims, and encumbrances, with such liens, claims, and
2 encumbrances attaching to the proceeds of such sale with the same validity and in the same
3 order of priority.
4

5 5. Upon the Receiver's appointment and after investigating the financial
6 condition of the Receivership Estate, the Receiver undertook a comprehensive effort to
7 solicit interest from potential purchasers for the Property.
8

9 6. The Receiver's entry into the Marcus & Millichap Exclusive Representation
10 Agreement, and the underlying retention of Marcus & Millichap, as a disinterested
11 professional, is in the best interest of the Receivership Estate and its creditors.
12

13 7. The Receiver's existing and continued marketing efforts, combined with the
14 publication set forth herein is reasonable and sufficient.
15

16 8. The Receiver has demonstrated a sufficient basis and compelling
17 circumstances requiring the entry of this Order, the selection of the Stalking Horse Buyer,
18 the Break-up Fee provided to the Stalking Horse Buyer, and the proposed sale of the
19 Property in accordance with the Bidding Procedures, and such actions: (a) are appropriate
20 exercises of the Receiver's reasonable business judgment; (b) are in the best interest of the
21 Receivership Estate and its creditors; and (c) meet the requirements of and are consistent
22 with 28 U.S.C. §§ 2001, 2002, and 2004.
23

24 9. The Receiver's authorization to pay the Break-up Fee is reasonable under the
25 circumstances as an essential inducement and condition relating to the Stalking Horse
26 Buyer's entry into, and continuing obligations under the Stalking Horse Agreement.
27
28

1 10. The Receiver’s promise to pay the Break-up Fee, which has induced the
2 Stalking Horse Buyer to submit its bid that will serve as a minimum or floor bid on which
3 the Receiver can rely, provides a material benefit to the Receivership Estate, by increasing
4 the likelihood that the best possible purchase price for the Property will be received. The
5 Break-up Fee may be paid by the Receiver without further hearing or proof upon closing
6 of a sale of the Property to any bidder other than the Stalking Horse Buyer who submits a
7 higher and better offer at the Auction.
8
9

10 11. The Bidding Procedures are reasonable, non-collusive, negotiated in good
11 faith, substantively and procedurally fair, and will enable the Receiver to obtain the highest
12 value for the Property.
13

14 12. The Receiver may sell the Property in accordance with the Bidding
15 Procedures.
16

17 **NOW, THEREFORE, BASED UPON THE FOREGOING FINDINGS AND**
18 **THE RECORD BEFORE THIS COURT, IT IS HEREBY**

19 **ORDERED** that the Motion is GRANTED as set forth in this Order; and it is further

20 **ORDERED** that any and all objections to the Motion concerning the Bidding
21 Procedures and relief granted in this Order that have not been withdrawn, waived, resolved,
22 sustained, or settled, are expressly denied and overruled in their entirety; and it is further
23

24 **ORDERED** that the Marcus & Millichap Exclusive Representation Agreement as
25 set forth in **Exhibit []** to the Declaration of Randall Coxworth annexed to the Motion, is
26 approved; and it is further
27
28

1 **ORDERED** that the Stalking Horse Agreement as set forth in **Exhibit []** to the
2 Declaration of Randall Coxworth, annexed to the Motion, is approved; and it is further

3 **ORDERED** that the Bidding Procedures, as set forth in **Exhibit A** to this Order are
4 approved in their entirety; and it is further
5

6 **ORDERED** that the Receiver may proceed to sell the Property, in accordance with
7 the Bidding Procedures; and it is further

8 **ORDERED** that the Receiver may proceed to sell the Property free and clear of
9 liens, claims, encumbrances, and other interests at a public auction to be held by Zoom in
10 accordance with and subject to the Bidding Procedures on [] [],
11 2025, at [:] [.m] (Phoenix Time); and it is further
12
13

14 **ORDERED** that the Stalking Horse Buyer’s deposit (as provided in the Stalking
15 Horse Agreement) shall be held in escrow and shall not constitute or be deemed to
16 constitute property of any receivership estate or the Receiver, and the Receivership Estate
17 and Receiver shall have no interest of any kind (equitable or otherwise) in the deposit
18 unless and until such deposit is actually unconditionally paid or payable in accordance with
19 the Stalking Horse Agreement, and no liens, claims or encumbrances shall attach to the
20 deposit; and it is further
21

22 **ORDERED** that the Sale Hearing shall be held telephonically or as
23 otherwise ordered by the Court, on [] [], 2025, at [:] [.m]
24 (Phoenix Time); and it is further
25

26 **ORDERED** that any objection on any basis to the proposed sale of the Property
27 must be filed in writing with the Court no later than [] [], 2025, at []
28

1 :] [_.m] (Phoenix Time) (the “Objection Deadline”) and served on (a) counsel
2 to the Receiver, Archer & Greiner, P.C., Attn: Allen G. Kadish and Harrison H.D.
3 Breakstone, 1211 Avenue of the Americas, New York, New York 10036, and (b) counsel
4 to the Stalking Horse Buyer, [INSERT]; and it is further

6 **ORDERED** that the Receiver shall: (a) provide notice to (i) all relevant federal,
7 state and local taxing and regulatory authorities or offices that have a reasonably known
8 interest in the relief requested in the Motion; (ii) counsel to the Stalking Horse Buyer; (iii)
9 the parties set forth on the certificate of service of the Motion and any other party that has
10 entered an appearance in this case or otherwise requested notice in this case; and (iv) all of
11 the persons or entities the Receiver has identified as (A) having an interest in the Property
12 or (B) potentially interested in acquiring the Property; (b) publish a notice of Auction and
13 Sale Hearing with [local Punta Gorda publication] once a week for at least four (4) weeks
14 prior to the proposed Auction, which publication shall be deemed due, timely, good, and
15 sufficient notice of the entry of this Order, the Sale Order and all proceedings to be held in
16 accordance with this Order; and it is further

20 **ORDERED** that any person or entity seeking to participate as a bidder at the
21 Auction shall comply with the Bidding Procedures; and it is further

23 **ORDERED** that each Qualified Bidder participating at the Auction will be required
24 to confirm that it has not engaged in any collusion with respect to the bidding on or sale of
25 the Property; and it is further

26 **ORDERED** that under no circumstances shall any prospective purchaser have any
27 claims at law or equity against the Receiver, his professionals or the Receivership Estate
28

1 arising out of their participation or involvement in the Auction or the purchase and sale of
2 the Property; and it is further

3 **ORDERED** that this Order shall become effective immediately upon its entry; and
4
5 it is further

6 **ORDERED** that this Court shall retain jurisdiction over any and all matters or
7
8 disputes arising from or related to this Order or its enforcement.

9 Dated: _____, 2024

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EXHIBIT A

BIDDING PROCEDURES

900 WEST MARION AVENUE, PUNTA GORDA, FLORIDA

Allen D. Applbaum, as receiver (the “Receiver”) for ArciTerra Companies, LLC and related entities including, but not limited to 900 West Marion Avenue FL, LLC (“900 West Marion”), submits the following sale and bidding procedures (the “Bidding Procedures”) for the sale of sale of real property owned by 900 West Marion and located at 900 West Marion Avenue, Punta Gorda, Florida, including all buildings, equipment, furniture and fixtures (the “Property”), free and clear of all liens, claims, encumbrances and interests, as may be approved by the United States District Court for the District of Arizona.

There will be a public Auction to submit and accept bids for the Property held by Zoom on February __, 2025, beginning at 10:00 a.m. (Phoenix Time). Instructions for attending the Auction will be delivered to Qualified Bidders (as defined below) by Marcus & Millichap Real Estate Investment Services, as broker for the Receiver (“Marcus & Millichap”).

The Receiver has entered into an Asset Purchase Agreement with Harborview Property Holdings LLC (the “Stalking Horse Buyer”), dated November __, 2024 (the “Stalking Horse Agreement”) providing for a purchase price for the Property of Three Million Fifty Thousand and 00/100 Dollars (\$3,050,000.00) (the “Purchase Price”).

Only “Qualified Bidders” shall be permitted to attend the Auction and submit bids for the Property. A “Qualified Bidder” is a prospective purchaser who, no later than 10 days prior to the Auction:

- a. Submits a written bid proposal to Marcus & Millichap that (1) is accompanied by a fully executed asset purchase agreement for the Property for the Purchase Price, plus the Minimum Initial Overbid Amount (defined below), and with terms substantially similar in all material aspects to the terms of the Stalking Horse Agreement and otherwise acceptable to the Receiver in his sole discretion (a “Qualified Bid PSA”), and (2) confirms such prospective purchaser’s ability to close and consummate the transaction no later than thirty-five (35) days of entry of the Sale Order.
- b. Provides evidence, in a form reasonably acceptable to the Receiver, that the prospective purchaser has funds immediately available to pay the Purchase Price for the Property, plus the Minimum Initial Overbid Amount.

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- c. Submits a good faith deposit of five percent (5%) of the amount bid by such prospective purchaser (the “Deposit”) by wire transfer or certified bank check to be held in escrow by First Chicago Title Company. Deposit instructions will be provided upon request to Marcus & Millichap or the Receiver’s undersigned counsel. The Deposit of each prospective purchaser that complies with subsections a. and b. above (each, a “Qualified Bidder”) that is not determined at the Auction to have submitted the Successful Bid (as defined below) or the Back Up Bid (as defined below) shall be irrevocable and non-refundable until such time as the Auction concludes or the Receiver receives and accepts a higher or better bid at the Auction. The Deposit submitted by a Qualified Bidder that submits the Back Up Bid shall be irrevocable and nonrefundable until the closing of the sale of the Property to the Successful Bidder.

- d. The Stalking Horse Buyer is Deemed a Qualified Bidder: Notwithstanding the bidding requirements above, the Stalking Horse Buyer is deemed a Qualified Bidder.

- e. Minimum Initial Overbid and Subsequent Overbids: All initial overbids must be at least \$500,000 in excess of the Purchase Price (the “Minimal Initial Overbid Amount”). Subsequent overbids shall be in increments of at least \$50,000 above the Minimal Initial Overbid Amount and subsequent higher bids.

- f. Bidding at the Auction: The Auction shall continue until there is only one bid made by a Qualified Bidder (a “Qualified Bid”) that the Receiver, in consultation with Marcus & Millichap and his other professionals, determines is the highest and best Qualified Bid (the “Successful Bid”). The Receiver shall also determine which Qualified Bid is the second highest and best Qualified Bid (the “Back Up Bid”). To the extent the Stalking Horse Buyer Purchase Price is the second highest and best Qualified Bid it shall be the Back Up Bid.

- g. Due Diligence. All Qualified Bidders will be permitted to conduct due diligence on the Property, including via a review of the due diligence materials prepared by Marcus & Millichap, prior to the Auction.

- h. No Contingencies. The sale to any Qualified Bidder shall not be subject to any contingencies, including without limitation, for financing, due diligence, or inspection.

- i. As Is/Where Is Purchase. The sale to any Qualified Bidder shall be on an "AS-IS, WHERE-IS" basis, with no representations or warranties made by the Receiver, his professionals, or the Receivership Entities.

EXHIBIT B

SALE NOTICE

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

Securities and Exchange Commission,

Plaintiff,

v.

Jonathan Larmore; ArciTerra Companies,
LLC; ArciTerra Note Advisors II, LLC;
ArciTerra Note Advisors III, LLC;
ArciTerra Strategic Retail Advisor, LLC;
and Cole Capital Funds, LLC,

Defendants, and

Michelle Larmore; Marcia Larmore;
CSL Investments, LLC;
MML Investments, LLC;
Spike Holdings, LLC;
and JMMAL Investments, LLC,

Relief Defendants.

Case No. 23-cv-02470-DLR

**NOTICE OF PUBLIC SALE OF
PROPERTY LOCATED AT 900
WEST MARION, PUNTA GORDA,
FLORIDA**

TO ALL PARTIES IN INTEREST:

Notice is hereby given that Allen D. Applbaum, as Receiver for ArciTerra Companies, LLC and related entities including, but not limited to 900 West Marion Avenue FL, LLC (“900 West Marion”), intends to sell, through his broker, Marcus & Millichap Real Estate Investment Services (“Marcus & Millichap”), the real property owned by 900 West Marion and located at 900 West Marion Avenue, Punta Gorda, Florida, including all buildings, equipment, furniture and fixtures (the “Property”), free and clear of all liens, claims, interests and encumbrances (the “Sale”).

Pursuant to the Motion for Entry of an Orders: (A) approving (i) the Receiver’s engagement and compensation of Marcus & Millichap as broker for the sale of the

1 Property, and (ii) the proposed auction and bidding procedures for the sale of the Property
2 (the “Bidding Procedures”), including the scheduling of an Auction and Sale Hearing to
3 consider the sale of the Property; (B) approving the sale of the Property to Harborview
4 Property Holdings LLC (“Stalking Horse Buyer”) or such other bidder that submits a
5 higher and better offer at a public auction, free and clear of all liens, claims, encumbrances
6 and interests; and (C) granting related relief (the “Sale Motion”), the Receiver is soliciting
7 higher and better offers for the Property.

8
9 The Receiver is soliciting higher and better offers by means of an Auction, which
10 shall be governed by the terms and conditions of the order establishing bidding procedures
11 (the “Bidding Procedures Order”) approved by the Court.

12
13 The Sale Motion and the Bidding Procedures Order are on file with the United States
14 District Court for the District of Arizona, Sandra Day O’Connor U.S. Courthouse, 401 W.
15 Washington St., Suite 130, SPC 1, Phoenix, Arizona 85003-2118 (the “Court”), and are
16 available for review during regular business hours. **Copies of the Sale Motion, the
17 Bidding Procedures Order, and the Stalking Horse Buyer Asset Purchase Agreement
18 are also available upon request from the undersigned or by visiting the Receiver’s
19 website at www.arciterrareceivership.com.**

20
21 OBJECTIONS, if any, to the relief requested in the Sale Motion or to final approval
22 of the proposed Sale of the Property must be filed in writing with the Clerk of the Court on
23 or before **January __, 2025** at 5:00 p.m., Phoenix Time (the “Objection Deadline”). A copy
24 of the objection must also be served on all of the following so as to be received by the
25 Objection Deadline: (i) counsel to the Receiver, Archer & Greiner, P.C., Attn: Allen G.
26 Kadish and Harrison H.D. Breakstone, 1211 Avenue of the Americas, New York, New
27 York 10036, and (b) counsel to the Stalking Horse Buyer, **INSERT**.

28
29 **Through this Notice, HIGHER AND BETTER OFFERS to purchase the
30 Property are hereby solicited.** If offers are timely received, an auction will be held on
31 February __, 2025 at 10:00 a.m., Phoenix Time, by Zoom. Instructions for attending the
32 Auction will be delivered by Marcus & Millichap to all Qualified Bidders (as defined in
33 the Bidding Procedures Order).

34
35 A FINAL HEARING on the Sale Motion will take place on February __, 2025 at
36 __:00 a.m., Phoenix Time, telephonically or as otherwise ordered by the Court, before the
37 Honorable Douglas L. Rayes.

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39 Please be advised that any of the foregoing dates may be changed by the Court
40 without further notice.

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42 If you have any questions regarding or would like copies of materials relating to the
43 information in this Notice, please make such request in writing to Counsel for the Receiver,
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1 Archer & Greiner, P.C., 1211 Avenue of the Americas, New York, New York 10036 Attn:
2 Allen G. Kadish and Harrison H.D. Breakstone.

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APA (900 West Marion Punta Gorda) - 11.6.24 clean

Final Audit Report

2024-11-07

| | |
|-----------------|--|
| Created: | 2024-11-07 |
| By: | Thomas Klein (teklein10@gmail.com) |
| Status: | Signed |
| Transaction ID: | CBJCHBCAABAAgBg4LKclhXB_iZBwWcZ9SJODasp4ObzS |

"APA (900 West Marion Punta Gorda) - 11.6.24 clean" History

-  Document created by Thomas Klein (teklein10@gmail.com)
2024-11-07 - 8:15:14 PM GMT
-  Document emailed to Anthony Dubbaneh (dubbaneh@gmail.com) for signature
2024-11-07 - 8:15:24 PM GMT
-  Email viewed by Anthony Dubbaneh (dubbaneh@gmail.com)
2024-11-07 - 10:32:27 PM GMT
-  Document e-signed by Anthony Dubbaneh (dubbaneh@gmail.com)
Signature Date: 2024-11-07 - 10:32:42 PM GMT - Time Source: server
-  Agreement completed.
2024-11-07 - 10:32:42 PM GMT