

CONTRACT FOR PURCHASE

PARTIES: the **City of Gainesville, Florida, a municipal corporation**, whose address is Post Office Box 490, Station 06, Gainesville, Florida 32627 ("Seller"), and **Horizon Hospitality Management, Inc.**, a Georgia for profit corporation whose address is 2950 Mansell Road, Alpharetta, Georgia 30022 ("Buyer"), hereby agree that Seller shall sell and Buyer shall buy the following described Real Property (collectively "Property") pursuant to the terms and conditions of this Contract for Sale and Purchase and any riders and addenda ("Contract"):

1. DESCRIPTION:

(a) Legal description: Block 1, Range 2, Map of Gainesville, Florida, recorded in Deed Record H, Page 383, of the Ancient Records of Alachua County, Florida. (Currently Tax Parcel # 14574-000-000, and commonly referred to as City Parking Lot #10)

(b) Street address: 115 SW 1st Avenue, Gainesville, Florida 32601.

2. **PURCHASE PRICE** (U. S. currency): \$760,000.00

PAYMENT:

- | | |
|--|--------------|
| (a) Deposit to be paid upon Effective Date (see Paragraph 3), and held in escrow by _____ (Escrow Agent). | \$25,000.00 |
| (b) Additional escrow deposit to be made to Escrow Agent within <u>N/A</u> days after Effective Date in the amount of <u>N/A</u> . | \$ _____ |
| (c) Other: <u>N/A</u> | \$ _____ |
| (d) Balance to close by cash or LOCALLY DRAWN cashier's or official bank check(s), subject to adjustments or prorations. | \$735,000.00 |

3. TIME FOR ACCEPTANCE OF OFFER AND COUNTEROFFERS; EFFECTIVE DATE:

- a. If this Contract is not executed by and delivered to all parties on or before September 1, 2015, the Deposit will, at Seller's option, be returned and this offer withdrawn.
- b. The date of Contract ("Effective Date") will be the date when the last one of the following has occurred: Buyer has signed this Contract, the City Commission has approved this Contract and authorized its execution, and Seller has executed this Contract.

4. FINANCING:

This Contract is conditioned on the Buyer obtaining approval of a loan ("Loan Approval") by December 1, 2015 in an amount sufficient to allow for construction of the Development in accordance with paragraph 6, below. Buyer will make application within _____ business days after Effective Date and use reasonable diligence to obtain Loan Approval and, thereafter, to satisfy terms and conditions of the Loan Approval and close the loan. Buyer shall pay all loan expenses. If Buyer fails to obtain a Loan Approval or fails to waive Buyer's rights under this subparagraph within the time for obtaining Loan Approval, then either party thereafter, by written notice to the other, may cancel this Contract and Buyer shall be refunded the Deposit.

5. **TITLE EVIDENCE:** Within 10 days of the effective date:
 (a) Title insurance commitment with legible copies of instruments listed as exceptions attached thereto ("Title Commitment") and, after Closing, an owner's policy of title insurance (see Standard A for terms); or
 (b) Abstract of title or other evidence of title (see rider for terms), shall be obtained by (CHECK ONLY ONE): (1) Seller, at Seller's expense and delivered to Buyer or Buyer's attorney; or
 (2) Buyer at Buyer's expense.
6. **CLOSING DATE:** This transaction shall be closed and the closing documents delivered on or by January 31, 2016 ("Closing"), unless modified by other provisions of this Contract.
7. **RESTRICTIONS; EASEMENTS; LIMITATIONS:** Seller shall convey marketable title by special warranty deed, free and clear of all liens, encumbrances, mortgages, taxes, or assessments of any kind or nature, subject only to: comprehensive land use plans, zoning, restrictions, prohibitions and other requirements imposed by governmental authority; restrictions and matters appearing on the plat or otherwise common to the subdivision; outstanding oil, gas and mineral rights of record without right of entry; unplatted public utility easements of record (located contiguous to real property lines and not more than 10 feet in width as to the rear or front lines and 7½ feet in width as to the side lines); taxes for year of Closing and subsequent years; provided, that there exists at Closing no violation of the foregoing and none prevent use of the Property for a hotel with retail, office and meeting space (the "Intended Use").
8. **SURVEY AND DUE DILIGENCE:**
- a. **SURVEY:** The Buyer shall have 30 days from the date of execution of this Contract to have the property surveyed at its expense. If the survey shows any encroachments upon or shortages in the land herein described or that the improvements located on the land herein described encroach on the land of others, a copy of such survey shall be furnished to the other party and the Seller shall have the time to cure such defect as the Contract allows to cure defects of title. Failure to so eliminate such encroachments shall be regarded as a default by the Seller.
- b. **DUE DILIGENCE:**
- (1) **DUE DILIGENCE:** Commencing on the Effective Date, Buyer and its engineers, architects, and other agents shall have until December 1, 2015 (the "Due Diligence Period") within which to undertake such physical inspections and other investigations of, and inquiries concerning, the Property as may be necessary in order for Buyer to evaluate the physical characteristics of the Property, including environmental conditions, as well as such other matters as may be deemed by Buyer to be reasonably necessary to generally evaluate the Property and determine the feasibility and advisability of Buyer's purchase of the Property for the Intended Use.

For purposes of undertaking physical inspections and investigations of the Property, including but not limited to the Survey, Environmental Phase I, Environmental Phase II, soil studies, asbestos studies, topographical survey, land use and zoning review, water, sewer availability and capacity, ingress/egress, preliminary planning review, covenants and restrictions, coverage ratio, and construction time, Seller hereby grants to Buyer and its agents full right of entry upon the Property and any part thereof during the Due Diligence Period and, as long as this Contract has not been terminated, thereafter until Closing. Buyer, as a condition to its exercise of such right of entry, shall defend, indemnify and save and hold Seller harmless as the result of all claims and judgments arising out of the same incident or occurrence for any claim or judgment or portions thereof, from and

against any and all loss, damage, liability, suit, claim, cost or expense (including reasonable attorneys' fees and reasonable attorneys' fees to enforce this indemnification) arising from the exercise by Buyer or its agents of Buyer's rights hereunder.

(2) INDEPENDENT EVALUATION: Buyer shall utilize its own consultants, engineers and all other related professionals to make its own investigation and determination as to the accuracy or acceptability of any and all matters regarding the Property and the documents.

(3) RIGHT TO TERMINATE: If Buyer terminates this Contract in writing received by Seller on or prior to expiration of the Due Diligence Period, (1) this Contract shall terminate and the Deposit shall be returned to Buyer and except as otherwise provided herein, neither party shall have any further liability or obligation hereunder; and (2) Buyer shall deliver to Seller (at no cost to Seller) copies of all reports, studies and surveys prepared by or for Buyer with respect to the Property. If Buyer has not terminated this Contract in writing received by Seller on or prior to expiration of the Due Diligence Period, the Deposit shall be completely non-refundable and shall be deemed fully earned by Seller, except in the event of Seller default.

9. SPECIAL CONDITIONS:

- a. **Parking:** The parties shall have until December 1, 2015 to negotiate the terms of a twenty (20) year term License Agreement for Parking Spaces for 383 "floating" (not marked or fixed as to physical location) parking spaces, the form of which is attached hereto and incorporated as Exhibit A. If the parties are unable to reach agreement and do not enter into such a License Agreement by December 1, 2015, then the sole remedy shall be that either party thereafter, by written notice to the other, may cancel this Contract and Buyer shall be refunded the Deposit. In advance of entering into such a License Agreement, Seller will work to negotiate a mutually agreed upon termination of the License Agreement for Use of Parking Garage entered between the City of Gainesville and Kenneth and Linda McGurn on December 1, 2003, First Amendment dated April 13, 2004, and Second Amendment dated May 16, 2007. It is expressly recognized that Seller's ability to enter into a License Agreement for Parking Spaces with Buyer is contingent upon termination of the aforementioned McGurn agreements.
- b. **Reverter and Security:** The special warranty deed by which Seller will convey title to the Property shall contain a reverter and security provision in substantially the same form as follows:

(1) **Reverter:** Buyer shall construct on the Property a mixed use development with a minimum of 12 stories; a 180-220 room Embassy Suites hotel or other full service hotel; 9,900-10,100 square feet of retail; 13,500-16,500 square feet of office; and 22,500-27,500 square feet of meeting space; the development's architectural and form components shall be consistent with Embassy Suites Hotels Gainesville Test Fit and Westin in Austin, Texas, as depicted in Exhibit B hereto ("the Development"). Buyer shall obtain a certificate of occupancy for the Development by no later than July 30, 2017. All of the foregoing is collectively referred to as the "Development Requirements." In the event Buyer fails to complete the Development by July 30, 2017 in accordance with the Development Requirements, with completion defined as issuance of a Certificate of Occupancy, Seller shall have the absolute right, but not the obligation, to cause title to the Property to revert to Seller. To exercise its right to the reversionary interest, Seller shall record an Affidavit to that effect in the public records of Alachua County, Florida on or before the 120th day following the Completion Date (the "Reversion Deadline Date"), and upon such recording, Buyer shall execute a deed to Seller and Seller will return to Buyer the Purchase Price in paragraph 2, less the Deposit which shall be

retained by Seller. If Seller has not recorded such an affidavit on or before the Reversion Deadline Date, then the right of reversion shall expire, and the Property shall be automatically released of such reversion. The foregoing provision shall be self-operative. In addition, Seller agrees to execute at Buyer's request a recordable release evidencing the expiration of such reversion.

(2) Security: As security for Buyer's construction and completion of and conveyance of the Development, Buyer shall place with Seller a cash deposit or provide Seller a surety bond ("Security") in an amount that equals a sum that is at least 120 percent of the estimated construction cost of the Development, based on the permitted construction at the time of issuance of a building permit, and as verified and approved by the City Manager or designee, to complete construction of the Development. In the event Buyer has not completed construction of the Development by July 30, 2017, Buyer shall be deemed in default and Seller shall have the right without prior notice to Buyer to draw on the Security in such amount as Seller deems necessary to complete construction of the Development. Upon 25% completion, 50% completion, 75% completion, and 100% completion of the Development, Buyer may request and Seller shall then release and/or refund to Buyer an amount equal to the approved costs of such completed portion of construction. However, at no time shall the balance of the Security be reduced to less than 25% of the amount of the Security until all construction has been completed and approved by Seller. If Buyer completes the construction of the Development in accordance with the Development Requirements, then Seller shall release and/or refund to Buyer the remaining balance of the Security.

c. The terms of this Paragraph 9, including all special conditions stated herein, shall survive the Closing.

10. WARRANTIES & COVENANTS OF SELLER:

a. **LITIGATION:** Seller covenants and warrants that, to the best of its knowledge, there are no suits, actions, or proceedings pending, whether involving governmental authority or private party, to which Seller is a party and relating to the ownership or operation of the Property, nor has Seller any knowledge of any contemplated actions; and Seller agrees to give Buyer prompt notice of any suits instituted between the date hereof and the closing date.

b. **SELLER'S OWNERSHIP:** Seller warrants and covenants that Seller has title to the exclusion of all other persons or entities to the fee simple interest in the Property, and the same shall be conveyed by Seller to Buyer at the closing; that Seller has an unrestricted right to so transfer, that there are no Contracts, leases or understandings affecting the Property or improvements thereon other than the Public Parking Space License Agreement dated August ____, 2015; the Rental Agreement for Gainesville City Lot 10 for Farmers Market dated March 10, 2015; and the Memorandum of Understanding between City of Gainesville and Shadow Health, Inc. dated February 26, 2013, all of which shall be terminated on or before the Closing.

c. **COMPLIANCE WITH LAW:** Seller warrants and covenants that, to the best of its knowledge, there are no violations of federal, state, or local law, regulations or ordinances affecting the Property and Seller covenants to cure any and all such violations, if such are found to exist, prior to closing.

d. **ZONING:** Seller warrants and covenants that the Property is presently zoned Central City District (CCD). Seller discloses and Buyer acknowledges that the Property is the subject of pending Petition PB-14-43-ZON to rezone the Property to T-6 Urban Core zoning district.

e. **CONDEMNATION:** Seller warrants and covenants that it has not received any written or official notice or otherwise been notified or have any knowledge of any condemnation proceedings against the whole or any part of the Property.

11. **OCCUPANCY:** Seller shall deliver occupancy of Property to Buyer at time of Closing unless otherwise stated herein. If Property is intended to be rented or occupied beyond Closing, the fact and terms thereof and the tenant(s) or occupants shall be disclosed pursuant to Standard E. If occupancy is to be delivered before Closing, Buyer assumes all risks of loss to Property from date of occupancy, shall be responsible and liable for maintenance from that date, and shall be deemed to have accepted Property in its existing condition as of time of taking occupancy.
12. **TYPEWRITTEN OR HANDWRITTEN PROVISIONS:** Typewritten or handwritten provisions, riders and addenda shall control all printed provisions of this Contract in conflict with them.
13. **ASSIGNABILITY:** Buyer may not assign this Contract without the prior express written consent of Seller.
14. **DISCLOSURES:**
- a. _____ CHECK HERE if the property is subject to a special assessment lien imposed by a public body payable in installments which continue beyond Closing and, if so, specify who shall pay amounts due after Closing: _____ Seller _____ Buyer _____ Other (see addendum).
 - b. Radon is a naturally occurring radioactive gas that when accumulated in a building in sufficient quantities may present health risks to persons who are exposed to it over time. Levels of radon that exceed federal and state guidelines have been found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from your County Public Health unit.
 - c. Environmental Release and Environmental Indemnity

(1) Environmental Release. Buyer acknowledges that, upon closing, Buyer is accepting and assuming full responsibility for the environmental condition of the property, and further acknowledges that Seller shall not be liable for any costs or claims attributable to the presence or Release (as defined herein), without regard to when the Release occurred, of Hazardous Substances (as defined herein) on, in, or beneath the property as described or referenced in the City of Gainesville's November 3, 2014 Request for Proposal – RFP No. ECOD 150026-FB Mixed Use Development For City Parking Lot #10 (“Contamination”), or from any Contamination or the Release of Hazardous Substances on the property that may have migrated from the property to any adjacent lands, air or waters. Buyer, on behalf of itself, its officers, directors, agents, representatives, parent companies, subsidiaries, affiliates, partners, and successors in interest, heirs, beneficiaries and assigns, past, present and future (individually and collectively, the “Releasers”), fully and finally and forever releases, acquits and discharges Seller and its officers, agents, insurers, representatives, and employees, past, present and future, from any and all claims, suits, damages and causes of action of whatever nature and kind, including without limitation all claims for personal injury, property damage, trespass, nuisance, negligence, response or investigation costs, and/or economic loss, including lost interest, lost opportunities, diminution in real property value, stigma damages, any claims for attorneys’ or consultants’ fees and any other claims, demands, damages, losses or causes of action of whatever kind or nature, which Releasers ever had, now have, or may have in the future on account of or arising from the presence of Contamination or the Release of Hazardous Substances on, in, or beneath the property, or that may have migrated from the property to any adjacent lands, air or waters, whether at law or in equity, whether under state law, federal law, regulation or Environmental Laws (as defined herein), whether known or unknown, whether suspected or unsuspected, whether fixed or contingent, without any limitation or restriction whatsoever. The release embodied in this paragraph shall survive the Closing.

(2) Environmental Indemnity. Buyer agrees to indemnify, save harmless and defend Seller and its respective officers, insurers, agents and employees, past, present and future (individually and collectively, "Indemnitees"), from and against any and all liabilities, claims, demands, damages, penalties, forfeitures, suits, and the costs and expenses incident thereto (including costs of defense, settlement, appeals and reasonable attorneys' and paralegals' fees), which Indemnitees may hereafter incur, become responsible for or pay out as a result of death or bodily injury to any person, destruction or damage to any property, or adverse effects on the environment or any violation of federal, state or local laws, rules, regulations, ordinances, orders, permits, licenses, or lawful rulings resulting from or in any way related to: (a) the presence of Contamination or the Release of Hazardous Substances on, in, or beneath the property, or that may have migrated from the property to any adjacent lands, air or waters; or (b) the failure of Buyer to comply with any obligation that may arise after the closing under applicable Environmental Laws. The indemnity embodied in this paragraph shall survive the Closing.

(3) Environmental Definitions. When used herein, the term "Environmental Laws" shall mean and include any and all federal, state or local laws (whether under common law, statute, rule, regulation, ordinance or otherwise), requirements under permits or other authorizations issued with respect thereto, and other orders, decrees, judgments, directives or other requirements of any governmental authority relating to or imposing liability or standards of conduct (including disclosure or notification) concerning the protection of human health or the environment, Contamination, or Hazardous Substances or any activity involving Hazardous Substances, including without limitation: the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. Sections 9601 et seq. ("CERCLA"); the Resource Conservation and Recovery Act of 1976, 42 U.S.C. Sections 6921 et seq.; the Toxic Substances Control Act, 15 U.S.C. Sections 2601 et seq.; the Federal Insecticide, Fungicide and Rodenticide Act, 7 U.S.C. Section 136; the Federal Water Pollution Control Act, 33 U.S.C. Sections 1251 et seq.; the Hazardous Materials Transportation Act, 49 U.S.C. Sections 1801 et seq.; the Federal Solid Waste Disposal Act, 42 U.S.C. Sections 6901 et seq.; the Clean Air Act, 42 U.S.C. Sections 7401 et seq.; the Emergency Planning and Community Right-to-Know Act, 42 U.S.C. Sections 11001 et seq.; applicable state environmental laws; or any other applicable law, as the same may be amended from time to time.

When used herein, the term "Hazardous Substances" shall have the meaning ascribed to it in CERCLA; provided, however, that the definition of the term "Hazardous Substances" shall also include (if not included within the definition contained in CERCLA) any hazardous or toxic chemical, waste, byproduct, pollutant, contaminant, compound, product or substance, including without limitation, asbestos, polychlorinated biphenyls, petroleum (including crude oil or any fraction or byproduct thereof), hydrocarbons, radon, urea, urea formaldehyde, and any material the exposure to, or manufacture, possession, presence, use, generation, storage, transportation, treatment, release, disposal, abatement, cleanup, removal, remediation or handling of which is prohibited, controlled, limited or regulated in any manner under any Environmental Laws.

When used herein, the term "Release" shall have the meaning ascribed to it in CERCLA and shall also include (if not included within the definition contained in CERCLA) any spill, leak, emission, discharge or disposal of Hazardous Substances into the environment.

(4) Buyer acknowledges that this Paragraph 14c was a negotiated part of the contract and serves as an essential component of consideration for the same. The provisions of this Paragraph 14c shall survive the Closing.

15. MAXIMUM REPAIR COSTS: Not applicable, vacant property.

16. RIDERS; ADDENDA; SPECIAL CLAUSES:

CHECK those riders which are applicable AND are attached to this Contract:

- ___ CONDOMINIUM
- ___ HOMEOWNERS' ASSOCIATION
- ___ LEAD-BASED PAINT
- ___ INSULATION
- ___ "AS IS"
- ___ Other Comprehensive Rider Provisions
- ___ Addenda (Addendum Number 1)

Special Clause(s):

- 17. **STANDARDS FOR REAL ESTATE TRANSACTIONS ("Standards"):** Buyer and Seller acknowledge receipt of a copy of Standards A through V on the reverse side or attached, which are incorporated as a part of this Contract.

- 18. **REAL ESTATE COMMISSION:** Seller and Buyer each represent and warrant to the other that it will be individually responsible for any commission or finder's fee for any broker, salesperson, agent, or finder it has dealt with in connection with any of the transactions contemplated by this Contract. Seller and Buyer each agree to indemnify, defend (by counsel reasonably satisfactory to the indemnified party), save, and hold harmless the other from and against any and all losses, claims, damages, liabilities, Fees and Costs, and all other expenses related to, growing out of, or arising from, any claims or demands for any brokerage commissions or finder's fee alleged to be payable because of any act, omission, or statement of the indemnifying party. The terms of this Paragraph 18 shall survive the Closing.

- 19. **PARTIAL INVALIDITY:** If any term, covenant, condition or provision of this Contract or the application thereof to any person or circumstances shall, at any time or to any extent, be invalid or unenforceable, the remainder of this Contract, shall not be affected thereby, and all other terms, covenants, conditions and provisions of this Contract shall be valid and be enforced to the fullest extent permitted by law.

- 20. **NOTICE:** Any and all notices or demands by or from Seller to Buyer, or Buyer to Seller, shall be in writing. They will be served by certified mail. If served by certified mail, service shall be conclusively deemed made forty-eight (48) hours after the deposit thereof in the United States Mail, postage prepaid, addressed to the party to whom such notice or demand is to be given, as hereinafter provided, and the issuance of the registry receipt therefore.

A. Any notice or demand to Buyer shall be given to the following address:

AS TO BUYER:

Any notice or demand to Seller shall be given at the following address:

AS TO CITY:

Attention: City Manager

City of Gainesville
P.O. Box 490, MS 6
Gainesville, Florida 32627

COPY TO:

Attention: City Attorney
City of Gainesville
P.O. Box 490, Station 46
Gainesville, Florida 32627

21. **ENTIRE CONTRACT:** This Contract and Exhibits thereto, constitute the entire understanding between the parties hereto with respect to the subject matter hereof and cannot be changed, modified, amended, terminated or any provision hereof waived except by an instrument in writing signed by the parties hereto.
22. **CAPTIONS:** The parties mutually agree that the headings and captions contained in this Contract are inserted for convenience of reference only and are not to be deemed part of or to be used in construing this Contract.
23. **COUNTERPARTS:** This Contract may be executed in several counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.
24. **GOVERNING LAW:** The Laws of the State of Florida shall govern this Contract, notwithstanding its conflict of laws provisions. Venue shall be in Alachua County, Florida.
25. **APPROVALS:** This Contract is contingent upon approval by the Gainesville City Commission.
26. **RELATIONSHIP:** This Agreement does not evidence the creation of, nor shall it be construed as creating, a partnership or joint venture between the City and the Developer. The Developer cannot create any obligation or responsibility on behalf of the City or bind the City in any manner. Each party is acting for its own account, and it has made its own independent decisions to enter into this Agreement and as to whether the same is appropriate or proper for it based upon its own judgment and upon advice from such advisers as it has deemed necessary. Each party acknowledges that none of the other parties hereto is acting as a fiduciary for or an adviser to it in respect of this Agreement or any responsibility or obligation contemplated herein.
27. **BANKRUPTCY.** If, at any time prior to Closing or during the reverter period, there shall be filed by or against Buyer in any court pursuant to any statute either of the United States or of any state a petition in bankruptcy or insolvency or for reorganization or for the appointment of a receiver or trustee of all or a portion of Buyer's property, this Contract shall be deemed canceled and terminated prior to such filing. Buyer agrees to notify Seller in writing of its intent to file for bankruptcy at least 30 days prior to such filing, and Buyer shall vacate the Property prior to such filing, unless the City agrees otherwise. In the event of bankruptcy by Buyer, neither Buyer nor any person claiming through or under Buyer by virtue of any statute or of any order of any court shall be entitled to close on the purchase of the Property or take possession or remain in possession of the Property, but shall vacate and surrender the Property. The terms of this Paragraph 27 shall survive the Closing.

THIS IS INTENDED TO BE A LEGALLY BINDING CONTRACT. IF NOT FULLY UNDERSTOOD, SEEK THE ADVICE OF AN ATTORNEY PRIOR TO SIGNING.

SELLER:

CITY OF GAINESVILLE, FLORIDA, a municipal corporation,

By: _____
Russ Blackburn, City Manager

Date: _____

WITNESSES:

Name

Print Name

APPROVED AS TO FORM AND LEGALITY

City Attorney
City of Gainesville

BUYER:

HORIZON HOSPITALITY MANAGEMENT, INC.

Date: _____

Date: _____

WITNESSES:

Name

Print Name

Name

Print Name

DEPOSITS : Deposits under Paragraph 2(a) received (Checks are subject to clearance):

_____, **Escrow Agent**

By: _____

STANDARDS FOR REAL ESTATE TRANSACTIONS

- A. TITLE INSURANCE:** The Title Commitment shall be issued by a Florida licensed title insurer agreeing to issue Buyer, upon recording of the deed to Buyer, an owner's policy of title insurance in the amount of the purchase price, insuring Buyer's marketable title to the Real Property, subject only to matters contained in Paragraph 8 and those to be discharged by Seller at or before Closing. Marketable title shall be determined according to applicable Title Standards adopted by authority of The Florida Bar and in accordance with law. Buyer shall have 5 days from date of receiving the Title Commitment to examine it, and if title is found defective, notify Seller in writing specifying the defect(s) which render title unmarketable. Seller shall have 30 days from receipt of notice to remove the defects, failing which Buyer shall, within 5 days after expiration of the 30 day period, deliver written notice to Seller either: (1) extending the time for a reasonable period not to exceed 120 days within which Seller shall use diligent effort to remove the defects; or (2) requesting a refund of deposit(s) paid which shall be returned to Buyer. If Buyer fails to so notify Seller, Buyer shall be deemed to have accepted the title as it then is. Seller shall, if title is found unmarketable, use diligent effort to correct defect(s) within the time provided. If Seller is unable to timely correct the defects, Buyer shall either waive the defects, or receive a refund of deposit(s), thereby releasing Buyer and Seller from all further obligations under this Contract. If Seller is to provide the Title Commitment and it is delivered to Buyer less than 5 days prior to Closing, Buyer may extend Closing so that Buyer shall have up to 5 days from date of receipt to examine same in accordance with this Standard.
- B. SURVEY:** Buyer, at Buyer's expense, within time allowed to deliver evidence of title and to examine same, may have the Real Property surveyed and certified by a registered Florida surveyor. If the survey discloses encroachment on the Real Property or that improvements located thereon encroach on setback lines, easements, lands of others or violate any restrictions, Contract covenants or applicable governmental regulation, the same shall constitute a title defect.
- C. WOOD DESTROYING ORGANISMS:** Not applicable, vacant land.
- D. INGRESS AND EGRESS:** Seller warrants and represents that there is ingress and egress to the Real Property sufficient for its intended use as described in Paragraph 8 hereof, and title to the Real Property is insurable in accordance with Standard A without exception for lack of legal right of access.
- E. LEASES:** Seller shall, at least 10 days before Closing, furnish to Buyer copies of all written leases and estoppel letters from each tenant specifying the nature and duration of the tenant's occupancy, rental rates, advanced rent and security deposits paid by tenant. If Seller is unable to obtain such letter from each tenant, the same information shall be furnished by Seller to Buyer within that time period in the form of a Seller's affidavit, and Buyer may thereafter contact tenant to confirm such information. If the terms of the leases differ materially from Seller's representations, Buyer may terminate this Contract by delivering written notice to Seller at least 5 days prior to Closing. Seller shall, at Closing, deliver and assign all original leases to Buyer.

Buyers Initials: _____

Sellers Initials: _____

F. LIENS: Seller shall furnish to Buyer at time of Closing an affidavit attesting to the absence, unless otherwise provided for herein, of any financing statement, claims of lien or potential lienors known to Seller and further attesting that there have been no improvements or repairs to the Real Property for 90 days immediately preceding date of Closing. If the Real Property has been improved or repaired within that time, Seller shall deliver releases or waivers of construction liens executed by all general contractors, subcontractors, suppliers and materialmen in addition to Seller's lien affidavit setting forth the names of all such general contractors, subcontractors, suppliers and materialmen, further affirming that all charges for improvements or repairs which could serve as a basis for a construction lien or a claim for damages have been paid or will be paid at Closing of this Contract.

G. PLACE OF CLOSING: Closing shall be held in the county wherein the Real Property is located at the office of the attorney or other closing agent ("Closing Agent") designated by the party paying for the title insurance, or, if no title insurance, designated by Seller.

H. TIME: In computing time periods of less than six (6) days, Fridays, Saturdays, Sundays and state or national legal holidays shall be excluded. Any time periods provided herein which shall end on a Friday, Saturday, Sunday or a legal holiday shall extend to 5:00 p.m. of the next business day. **Time is of the essence in this Contract.**

I. CLOSING DOCUMENTS: Seller shall furnish the deed, bill of sale, certificate of title, construction lien affidavit, owner's possession affidavit, assignments of leases, tenant and mortgagee estoppel letters and corrective instruments.

J. EXPENSES: Buyer will pay taxes and recording fees on notes, mortgages and financing statements, and recording fees for the deed. Seller will pay taxes on the deed and recording fees for documents needed to cure title defects. Unless otherwise provided by law or rider to this Contract, charges for the following related title services, namely title evidence, title examination, and closing fee (including preparation of closing statement), shall be paid by the party responsible for furnishing the title evidence in accordance with Paragraph 6.

K. PRORATIONS; CREDITS: Taxes, assessments, rent, interest, insurance and other expenses of the Property shall be prorated through the day before Closing. Buyer shall have the option of taking over existing policies of insurance, if assumable, in which event premiums shall be prorated. Cash at Closing shall be increased or decreased as may be required by prorations to be made through day prior to Closing, or occupancy, if occupancy occurs before Closing. Advance rent and security deposits will be credited to Buyer. Escrow deposits held by mortgagee will be credited to Seller. Taxes shall be prorated based on the current year's tax with due allowance made for maximum allowable discount, homestead and other exemptions. If Closing occurs at a date when the current year's millage is not fixed and current year's assessment is available, taxes will be prorated based upon such assessment and prior year's millage. If current year's assessment is not available, then taxes will be prorated on the prior year's tax. If there are completed improvements on the Real Property by January 1st of year of Closing, which improvements were not in existence on January 1st of prior year, then taxes shall be prorated based upon prior year's millage and at an equitable assessment to be agreed upon between the parties; failing which, request shall be made to the County Property Appraiser for an informal assessment taking into account available exemptions. A tax proration based on an estimate shall, at request of either party, be readjusted upon receipt of tax bill on condition that a statement to that effect is signed at Closing.

Buyers Initials: _____

Sellers Initials: _____

L. SPECIAL ASSESSMENT LIENS: Certified, confirmed and ratified special assessment liens imposed by public bodies as of Closing are to be paid by Seller. Pending liens as of Closing shall be assumed by Buyer. If the improvement has been substantially completed as of Effective Date, any pending lien shall be considered certified, confirmed or ratified and Seller shall, at Closing, be charged an amount equal to the last estimate or assessment for the improvement by the public body.

M. INSPECTION, REPAIR AND MAINTENANCE: N/A, vacant land.

N. RISK OF LOSS: Not applicable, vacant land.

O. CLOSING PROCEDURE: The deed shall be recorded upon clearance of funds. If the title agent insures adverse matters pursuant to Section 627.7841, F.S., as amended, the escrow and closing procedure required by this Standard shall be waived. Unless waived as set forth above the following closing procedures shall apply: (1) all closing proceeds shall be held in escrow by the Closing Agent for a period of not more than 5 days after Closing; (2) if Seller's title is rendered unmarketable, through no fault of Buyer, Buyer shall, within the 5-day period, notify Seller in writing of the defect and Seller shall have 30 days from date of receipt of such notification to cure the defect; (3) if Seller fails to timely cure the defect, all deposits and closing funds shall, upon written demand by Buyer and within 5 days after demand, be returned to Buyer and, simultaneously with such repayment, Buyer shall return the Personal Property, vacate the Real Property and reconvey the Property to Seller by special warranty deed and bill of sale; and (4) if Buyer fails to make timely demand for refund, Buyer shall take title as is, waiving all rights against Seller as to any intervening defect except as may be available to Buyer by virtue of warranties contained in the deed or bill of sale.

P. ESCROW: Any Closing Agent or escrow agent ("Agent") receiving funds or equivalent is authorized and agrees by acceptance of them to deposit them promptly, hold same in escrow and, subject to clearance, disburse them in accordance with terms and conditions of this Contract. Failure of funds to clear shall not excuse Buyer's performance. If in doubt as to Agent's duties or liabilities under the provisions of this Contract, Agent may, at Agent's option, continue to hold the subject matter of the escrow until the parties hereto agree to its disbursement or until a judgment of a court of competent jurisdiction shall determine the rights of the parties, or Agent may deposit same with the clerk of the circuit court having jurisdiction of the dispute. An attorney who represents a party and also acts as Agent may represent such party in such action. Upon notifying all parties concerned of such action, all liability on the part of Agent shall fully terminate, except to the extent of accounting for any items previously delivered out of escrow. If a licensed real estate broker, Agent will comply with provisions of Chapter 475, F.S., as amended. Any suit between Buyer and Seller wherein Agent is made a party because of acting as Agent hereunder, or in any suit wherein Agent interpleads the subject matter of the escrow, Agent shall recover reasonable attorney's fees and costs incurred with these amounts to be paid from and out of the escrowed funds or equivalent and charged and awarded as court costs in favor of the prevailing party. The Agent shall not be liable to any party or person for misdelivery to Buyer or Seller of items subject to the escrow, unless such misdelivery is due to willful breach of the provisions of this Contract or gross negligence of Agent.

Q. ATTORNEY'S FEES; COSTS: In any litigation, including breach, enforcement or interpretation, arising out of this Contract, the prevailing party in such litigation, which, for purposes of this Standard, shall include Seller, Buyer, and any brokers acting in agency or nonagency relationships authorized by Chapter 475, F.S., as amended, shall be entitled to recover from the non-prevailing party reasonable attorney's fees, costs and expenses.

Buyers Initials: _____

Sellers Initials: _____

R. FAILURE OF PERFORMANCE: If Buyer fails to perform this Contract within the time specified, including payment of all deposits, the deposit(s) paid by Buyer and deposit(s) agreed to be paid, may be recovered and retained by and for the account of Seller as agreed upon liquidated damages, consideration for the execution of this Contract and in full settlement of any claims; whereupon, Buyer and Seller shall be relieved of all obligations under this Contract; or Seller, at Seller's option, may proceed in equity to enforce Seller's rights under this Contract. If for any reason other than failure of Seller to make Seller's title marketable after diligent effort, Seller fails, neglects or refuses to perform this Contract, Buyer may seek specific performance or elect to receive the return of Buyer's deposit(s) without thereby waiving any action for damages resulting from Seller's breach.

S. CONTRACT NOT RECORDABLE; PERSONS BOUND; NOTICE; FACSIMILE: Neither this Contract nor any notice of it shall be recorded in any public records. This Contract shall bind and inure to the benefit of the parties and their successors in interest. Whenever the context permits, singular shall include plural and one gender shall include all. Notice and delivery given by or to the attorney or broker representing any party shall be as effective as if given by or to that party. All notices must be in writing and may be made by mail, personal delivery or electronic media. A legible facsimile copy of this Contract and any signatures hereon shall be considered for all purposes as an original.

T. CONVEYANCE: Seller shall convey marketable title to the Real Property by statutory warranty, trustee's, personal representative's or guardian's deed, as appropriate to the status of Seller, subject only to matters contained in Paragraph 8 and those otherwise accepted by Buyer. Personal property shall, at the request of Buyer, be transferred by an absolute bill of sale with warranty of title, subject only to such matters as may be otherwise provided for herein.

U. OTHER CONTRACTS: No prior or present Contracts or representations shall be binding upon Buyer or Seller unless included in this Contract. No modification to or change in this Contract shall be valid or binding upon the parties unless in writing and executed by the parties intended to be bound by it.

V. WARRANTY: Seller warrants that there are no facts known to Seller materially affecting the value of the Property which are not readily observable by Buyer or which have not been disclosed to Buyer.

Buyers Initials:_____

Sellers Initials:_____