

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

CASE NO.: 23-24903-CIV-JB

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

RISHI KAPOOR, et al.,

Defendants.

---

**RECEIVER’S MOTION TO APPROVE STIPULATION WITH GREGORY  
T. MARTINI, AS TRUSTEE OF VV 1201 TRUST AGREEMENT, GOODKIND &  
FLORIO, P.A. AND PHILADELPHIA INDEMNITY AND INSURANCE COMPANY**

Bernice C. Lee, as Receiver (“Receiver”) over the companies listed herein (collectively, the “Receivership Companies”),<sup>1</sup> through this Motion (the “Motion”) seeks the entry of an Order approving the stipulation (the “Stipulation”) entered into among the Receiver, Gregory T. Martini, as Trustee of the VV 1201 Trust Agreement (“Trustee”), Goodkind & Florio, P. A. (“Escrow Agent”), and Philadelphia Indemnity and Insurance Company (“Philadelphia”), and states as follows:

**FACTUAL BACKGROUND AND REQUESTED RELIEF**

1. On December 27, 2023, the Securities and Exchange Commission (“SEC”) filed a Complaint for Injunctive Relief against Rishi Kapoor (“Kapoor”) and the Receivership Companies

---

<sup>1</sup> The Receivership Defendants include: Location Ventures, LLC, URBIN, LLC, Patriots United, LLC; Location Properties, LLC; Location Development, LLC; Location Capital, LLC; Location Ventures Resources, LLC; Location Equity Holdings, LLC; Location GP Sponsor, LLC; 515 Valencia Sponsor, LLC; LV Montana Sponsor, LLC; URBIN Founders Group, LLC; URBIN CG Sponsor, LLC; 515 Valencia Partners, LLC; LV Montana Phase I, LLC; Stewart Grove 1, LLC; Stewart Grove 2, LLC; Location Zamora Parent, LLC; URBIN Coral Gables Partners, LLC; URBIN Coconut Grove Partners, LLC; URBIN Miami Beach Partners, LLC; and URBIN Miami Beach II Phase 1, LLC.

[DE 14-1] alleging that Kapoor used the Receivership Companies to operate a real estate scheme in violation of the anti-fraud provisions of the federal securities law raising approximately \$93 million from more than 50 investors from January 2018 through March 2023.

2. On January 5, 2024, the SEC filed an Expedited Motion for Appointment of Receiver, Asset Freeze, and Other Related Relief Against the Company Defendants and Memorandum of Law (the “Receiver Motion”) [DE 16] seeking the appointment of a receiver to *inter alia* administer the Receivership Companies’ assets.

3. On January 12, 2024, the Court entered an Order granting the Receiver Motion (the “Receivership Order”) [DE 28], which appointed Bernice C. Lee as receiver “for the estate of the Receivership Companies, including any of [their] divisions, subsidiaries, affiliates, successors, and assigns; and any fictitious business entities or business names created or used by the Receivership Companies, their divisions, subsidiaries, affiliates, successors, and assigns.” Receivership Order ¶ 2. The Receivership Order defines “Receivership Property” and “Receivership Estate” as including “all property interests . . . of whatever kind, which the Receivership Defendants own, possess, have a beneficial interest in, or control directly or indirectly.” *See* ¶ 7.A.

4. The Receivership Order further grants the Receiver all powers, authorities, rights and privileges possessed by the officers, directors, managers, and general and limited parties of the Receivership Companies under applicable state and federal law, and by any governing charters, by-laws, articles, and/or agreements, in addition to all powers and authority of a receiver at equity and under other applicable law. *See* ¶ 4.

5. 515 Valencia Partners, LLC (“Valencia Partners”) is a Receivership Company and the 100% owner of 515 Valencia SPE, LLC (“Valencia SPE”). Valencia SPE owns four condominium units in a building located at 515 Valencia Ave. Coral Gables, Florida 33134,

including Unit 1201. Unit 1201 is unfinished.

6. Prior to the SEC action and receivership, on March 16, 2021, Richard Cole and 515 Valencia SPE entered into a Purchase Agreement and Addendum for Unit 1201 (the “Purchase Agreement”). A copy of the Purchase Agreement is attached hereto as **Exhibit 1**. Paragraph 4(a) of the Purchase Agreement incorporates Valencia SPE’s Escrow Agreement (“Escrow Agreement”) with Escrow Agent for the holding, disbursement and administration of the buyer’s deposits. A copy of the Escrow Agreement is attached hereto as **Exhibit 2**. Pursuant to the Purchase Agreement, Richard Cole deposited \$650,000 – 10% of the purchase price – into escrow (“Cole’s 10% Buyer’s Deposit”) with the Escrow Agent. Subsequently, Valencia SPE exercised its right – pursuant to the terms of the Escrow Agreement and Fla. Stat. §718.202(1) – to provide an alternative assurance in the form of a bond so that it could use deposits, including Cole’s 10% Buyer’s Deposit. Specifically, Valencia SPE obtained from Philadelphia a Condominium Escrow Deposit Surety Bond in the amount of \$1,400,000, Bond # PB00541800037, which was signed and sealed on October 4, 2022 (the “Bond”), and includes assurance for Cole’s 10% Buyer’s Deposit, and Escrow Agent thereafter released Cole’s 10% Buyer’s Deposit to Valencia SPE. The Bond binds Valencia SPE, as Principal, and Philadelphia, as Surety, to Escrow Agent and the Division of Florida Condominiums, Timeshares, and Mobile Homes Department of Business and Professional Regulation (the “Division”), as Obligees. A copy of the bond is attached hereto as **Exhibit 3**.

7. The Trustee has advised the Receiver that on December 15, 2023, pursuant to the VV 1201 Trust Agreement and Assignment of Contract and Claims, Richard Cole assigned the Purchase Agreement and all rights thereunder to the Trustee.

8. Paragraph 7 of the Purchase Agreement states in part that “Seller estimates that it will

substantially complete construction of the Unit, in the manner specified in this Agreement, by approximately April 30, 2022, subject, however, only to delays resulting from “Force Majeure” (such date, as extended by events of Force Majeure, the “Outside Date”).” See Ex. 1 ¶ 7. Paragraph 9 provides in part that “Buyer understands and agrees that Seller has the right to schedule the date, time and place for closing, which shall in no event be scheduled later than twelve (12) months following the Outside Date.” See Ex. 1 ¶ 9(a). Thus, the closing needed to be scheduled by April 30, 2023. The sale did not close, and the closing deadline passed in 2023.

9. The Receivership Order includes an injunction that restrains and enjoins all persons from directly or indirectly taking any action, or causing any action to be taken, without the express written agreement of the Receiver, which would *inter alia*:

Dissipate or otherwise diminish the value of any Receivership Property; such prohibited actions include but are not limited to releasing claims or disposing, transferring, exchanging, assigning, or in any way conveying any Receivership Property, enforcing judgments, assessments, or claims against any Receivership Property or the Receivership Defendants, attempting to modify, cancel, terminate, call, extinguish, revoke, or accelerate (the due date) any lease, loan, mortgage, indebtedness, security agreement, or other agreement executed by the Receivership Defendants or which otherwise affects any Receivership Property;

See ¶ 23.C.

10. The Trustee has requested relief from Paragraph 23.C of the Receivership Order for the limited purpose of declaring a default under, and terminating, the Purchase Agreement, and making demand upon Escrow Agent for Cole’s 10% Buyer’s Deposit.

11. Accordingly, without waiving any other rights and based upon the foregoing, the Receiver, the Trustee, Escrow Agent and Philadelphia, by filing this Motion and subject to the Court’s approval of same, hereby agree and stipulate to the following:

**STIPULATION**

A. The Trustee is permitted to, and has, declared a default under the Purchase Agreement and

terminated the Purchase Agreement.

- B. The Trustee is permitted to make demand on the Escrow Agent with respect to Cole's 10% Buyer's Deposit.
- C. Escrow Agent does not have access to any funds in the respective Escrow Accounts and will therefore be unable to refund Cole's 10% Buyer's Deposit. Because Escrow Agent does not have access to any funds in the Escrow Accounts and therefore cannot refund Cole's 10% Buyer's Deposit, Section 7(e) of the Escrow Agreement contemplates that Escrow Agent provide Valencia SPE with notice of Trustee's demand to refund Cole's 10% Buyer's Deposit, and Valencia SPE would then have fifteen (15) days from receipt of such notice to furnish the Escrow Agent with the funds necessary to complete the refund. Since Valencia SPE is under the control of the Receiver, upon Trustee making demand upon Escrow Agent to refund Cole's 10% Buyer's Deposit, Escrow Agent is permitted to and shall promptly notify the Receiver of the demand, and such notice will satisfy any requirement that Escrow Agent provide notice of the demand to SPE Valencia. It is expressly understood and agreed that such actions shall not constitute a violation of the Receivership Order. Escrow Agent shall be permitted to make demand upon Philadelphia for payment of Cole's 10% Buyer's Deposit fifteen (15) days after providing the Receiver with notice that the Trustee has made demand for the return of Cole's 10% Buyer's Deposit and the Receiver not furnishing Escrow Agent with the funds necessary to refund Cole's 10% Buyer's Deposit, and it is expressly understood and agreed that such demand shall not constitute a violation of the Receivership Order.
- D. Upon receipt of Escrow Agent's demand for the payment of Cole's 10% Buyer's Deposit, Philadelphia is permitted to pay Cole's 10% Buyer's Deposit to Escrow Agent and Escrow

Agent is permitted to receive such payment in an account of its choosing and subsequently remit such payment to Trustee. It is expressly understood and agreed that such actions shall not constitute a violation of the Receivership Order.

- E. Nothing herein authorizes or shall be construed to authorize the Trustee, Escrow Agent, Philadelphia, or any other party to pursue or take any other actions against the Receiver, the Receivership Companies, Receivership Property or receivership estate that are enjoined or otherwise prohibited by the Receivership Order. To the extent not inconsistent with the Receivership Order, nothing herein prohibits the Trustee from pursuing his remedies under paragraph 13(c) of the Purchase Agreement against third parties other than the Receiver, Receivership Companies, Receivership Property or receivership estate, including bringing claims against Escrow Agent and Philadelphia to enforce the permitted actions described above.
- F. The Trustee, Philadelphia, and Escrow Agent reserve their rights to file a proof of claim in the receivership estate in the event the Court approves a claims process, and the Receiver reserves the right to object to or otherwise oppose any proof of claim filed by the Trustee, Philadelphia or Escrow Agent. Upon Escrow Agent providing the Receiver with notice of Trustee's demand to refund Cole's 10% Buyer's Deposit, and making demand upon Philadelphia for payment of Cole's 10% Buyer's Deposit and payment of Cole's 10% Buyer's Deposit to Trustee, Escrow Agent is released from claims of Richard Cole, the Trustee, Philadelphia, the Receiver and receivership estate arising from Cole's 10% Buyer's Deposit. In consideration of the releases set forth above, Escrow Agent expressly agrees that, upon receipt of Philadelphia's payment to Escrow Agent of Cole's 10% Buyer's Deposit, Escrow Agent will promptly remit said payment to the Trustee's attorney,

Thomas Lehman, Esq. Upon payment by Philadelphia of Cole's 10% Buyer's Deposit to Escrow Agent and Escrow Agent remitting Cole's 10% Buyer's Deposit to Trustee, Philadelphia is released from claims of Richard Cole, the Trustee, the Escrow Agent, the Receiver and receivership estate arising from the Bond or Escrow Agreement with regard to Cole's 10% Buyer's Deposit portion of the Bond. Nothing contained within this Stipulation shall be construed to expand Philadelphia's liability on the Condominium Escrow Deposit Surety Bond, nor waive any rights or defenses to any claims made on the Condominium Escrow Deposit Surety Bond which are expressly reserved herein.

WHEREFORE, the Receiver requests that the Court approve the Stipulation, and enter the proposed order attached hereto as **Exhibit 4**.

**CERTIFICATION OF CONFERENCE WITH COUNSEL**

Counsel for the SEC has informed undersigned counsel that it has no objection to the relief requested herein. Counsel for defendant Rishi Kapoor has informed undersigned counsel that Rishi Kapoor takes no position on the relief requested herein.

Respectfully submitted,

KOZYAK TROPIN & THROCKMORTON LLP  
2525 Ponce de Leon Boulevard, 9th Floor  
Coral Gables, Florida 33134  
Tel: (305) 372-1800  
Fax: (305) 372-3508  
Email: dlr@kttlaw.com

By: /s/ David L. Rosendorf  
David L. Rosendorf  
Florida Bar No. 996823  
*Counsel for Bernice C. Lee, Receiver*

LEVINE KELLOGG LEHMAN SCHNEIDER +  
GROSSMAN LLP  
Miami Tower  
100 S.E. 2<sup>nd</sup> Street, 36<sup>th</sup> Floor  
Miami, Florida 33131  
Tel: (305) 403-8788 / Fax: (305) 403-8789  
Email: trl@lklsg.com

By: /s/ Thomas R. Lehman  
Thomas R. Lehman  
Florida Bar No.: 351318  
*Counsel for Trustee Gregory T. Martini, as  
Trustee of the VV 1201 Trust Agreement*

KAPLAN ZEENA LLP  
2 South Biscayne Blvd.  
One Biscayne Tower, Suite 3050  
Miami, FL 33131  
Tel: 305-530-0800 / Fax: 305-530-0801

By: /s/ Noah E. Snyder  
JAMES M. KAPLAN  
Florida Bar No.: 921040  
NOAH E. SNYDER  
Florida Bar No.: 107415  
Email: james.kaplan@kaplanzeena.com  
Email: noah.snyder@kaplanzeena.com  
Email: maria.escobales@kaplanzeena.com  
*Attorneys for Goodkind & Florio, P.A.*

TAYLOR CORWIN & VAN CLEAF, PLLC  
255 Alhambra Circle, Suite 1170  
Coral Gables, FL 33134  
Telephone: (305) 859-4400

By: /s/ Timothy S. Taylor  
TIMOTHY S. TAYLOR  
Florida Bar No.: 545015  
Email: ttaylor@tcv.law  
Email: vperez@tcv.law  
Email: lvega@tcv.law  
*Attorneys for Philadelphia Indemnity  
Insurance Company*



**I HEREBY CERTIFY** that a true and correct copy of the foregoing has been served via CM/ECF upon all counsel of record this 7th day of March, 2025.

By: /s/ David L. Rosendorf  
David L. Rosendorf

# **Exhibit 1**

# VILLA VALENCIA

LOCATION ONE | Sotheby's  
VENTURES INTERNATIONAL REALTY

515 VALENCIA AVENUE, CORAL GABLES, FL 33134 786.971.6680 VILLA VALENCIA.COM

VILLA VALENCIA CONDOMINIUM

PURCHASE AGREEMENT

ORAL REPRESENTATIONS CANNOT BE RELIED UPON AS CORRECTLY STATING THE REPRESENTATIONS OF THE DEVELOPER. FOR CORRECT REPRESENTATIONS, REFERENCE SHOULD BE MADE TO THIS CONTRACT AND THE DOCUMENTS REQUIRED BY SECTION 718.503, FLORIDA STATUTES, TO BE FURNISHED BY A DEVELOPER TO A BUYER OR LESSEE.

ANY PAYMENT IN EXCESS OF 10 PERCENT OF THE PURCHASE PRICE MADE TO DEVELOPER PRIOR TO CLOSING PURSUANT TO THIS CONTRACT MAY BE USED FOR CONSTRUCTION PURPOSES BY THE DEVELOPER.

Additionally, under certain circumstances more particularly described in Section 4, and provided that the Seller has posted "Alternative Assurances" with the Division of Florida Condominiums, Timeshares and Mobile Homes, Seller may use all of Buyer's deposits (including those equal to the initial 10% of the Purchase Price, as hereinafter defined).

In this Agreement (including all addenda or amendments hereto, collectively, the "Agreement" or the "Contract"), the term "Buyer" and/or "Purchaser" means or refers to the buyer or buyers listed below who have signed this Agreement. The word "Seller" and/or "Developer" means or refers to 515 Valencia SPE, LLC, a Florida limited liability company and its successors and/or assigns. If the first letter of a word is capitalized in this Agreement, that word will have the meaning given to it in this Agreement or, if no definition of such word is given in this Agreement, then it shall have the meaning given to it in the Declaration (as defined in Section 1 of this Agreement).

Buyer(s): Richard Cole
Name of Principal Owner of Buyer (if entity):
Name and Title of Authorized Signatory (if entity):

Address: 9150 South Dadeland Boulevard
City: Miami State: FL
Country: USA Zip Code: 33156
Home Phone: Office Phone:
Tax I.D. No.: Fax. No.
E-Mail Address: Richard.cole@csklegal.com Cellular Phone No. 305-350-5305
Registered Agent's Name, Number, E-Mail and Address:

Sheila Freed - 305 667-4815 - sheilafreed@sreed.com - 4000 Ponce De Leon Blvd, Coral Gables FL 33146

- 1. Purchase and Sale.
(a) Buyer agrees to buy, and Seller agrees to sell (on the terms and conditions contained in this Agreement), Unit 1201 (collectively, if more than one, the "Unit") in the proposed VILLA VALENCIA CONDOMINIUM (the "Condominium").

Buyer acknowledges receipt of the Condominium Documents and all documents required by Section 718.503, Florida Statutes, to be furnished by a developer to a buyer, on or before the date of this Agreement.

- (b) The total purchase price for the Unit is \$ 6,500,000.00 USD (the "Purchase Price"). In addition to the Purchase Price, Buyer also agrees to pay the fees, costs, reimbursements, adjustments and other sums required to be paid by Buyer pursuant to Section 11 below. Buyer understands and agrees that the Purchase Price of the Unit is not based solely upon the size of the Unit, but is also based on a number of different factors, including, without limitation, any of the following, or any combination of the following: current market conditions, the location of the Unit within the Building, the Unit configuration, the floor level of the Unit within the Building, ceiling heights within the Unit, and/or sizes of balconies, terraces and/or patios, and/or any other special appurtenant rights attached to the Unit.

2. Payment of the Purchase Price. Buyer agrees to make the following payments against the Purchase Price:

<u>Payment</u>	<u>Due Date</u>	<u>Amount</u>
Initial Deposit (reservation deposit, if any, will be applied against this amount)	Upon Buyer's execution of this Agreement	\$ <u>650,000.00</u>
Additional Deposit	<u>15 days after execution</u>	\$ <u>2,600,000.00</u>
Additional Deposit	_____	\$ _____
Additional Deposit	_____	\$ _____
Balance	At closing	\$ <u>3,250,000.00</u>
<b>Total Purchase Price</b>		<b>\$ <u>6,500,000.00</u></b>

- (a) Buyer expressly understands and agrees that Seller reserves the right to use Buyer's deposits (both up to [provided that Seller has placed Alternative Assurances approved by the Division] and in excess of ten percent (10%) of the Purchase Price of the Unit) in order to fund a significant portion of construction and development of the Condominium all in accordance with the provisions of Section 4 hereof and applicable Florida law.
- (b) **All payments required to be made hereunder, including all Deposits and any balance due at closing, must be paid by wire transfer of immediately available federal funds only.** Even though Seller is not obligated to do so, if Seller accepts a deposit from Buyer which is made by personal check and/or cashiers' check, same shall be made in United States funds and all checks must be payable on a bank located in the United States. Additionally, even though Seller is not obligated to do so, if Seller accepts a deposit from

Buyer drawn on a foreign bank and/or payable in a currency other than U.S. currency, Buyer shall be solely responsible for all costs of collection and/or conversion and agrees to pay same to Seller promptly upon demand or, in Seller's sole and absolute discretion, Seller may permit such costs to be charged to Buyer at the time of closing. If Buyer fails to pay any deposit on time, and Seller agrees to accept it on a later date (which Seller is not obligated to do), Buyer will pay a late funding charge equal to interest on such deposit at the then applicable highest lawful rate from the date due until the date received by Seller and cleared by the bank on which it is drawn.

- (c) Buyer also agrees to pay all fees, costs, expenses and/or other sums required to be paid by Buyer in this Agreement. At the present time, the costs for which dollar amounts can be computed are:

\$ <u>82,500.00</u>	-	1.50% Development Closing Costs Fee	<b>SEE ADDENDUM</b>
\$ <u>6,783.92</u>	-	Initial Contribution to the Condominium Association	

These charges are subject to change as provided in Section 11 of this Agreement and are explained in more detail in that Section, as are other costs which cannot be computed at this time.

3. How Buyer Pays. Buyer understands and agrees that Buyer will be obligated to pay "all cash" at closing and this Agreement is not contingent or conditioned upon Buyer obtaining financing. This Agreement and Buyer's obligations under this Agreement to purchase the Unit will not depend on whether or not Buyer qualifies for or obtains a mortgage from any lender. Buyer will be solely responsible for making Buyer's own financial arrangements. Although Seller does not have to do so, if Seller agrees to delay closing until Buyer's lender is ready, or to wait for funding from Buyer's lender until after closing, or to accept a portion of the sums due at closing in the form of a personal check (which Seller shall have no obligation to do), Buyer agrees to pay Seller a late funding charge equal to interest, at the then highest applicable lawful rate on all funds due Seller which have not then been paid to Seller (and, with regard to personal checks, which have not then cleared the bank on which they are drawn) from the date Seller originally scheduled closing to the date of actual payment (and, with regard to personal checks, to the date of final clearance). This late funding charge may be estimated and charged by Seller at closing. Seller's estimate will be adjusted after closing based on actual funding and clearance dates upon either Seller's or Buyer's written request. Without limiting the generality of Section 30 of this Agreement, the foregoing sentence will survive (continue to be effective after) closing.

4. Deposits.

- (a) Developer has entered into an escrow agreement with Goodkind & Florio, P.A. (the Escrow Agent"), with offices at 4121 La Playa Blvd., Miami, FL 33133, for the holding, disbursement and administration of Buyer's deposits, all in accordance with the terms of the escrow agreement, this Agreement and the Florida Condominium Act (Chapter 718 of the Florida Statutes) (the "Act"). A copy of the escrow agreement is included in the Condominium Documents. The escrow agreement is incorporated into this Agreement as if repeated at length herein, and Buyer agrees that the deposits may be held in any depository which meets the requirements of the Act, including, without limitation, a financial institution chartered and located out of the State of Florida.

- (b) Buyer understands and agrees that all of Buyer's deposits in excess of ten percent (10%) of the Purchase Price may be used by Seller for construction and development purposes as permitted by law. In addition to the foregoing, to the extent of any approved "Alternative Assurances", Seller may, as permitted by law, and in lieu of holding deposits up to ten percent (10%) of the Purchase Price in escrow, cause the Escrow Agent to disburse such deposits to it for all uses permitted by law. Buyer agrees that the posting of Alternative Assurances or any change to the Alternative Assurances shall not be deemed a material or adverse change in the offering of the Condominium by reason of the fact that Buyer has already agreed to the use of Buyer's deposits up to ten percent (10%) of the Purchase Price. Accordingly, Buyer understands and agrees that Seller reserves the right to utilize all of Buyer's deposits (both up to, and in excess of, ten percent (10%) of the Purchase Price) as and to the extent permitted by law. Buyer should expect that its deposits up to, and in excess of, ten percent (10%) of the Purchase Price will not remain in escrow.
- (c) At closing, all deposits not previously disbursed to Seller will be released to Seller. Except where expressly provided herein to the contrary or otherwise required by law, all interest earned on Buyer's deposits shall accrue solely to the benefit of Seller. Interest shall not be credited against the Purchase Price of the Unit. Buyer further understands and agrees that to the extent that deposit monies are removed from escrow and used as permitted herein, said monies are not available for investment and accordingly no interest shall be earned or deemed to be earned (even if Seller indirectly benefits from the use of said funds). No interest will be assumed to be earned, unless in fact said sums are invested in an interest bearing account and do in fact earn interest. Subject to the terms of Section 13 below, in the event of an uncured default by Buyer and the retention of the Deposit or any portion thereof by Seller, Seller shall also be entitled to retain any interest earned thereon. Seller may change escrow agents (as long as the new escrow agent is authorized to be an escrow agent under applicable Florida law), in which case Buyer's deposits, or the portions thereof then being held in escrow, and any interest actually earned on them, may be transferred to the new escrow agent at Seller's direction. If Buyer so requests, Buyer may obtain a receipt for Buyer's deposits from the Escrow Agent.

5. Seller's Financing/Buyer's Waiver and Subordination. Seller may borrow (or may have borrowed) money from lenders (each, a "Developer's Lender") for the acquisition, development, refinancing and/or construction of the Condominium and/or Unit (and any other units owned by Seller, if any). Buyer agrees that any and each Developer's Lender will have, until closing, a prior, superior mortgage on or other interest in the Unit, and the Condominium (or the real property upon which the Condominium will be created), with greater priority than any rights or interest Buyer may have therein, if any, pursuant to this Agreement or under any principal of equity or otherwise. At closing, Seller shall cause the then applicable mortgages to be released as an encumbrance against the Unit and may use Buyer's closing proceeds for such purpose. Without limiting the generality of the foregoing, Buyer's rights and interest under this Agreement (and the deposits made hereunder) are and will be, automatically and without further action or instrument, subordinate to all mortgages, mezzanine and any other forms of financing (and all modifications made to those mortgages, mezzanine and any other forms of financing) affecting the Unit or the Condominium (or the real property upon which the Condominium is being developed) even if those mortgages, mezzanine and any other forms of financing provided by a Developer's Lender (or modifications) are made or recorded after the date of this Agreement.

**Notwithstanding anything to the contrary contained in this Agreement, Buyer agrees that neither this Agreement, nor Buyer's making the Deposits (and/or Seller's use of deposits as permitted hereunder), will give Buyer any lien (equitable or otherwise) or claim against the Unit, the Condominium or the real property upon which the Condominium has been (or will be) created and Buyer knowingly, fully and unconditionally waives and releases any right to assert any such lien or claim.** Buyer hereby acknowledges and agrees that (i) any and each Developer's Lender is an express third party beneficiary of this Section 5, and (ii) this Section 5 and the rights of any and each Developer's Lender under this Section 5 shall survive (continue to be effective after) any termination, rescission or other voiding of this Agreement, and any default by Developer under this Agreement.

6. Insulation; Energy Efficiency. Seller has advised Buyer, as required by the rules of the Federal Trade Commission, that it intends, currently, to install in connection with the Unit, the following insulation: (a) Tapered insulation on the Roof, having an R-Value of R-19 and a thickness of 2 inches, (b) Fi-foil insulation on the exterior walls, having an R-Value of R-5 and a thickness of 1 inch, and (c) Wool insulation on the interior demising walls having a varying R-Value and a thickness of 6 inches. This R-value information is based solely on the information given by the appropriate manufacturers and Buyer agrees that Seller is not responsible for the manufacturers' errors. Pursuant to applicable law, Buyer shall have the option to obtain an energy efficiency rating on the Unit being purchased. Buyer hereby releases Seller from any responsibility or liability for the accuracy or level of the rating and Buyer understands and agrees that this Agreement is not contingent upon Buyer's approval of the rating, that the rating is solely for Buyer's own information and that Buyer will pay the total cost of obtaining the rating. All insulation and energy efficiency rating information is subject to Seller's general right, under Sections 14, 27 and 29 below to make changes in Seller's Plans and Specifications, and to applicable limitations of Seller's liability to Buyer.

7. Completion Date. Seller estimates that it will substantially complete construction of the Unit, in the manner specified in this Agreement, by approximately April 30, 2022, subject, however, only to delays resulting from "Force Majeure" (such date, as extended by events of Force Majeure, the "Outside Date"). The term "Force Majeure" as used in this Agreement shall mean "Acts of God", labor disputes (whether lawful or not), work stoppages, material or labor shortages, restrictions or delays by any governmental or utility authority or any court of law, civil riots, terrorism, floods or other causes or delays in construction or otherwise that are reasonably beyond Seller's control.

8. Inspection Prior to Closing.

(a) Buyer will be given an opportunity prior to closing, on the date and at the time scheduled by Seller, to inspect the Unit with Seller's representative. At that time, Buyer will sign an inspection statement listing any alleged defects in workmanship or materials (only within the boundaries of the Unit, itself) which Buyer discovers. If any item listed is actually defective in workmanship or materials (keeping in mind the construction standards applicable in Miami-Dade County, Florida for properties of similar type, style and age), Seller shall, subject to the other provisions hereof, be obligated to repair those items at its cost within a reasonable period of time after closing, but Seller's obligation to do so will not be grounds for deferring the closing, nor for imposing any condition on closing. **No escrows or holdbacks of closing funds will be permitted.** Buyer understands and agrees that Seller's obligation to repair items in the Unit noted during the pre-closing inspection shall automatically terminate (with Seller having no further obligations for



such items) upon the date that Buyer commences construction and/or improvement of the Unit, whether or not a permit has been obtained. If Buyer fails to take advantage of the right to a pre-closing inspection on the date and time scheduled, Seller will not be obligated to reschedule an inspection prior to closing and Buyer shall be deemed to have accepted the Unit in its AS-IS/WHERE-IS condition (subject only to any warranty obligations of Seller, to the extent applicable and not then expired).

- (b) From and after the closing, Buyer hereby grants Seller and its agents, employees and contractors access to the Unit at reasonable times during normal business hours to complete any necessary repairs to the Unit. If Buyer cannot be present at the time such work is to be performed to facilitate completion of such work, Buyer hereby authorizes Seller, its agents, employees, contractors and sub-contractors to enter the Unit for such purposes using a master key or a key maintained by the Association. If Buyer cannot or elects not to be present at the time that Seller performs any such work, Buyer hereby waives and releases Seller (its partners, members, managers, contractors, sub-contractors, employees, agents, designees and assigns) from any and all claims that Buyer may have against Seller (its partners, members, managers, contractors, sub-contractors, employees, agents, designees and assigns) relating to damage to or theft of property from the Unit that is not due to the negligence or intentional act of Seller or its partners, members, contractors, subcontractors, employees, agents, designees and/or assigns. Buyer acknowledges that all matters pertaining to the initial construction of the Unit will be handled by Seller and Seller's representatives. Buyer agrees not to interfere with or interrupt any workers at the site of the Unit. No personal inspections (other than the one pre-closing inspection referred to above) will be permitted. Buyer may not commence any work on the Unit, other than prepaid options or extras that Seller agrees in writing to provide, until after closing. Buyer recognizes that Seller is not obligated to agree to provide extras or options.
- (c) Buyer can examine Seller's Plans and Specifications at Seller's business office, located on site or otherwise at a location identified by Seller, during regular business hours by making an appointment to do so in advance.
- (d) The provisions of this Section 8 shall survive (continue to be effective after) closing.

9. Closing Date.

- (a) Buyer understands and agrees that Seller has the right to schedule the date, time and place for closing, which shall in no event be scheduled later than twelve (12) months following the Outside Date. Before Seller can require Buyer to close, however, two (2) things must be done:
- (i) Seller must record the Declaration and related documents in the Miami-Dade County public records; and
- (ii) Seller must obtain a temporary, partial or permanent certificate of occupancy for or covering the Unit from the proper governmental agency (a certificate of occupancy is the official approval needed before a unit may be occupied), but, subject and subordinate to the provisions of Sections 8 and 31 of this Agreement

(without limiting the generality of those provisions by this specific reference), the Common Elements and other portions of the Condominium Property need not then have certificates of occupancy, nor be completed. Seller does, however, agree to complete those amenities within a reasonable period of time following closing, provided, however, that no closing shall occur until the certificate of substantial completion described in Section 718.104(4)(e), F.S. shall have first been recorded. Seller does however, agree to provide or complete, within a reasonable period of time following closing, those roads and facilities for water, sewer, gas, electricity and recreational amenities, which Seller or its agents have represented Seller will provide or complete, or Seller has committed to provide or complete in accordance with the terms of the Condominium Documents. The foregoing sentence shall survive (continue to be effective after) closing.

- (b) Buyer will be given at least fifteen (15) days' notice of the date, time and place of closing. Seller is authorized to postpone the closing for any reason and Buyer will close on the new date, time and place specified in a notice of postponement (as long as at least three (3) days' notice of the new date, time and place is given). A change of time or place of closing only (one not involving a change of date) will not require any additional notice period. Any formal notice of closing, postponement or rescheduling may be given by Seller orally, by telephone, e-mail, facsimile, mail or other reasonable means of communication at Seller's option. All of these notices will be sent or directed to the address, or given by use of the information specified on Page 1 of this Agreement unless Seller has received written notice from Buyer of any change prior to the date the notice is given. These notices will be effective on the date given or mailed (as appropriate). An affidavit of one of Seller's employees or agents stating that this notice was given or mailed will be conclusive. After the notice is given or mailed, and if requested in writing by Buyer, Seller will send a written confirmation of the closing, together with a draft closing statement and other pertinent information and instructions. This written confirmation is given merely as a courtesy and is not the formal notice to close. Accordingly, it does not need to be received by any particular date prior to closing. Buyer agrees, however, to follow all instructions given in any formal notice and written confirmation. If Buyer fails to receive any of these notices or the confirmation because Buyer failed to advise Seller of any change of mailing address, e-mail address, phone number or telecopy number, because Buyer has failed to pick up a letter when Buyer has been advised of an attempted delivery or because of any other reason, Buyer will not be relieved of Buyer's obligation to close on the scheduled date unless Seller agrees in writing to postpone the scheduled date. If Seller agrees in writing to reschedule closing at Buyer's request, or if Buyer is a corporation or other entity and Buyer fails to produce the necessary documentation Seller requests and, as a result, closing is delayed, or if closing is delayed for any other reason (except for a delay desired, requested or caused by Seller), Buyer agrees to pay at closing a late funding charge equal to interest, at the then highest applicable lawful rate, on that portion of the Purchase Price not then paid to Seller (and cleared), from the date Seller originally scheduled closing to the date of actual closing. Buyer agrees that the late funding charge is appropriate in order to cover, among other things, Seller's administrative and other expenses resulting from a delay in closing. **Buyer understands that Seller is not required to reschedule or to permit a delay in closing at Buyer's request.**

10. Closing.

- (a) The term “closing” refers to the time when Seller delivers the deed to the Unit to Buyer and ownership changes hands. Buyer’s ownership is referred to as “title”. Seller promises that the title Buyer will receive at closing will be good, marketable and insurable (subject to the permitted exceptions listed or referred to below and the other provisions of this Agreement). Notwithstanding that Buyer is obligated to pay “all-cash” hereunder, in the event that Buyer obtains a loan for any portion of the Purchase Price and the transaction is governed by the Real Estate Settlement and Procedures Act (RESPA), Buyer shall have the right to obtain a title insurance commitment and policy for the Unit from its own sources rather than to receive same from Seller, or Buyer may elect to have Seller’s closing agent issue the title insurance commitment and policy in accordance with terms set forth in Section 11 below. In the event that the transaction is governed by RESPA and Buyer elects to obtain a title insurance commitment and policy for the Unit from its own sources rather than to receive same from Seller: (i) Buyer shall provide Seller with written notice of same within ten (10) days following Buyer’s execution of this Agreement (unless the estimated closing date is less than ten (10) days following the date hereof, in which event, such notice must be given simultaneously with Buyer’s execution of this Agreement); (ii) Seller shall have no obligation to provide a title insurance commitment or policy, or any other evidence of title to Buyer; and (iii) Buyer shall, no later than five (5) business days prior to closing (or on the date of this Agreement, if the closing is scheduled less than five (5) business days following the date of this Agreement (the “Objection Deadline”), notify Seller in writing if title is not in the condition required by this Agreement and specify in detail any defect (i.e., any matters which make title other than in the condition pursuant to which same is required to be conveyed to Buyer), provided that if Buyer fails to give Seller written notice of defect(s) before the expiration of the Objection Deadline, the defects shall, anything in this Agreement notwithstanding, be deemed to be waived as title objections to closing this transaction and Seller shall be under no obligation whatsoever to take any corrective action with respect to same, and title to the Unit shall be conveyed subject to same.
- (b) Unless Buyer has elected, in the manner specified above and if permitted to do so under the conditions set forth above, to obtain a title insurance commitment from its own sources (to the extent that the transaction is governed by RESPA), or Seller has agreed (which it has no obligation to do) to allow Buyer to secure a title insurance commitment from its own sources, Buyer agrees that Seller’s designee shall act as closing agent and shall issue the title insurance commitment (and subsequent title insurance policy), which shall be paid for by Seller as provided hereafter. Buyer will receive from Seller two (2) documents at closing which Buyer agrees to accept as proof that Buyer’s title is as represented above:
- (i) A written commitment, from a title insurance company licensed in Florida, agreeing to issue a policy insuring title or the policy itself. This commitment (or policy) will list any exceptions to title. Permitted exceptions (exceptions which Buyer agrees to take title subject to) are:

- (1) Liability for all taxes or assessments affecting the Unit, which are not yet due and payable, starting the year Buyer receives title and continuing thereafter;
- (2) All laws, and all restrictions, covenants, conditions, limitations, agreements, reservations and easements now or hereafter recorded in the public records, which may include, without limitation, zoning restrictions, property use limitations and obligations, easements (rights-of-way) and agreements relating to telephone lines, water and sewer lines, storm water management and other utilities;
- (3) The restrictions, covenants, conditions, easements, terms and other provisions imposed by the documents contained or referred to in the Condominium Documents (and any other documents which Seller, in its sole discretion, believes to be necessary or appropriate) which are recorded, now or at any time after the date of this Agreement, in the Public Records of Miami-Dade County;
- (4) Any open Notice of Commencement related to Seller's construction or development of, among other things, the Condominium (although Seller will provide an unsecured indemnification to the title insurer selected by Seller, on a form reasonably acceptable to Seller, to induce the title insurer selected by Seller to insure Buyer's title without exception for unfiled construction liens relating to the Notice of Commencement). To the extent that this transaction is governed by RESPA and Buyer elects to obtain title services through its own sources rather than from Seller's designee, Seller will only provide the title insurer selected by Buyer the same form of unsecured indemnification described above and Buyer assumes all obligations to obtain a title insurance commitment (and subsequent title insurance policy) without exception for unfiled construction liens, or otherwise, Buyer agrees to take title subject to the Notice of Commencement and any related unfiled liens;
- (5) The restrictions, covenants, easements, conditions, terms and other provisions set forth in the Restrictive Covenants;
- (6) Pending governmental liens as of closing (Seller will be responsible, however, for certified governmental liens or special assessment liens as of closing, provided, however, that to the extent that any such certified liens are then due or are payable in installments, Seller shall only be responsible for those payments and/or installments due prior to closing, and Buyer hereby assumes all payments and/or installments coming due after closing);
- (7) Standard exceptions for waterfront property and artificially filled in property which once was in navigable waters and all other standard exceptions for similar property;

- (8) All standard printed exceptions contained in an ALTA Owner's title insurance policy issued in Miami-Dade County, Florida; and
- (9) Any matters not listed above as long as title insurance coverage is available for these matters from a nationally recognized title insurer.
- (ii) A Special Warranty Deed. At closing, Seller promises to give Buyer a special warranty deed to the Unit. The special warranty deed will be subject to (that is, contain exceptions for) all of the matters described above.
- (c) To the extent that the transaction is governed by RESPA and in the event Buyer elects to obtain a title insurance commitment and policy for the Unit from its own sources rather than to receive same from Seller, Buyer will receive the special warranty deed described in Section 10(b)(ii)(b)(ii) above which Buyer agrees to accept as proof that Buyer's title is as represented above. Buyer will also receive at closing a bill of sale for any appliances included in the Unit, and Seller's form of owner's ("no lien") affidavit, closing agreement, FIRPTA (non-foreign) affidavit and an assignment of the exclusive right to use any appurtenances to the Unit, if any, as described herein. When Buyer receives the special warranty deed at closing, Buyer will sign Seller's closing agreement, a settlement statement, and if Buyer is a trust, corporation or other business entity, an informational worksheet, and/or other evidence required by Seller or Seller's closing agent certifying the identity of individuals authorized to act on behalf of the entity and the identity of any individuals owning directly or indirectly at least a twenty-five percent (25%) beneficial interest in the entity, together with picture identification for all such persons. If Seller cannot provide the quality of title described above, Seller will have a reasonable period of time (at least sixty (60) days) to correct any defects in title.
- (d) If Seller cannot provide the quality of title described above, Seller will have a reasonable period of time (at least sixty (60) days) to correct any defects in title. If Seller cannot, after making reasonable efforts to do so (which shall not require the bringing of lawsuits or the payment or satisfaction of involuntary liens or judgments) correct the title defects, Buyer will have two options:
- (i) Buyer can accept title in the condition Seller offers it (with defects) and pay the full Purchase Price for the Unit with exceptions for such title matters to be contained in the special warranty deed for the Unit. Buyer will not make any claims against Seller because of the defects; or
- (ii) Buyer can cancel this Agreement and receive a full refund of Buyer's deposits.
- (e) At the same time Buyer receives the special warranty deed, Buyer agrees to pay the balance of the Purchase Price and any additional amounts owed under this Agreement. Seller has no obligation to accept funds other than as set forth in Section 3 above. Until all sums have been received and cleared, Seller will be entitled to a vendor's lien on the Unit (which Buyer agrees Seller may unilaterally record in the Public Records of the County).

(f) At or prior to closing, Buyer must present written evidence to Seller that Buyer has established an account for electric service to the Unit with FP&L (or any successor supplier of electric service to the Unit) and that electric service to the Unit is to commence (on Buyer's account) as of closing.

(g) This Section shall survive (continue to be effective after) closing.

11. Additional Fees and Costs.

(a) Buyer understands and agrees that, in addition to the Purchase Price for the Unit, Buyer must pay certain other fees, costs, expenses, and/or other sums when the title is delivered to Buyer at closing. These include:

(i) A "Development Fee" equal to one- and one-half percent (1.50%) of the Purchase Price (and of any charges for options, modifications or extras now or hereafter contracted for which are not included in the Purchase Price);

(ii) To the extent that the transaction is governed by RESPA and Buyer has elected, in the manner provided herein, to obtain a title insurance commitment and policy from its own sources, or to the extent that Seller otherwise allows Buyer to utilize its own title agent (which Seller has no obligation to do if the transaction is not governed by RESPA) all costs in connection with title search, title review and the premium for the title insurance commitment and title insurance policy;

(iii) A working capital contribution in an amount equal to the aggregate of twice the regular monthly assessment for the Unit due to the Condominium Association, as determined at the time of closing, and which contribution is payable directly to the Association to provide it with funds. This contribution may be used by the Condominium Association for any purpose, including, payment of ordinary Common Expenses or operating costs, and will not be credited against regular assessments or charges. The amount of this contribution may change, however, if the monthly assessments change prior to closing (see Section 17). To the extent that Seller elects to fund deficits as provided in the Declaration, no portion of the contribution shall be used for payment of Common Expenses prior to the expiration of the period during which Seller is excused from payment of assessments;

(iv) If Buyer is a trust, corporation or other business entity, Buyer agrees to pay to Seller and/or Seller's closing agents, in addition to any other sums described in this Agreement, an administrative fee in the amount of \$500.00.

(v) A reimbursement to Seller for any utility, cable or interactive communication deposits or hook-up fees, and/or governmental impact fees, which Seller may have advanced prior to closing for the Unit or applicable to the Unit, together with any deposits charged by the utility provider in connection with opening accounts for utility services intended to be charged directly to the Unit. The amount of these charges is now unknown;

- (vi) Any remaining outstanding sums and/or any sales tax due for any options or upgrading of standard items included, or to be included, in the Unit as agreed to in writing by both Buyer and Seller.
  - (vii) A coordination fee of \$200.00 to Seller, and/or Seller's closing agents.
  - (viii) All fees and charges payable to any attorney selected by Buyer to represent Buyer. The amount of any such charges is now unknown; and
  - (ix) The late funding charges provided for elsewhere in this Agreement, or any increases in items (b)(i), (b)(ii) or (b)(iii) below, as provided below. The amount of any such charges is now unknown.
- (b) Seller agrees to pay the following closing costs at closing:
- (i) the costs of officially recording the deed in the Public Records of the County (presently, recording fees are \$10.00 for the first page of an instrument and \$8.50 for each additional page);
  - (ii) documentary stamp taxes payable in connection with the deed conveying the Unit to Buyer (presently, documentary stamp taxes are \$.60 for each \$100.00 of consideration); and
  - (iii) the title insurance premium for any title insurance policy issued by Seller's closing agent. If the transaction is covered by RESPA and Buyer elects to have its own title agent issue the title insurance policy, or for any other reason, Buyer does not obtain a title policy from Seller's closing agent. Buyer shall be obligated for the payment of the title insurance premium charged by Buyer's title insurance agent, as well as any other title search fees incurred by Buyer's title agent, as set forth above.
- (c) Buyer understands and agrees that Seller may utilize the Development Fee for payment of the closing costs for which Seller is obligated, but that the balance of such "Development Fee" shall be retained by Seller to provide additional revenue and to offset certain of its construction and development expenses, including without limitation, certain of Seller's administration expenses and Seller's attorneys' fees in connection with the development of the Condominium. Accordingly, Buyer understands and agrees that the Development Fee is not for payment of closing costs or settlement services (other than to the extent expressly provided above), but rather represents additional funds to Seller which are principally intended to provide additional revenue and to cover various out-of-pocket and internal costs and expenses of Seller associated with the development of the Condominium.
- (d) If Buyer obtains a loan for any portion of the Purchase Price, Buyer will be obligated to pay any loan fees, closing costs, escrows, appraisals, credit fees, lender's title insurance premiums, prepayments and all other expenses charged by any lender giving Buyer a mortgage, if applicable. Additionally, if Buyer obtains a loan and elects to have Seller's closing agent act as "loan" closing agent as well, Buyer agrees to pay, in addition to any

other sums described in this Agreement, such closing agent an aggregate sum equal to \$1,595.00, for a simultaneously issued mortgagee's title insurance policy, the agent's title examination, title searching and closing services related to acting as "loan closing agent". In addition to that sum, Buyer shall be obligated to pay the premiums (at promulgated rate) for any title endorsements requested by Buyer's lender. If the transaction is governed by RESPA, Buyer shall not be obligated to use Seller's closing agent as Buyer's loan closing agent, and if Buyer elects to use another agent, Buyer will not be obligated to pay to Seller's closing agent the amounts described in this paragraph (although Buyer will be obligated to pay to Buyer's loan closing agent such fees and expenses as are agreed to by Buyer and that closing agent). Notwithstanding any of the references in this paragraph to Buyer obtaining a loan, nothing herein shall be deemed to make this Agreement, or the Buyer's obligations under this Agreement, conditional or contingent, in any manner, on the Buyer obtaining a loan to finance any portion of the Purchase Price; it being the agreement of the Buyer that the Buyer shall be obligated to close "all cash" and that no delays in closing shall be provided to accommodate loan closings. Notwithstanding the foregoing, nothing herein shall require Buyer to choose to elect Seller's closing agent to act as loan closing agent, nor shall anything herein obligate Seller's closing agent to act as loan closing agent (even if selected by Buyer).

- (e) Current expenses of the Unit (for example, taxes and governmental assessments, levies and/or use fees and current monthly assessments of the Association and any interim service fees imposed by governmental authority) will be prorated between Buyer and Seller as of the date of closing. Additionally, at closing, Buyer shall be obligated to prepay the next month's maintenance assessment to the Association. This prepayment is in addition to Buyer's obligation to pay the working capital contribution, as described above. If taxes for the year of closing are assessed on the Condominium as a whole, Buyer shall pay Seller, at closing, the Unit's allocable share of those taxes (as estimated by Seller and subject to reparation when the actual tax bill is available) from the date of closing through the end of the applicable calendar year of closing. Buyer should understand that during the year in which the Declaration of Condominium is recorded, it is likely that real property taxes may be assessed as a whole against the entire property comprising the Condominium (rather than on a unit-by-unit basis, which is how the Condominium will be assessed during all years following the year during which the Declaration is recorded). As such, if Buyer is closing in the calendar year during which the Declaration is recorded, Buyer should anticipate having to pay to Seller, at closing, the estimated prorated amount of real property taxes attributable to the Unit for the period from the date of closing through December 31 of the year of closing; and based upon the perceived value of the Unit, such amount will, in all likelihood, be a substantial sum. If taxes for the year of closing are assessed on a unit-by-unit basis, Buyer and Seller shall prorate taxes as of the closing date based upon the actual tax bill, if available, or an estimate by Seller, if not available, with Buyer responsible for paying the full amount of the tax bill and Seller reimbursing Buyer for Seller's prorated share of those taxes. Buyer agrees that Seller's prorated share of the taxes due as of closing need not be paid to Buyer, however, until the actual tax bill is presented to Seller; and any proration based on an estimate of the current year's taxes shall be subject to reparation upon request of either party; provided, however, that any request for reparation is made within six (6) months following the issuance of the actual tax bill for the Unit (it being assumed, for purposes hereof, that tax



bills are issued on November 1 of each tax year) or the date of the final determination of any property tax appeal (if the taxes for the year of proration have been appealed). No request for proration made beyond the six (6) month period shall be valid or enforceable. In addition, Buyer shall pay, or reimburse Seller if then paid, for any interim proprietary and/or general service fees imposed by any governmental municipality or governmental authority having jurisdiction over the Unit. This paragraph shall survive (continue to be effective after) closing.

12. Adjustments with the Association. Buyer understands that Seller may advance money to the Condominium Association to permit it to pay for certain of its expenses (for example, but without limitation, insurance premiums, Common Element utility and/or cable or other interactive communication charges and deposits, permit and license fees, charges for service contracts, salaries of employees of the Condominium Association and other similar expenses). Seller is entitled to be reimbursed by the Condominium Association for all of these sums advanced by Seller, to the extent in excess of Seller's assessment obligations (and/or deficit funding obligations, if any). To the extent that Seller is entitled to reimbursement, the Condominium Association will reimburse Seller out of regular assessments paid by Buyer and other owners as those contributions and assessments are collected, or as otherwise requested by Seller. Seller also, at its election, may receive reimbursement (to the extent that it is otherwise entitled to reimbursement) for these payments by way of a credit against any sums it may become obligated to pay to the Condominium Association. To the extent that there is any guarantee of assessments in place and in effect, no initial contributions of purchasers to the Condominium Association may be used for such purposes however. The provisions of this Section 12 will survive (continue to be effective after) closing.

13. Default.

- (a) If Buyer fails to perform any of Buyer's obligations under this Agreement (including making scheduled deposits and other payments) Buyer will be in "default". If Buyer is still in default ten (10) days after Seller sends Buyer written notice thereof, Seller shall be entitled to the remedies provided herein. **If, however, Buyer's default is as a result of failing to close on the scheduled date, then, in addition to all other remedies provided herein (if any), Seller can terminate this Agreement without giving Buyer any prior (or subsequent) notification or opportunity to close at a later date.**
- (b) Upon Buyer's default (and the expiration of any notice period, if applicable), all Buyer's rights under this Agreement will end and Seller can terminate this Agreement and resell the Unit for a higher or lower price without any accounting to Buyer. Buyer understands and agrees that Buyer's default will damage Seller, in part because of the following: (i) Seller has taken the Unit off the market for Buyer, (ii) Seller has relied upon use of Buyer's deposits to fund the construction and development of the Condominium as and to the extent permitted by law, (iii) Seller has incurred interest and financing costs to acquire and develop the Condominium Property, (iv) Seller has committed or expended funds, arranged labor and made purchases or commitments for materials, finishes and/or appliances in reliance upon being able to use Buyer's deposits, and Buyer's fulfillment of its obligations under this Agreement, and (v) Seller has spent money on sales, advertising, promotion and construction of the Condominium Property and has incurred other costs incident to this sale and will have to spend additional sums to re-market and re-sell the Unit. As compensation for this damage, in the event that Seller terminates this

Agreement because of Buyer's default, Buyer and Seller agree, that Seller's sole remedy, shall be to recover actual damages, which are to be determined solely in accordance with the following methodology (the "Damage Determination Methodology"), which Buyer agrees is a fair and reasonable method for the calculation of Seller's damages. Until such time as the damages are capable of calculation pursuant to the Damage Determination Methodology (which Buyer understands and agrees may take several months or perhaps longer) Buyer agrees that any deposits or advance payments then being held in escrow shall remain in escrow and that any deposits and/or advance payments utilized in construction or development of the Condominium or properly withdrawn from escrow, need not be refunded to Buyer or returned to escrow. Buyer's agreement to the Damage Determination Methodology and the potential delay in calculation is a material consideration for Seller's willingness to enter into this Agreement. Buyer agrees that the Damage Determination Methodology is a fair and reasonable method for determination of Seller's damages, notwithstanding any delays associated with calculation and that this is not a liquidated damages provision. The "Damage Determination Methodology" shall be the sum of the following, with calculation to occur, at the request of either party, within thirty (30) days following Seller's closing on the sale of the Unit to another party (the "Resale").

- (i) The amount by which the Purchase Price on the Resale (the "Resale Purchase Price") is less than the Purchase Price under this Agreement. To the extent that the Resale Purchase Price exceeds the Purchase Price under this Agreement, for purposes of the Damage Determination Methodology, same shall result in a negative number that will offset the other considerations in determining damages. In the event that closing on the Resale has not occurred on or before one (1) year following the date that Seller receives a temporary certificate of occupancy ("TCO") for the Unit, the Resale Purchase Price shall be deemed to be the same as the Purchase Price under this Agreement. Nothing herein shall obligate the Seller to accept any offer that it may receive for the Resale of the Unit, however, Seller agrees to use its good faith efforts to resell the Unit at such price, on such conditions and otherwise in a like manner as that of other similarly situated units being offered for sale by Seller in the Condominium. Plus;
- (ii) An amount equal to ten percent (10%) of the Resale Purchase Price, which is deemed to be a fair and accurate representation of the brokerage and marketing expenses likely to be incurred by Seller in marketing the Unit for resale; Plus
- (iii) An amount equal to interest on any unfunded deposits as of the date of Buyer's default, calculated at the rate of ten percent (10%) per annum on the unfunded portion of the deposits, from the date of Buyer's default until the date Seller receives a TCO for the Unit, and thereafter, an amount equal to interest on the unfunded portion of the Purchase Price of the Unit calculated at the rate of ten percent (10%) per annum on the unfunded portion of the Purchase Price of the Unit, from the date Seller receives the TCO for the Unit (as hereinafter defined, the "TCO Date"), until the date of closing on the Resale, as applicable. In the event that closing on the Resale has not occurred on or before 1 year following the TCO Date, the date of closing on the Resale shall be deemed to be 1 year

following the TCO Date. For purposes hereof, the TCO Date shall be the earlier of: (i) the date that Seller actually receives a TCO for the Unit or (ii) the Outside Date as defined in Section 7 above.

Notwithstanding anything to the contrary, Seller's Damages shall never be deemed to be less than zero (which could result if the Resale Purchase Price were greater than the Purchase Price).

Upon determination of Seller's damages in accordance with the Damage Determination Methodology ("Seller's Damages"): (a) if Seller's Damages are less than the amount of Buyer's deposits and other prepayments, then, Seller shall, within thirty (30) business days following the calculation of Seller's Damages, return to Buyer the amount by which Buyer's deposits and prepayments exceeded Seller's Damages, or (b) if Seller's Damages are greater than the amount of Buyer's deposits and other prepayments, then Buyer shall, within thirty (30) business days following the calculation of Seller's Damages, pay to Seller the amount by which Seller's Damages exceeded Buyer's deposits and prepayments. In either event, Buyer shall simultaneously deliver to Seller a full and complete release from any and all claims and/or liabilities arising out of, or in connection with, this Agreement if so requested by Seller.

Based upon the Damage Determination Methodology, Buyer understands and agrees that damages are incapable of calculation until the closing on the Resale has occurred (or is deemed to have occurred as stated above). As such, in the event of an uncured default by Buyer, Buyer agrees not to commence any legal or other action against Seller to attempt to obtain a refund of any deposits or other advance payments until such time as the Resale has occurred (or is deemed to have occurred). While this may result in an inconvenience to Buyer, Buyer understands and agrees that the Damage Determination Methodology is only applicable if and when Buyer defaults.

\_\_\_\_\_ **By initialing here, Buyer understands the unique Damage Determination Methodology agreed upon, that it may result in delays in calculation and that it is nonetheless a fair and reasonable method for determination of Seller's Damages resulting from Buyer's default.**

- (c) If Seller fails to perform any of Seller's obligations under this Agreement, Seller will be in "default". If Seller is still in default ten (10) days after Buyer sends Seller notice thereof (or such longer time as may reasonably be necessary to cure the default if same cannot be reasonably cured within ten (10) days), Buyer may pursue such rights as may be available in equity and/or under applicable law, except that absent an intentional default by Seller, Buyer may not seek to specifically enforce this Agreement. Seller is entitled to defend itself to the maximum lawful extent.
- (d) The provisions of this Section 13 will survive (continue to be effective after) closing or any termination of this Agreement.

14. Construction Specifications.

- (a) The Unit and the Condominium will be constructed in substantial accordance with the plans and specifications therefor kept in Seller's construction office, as such plans and specifications are amended from time to time. Seller may make such changes in the plans and specifications that it deems appropriate at any time, to accommodate its in the field construction needs (as more fully discussed in this Section 14) and in response to recommendations or requirements of local, state or federal governmental or quasi-governmental agencies or applicable utility and/or insurance providers or Seller's design professionals and/or contractors or suppliers. Such plans and specifications, as they are so amended, are referred to in this Agreement as "Seller's Plans and Specifications". Without limiting Seller's general right to make changes, Buyer specifically agrees that the changes described above and changes in the location of utility (including, but not limited to, television, intranet, internet, antennae and telephone and other technologies, equipment and wiring) lead-ins and outlets, air-conditioning equipment, ducts and components, lighting fixtures and electric panel boxes, and soffits and to the general layout of the Unit and Condominium, may be made by Seller in its discretion.
- (b) In furtherance of the understanding and agreement stated above, Buyer acknowledges and agrees that it is a widely observed construction industry practice for pre-construction plans and specifications for any unit or building to be changed and adjusted from time to time in order to accommodate on-going, "in the field" construction needs. These changes and adjustments are essential in order to permit all components of the Unit and the Building to be integrated into a well-functioning and aesthetically pleasing product in an expeditious manner. Because of the foregoing, Buyer acknowledges and agrees that it is to Buyer's benefit to allow Seller the flexibility to make such changes in the Unit and the Condominium. Buyer further acknowledges and agrees that (i) the plans and specifications for the Unit and the Condominium on file with the applicable governmental authorities may not, initially, be identical in detail to Seller's Plans and Specifications; and (ii) because of the day-to-day nature of the changes described in this Section 14, the plans and specifications on file with applicable governmental authorities may not include some or any of these changes (there being no legal requirement to file all changes with such authorities). As a result of the foregoing, Buyer and Seller both acknowledge and agree that the Unit and the Condominium may not be constructed in accordance with the plans and specifications on file with applicable governmental authorities. Without limiting the generality of Section 29, Seller disclaims and Buyer waives any and all express or implied warranties that construction will be accomplished in compliance with such plans and specifications. Seller has not given and Buyer has not relied on or bargained for any such warranties. In furtherance of the foregoing, in the event of any conflict between the actual construction of the Unit and/or the Building, and that which is set forth on the plans, Buyer agrees that the actual construction shall prevail and to accept the Unit and Building as actually constructed (in lieu of what is set forth on the plans).
- (c) Buyer understands and agrees that in designing the Condominium, the stairwells within the Condominium Property are intended primarily for ingress and egress in the event of emergency and, as such may be constructed and left unfinished solely as to be functional for said purpose, without regard to the aesthetic appearance of said stairwells. Similarly,

the garage and utility pipes serving the Condominium are intended primarily for functional purposes, and as such may be left unfinished without regard to the aesthetic appearance of same. Further, Buyer hereby acknowledges and agrees that the potential for sound and/or odor transmission in a multi-story building is always a possibility and that noises and/or odors from nearby units and/or mechanical equipment can often be detected in other units. Without limiting the generality of Section 29, Seller does not make any representation or warranty as to the level of sound and/or odor transmission between and among Units, vibrations from HVAC and/or mechanical equipment and the other portions of the Condominium Property, and Buyer hereby waives and expressly releases any such warranty and claim for loss or damages resulting from vibration, sound and/or odor transmission. Lastly, Buyer understands and agrees that there are various methods for calculating the square footage and dimensions of a Unit and that depending on the method of calculation, the measured square footage of the Unit may be more or less than Buyer had anticipated. Typically, marketing materials will calculate the dimensions of the Unit from the exterior boundaries of the exterior walls to the centerline of interior demising walls, including common elements such as structural walls and other interior structural components of the building. Architectural or marketing size is larger than the size of the Unit determined strictly in accordance with the boundaries of the Unit set forth in the Declaration. Additionally, references in marketing materials to ceiling heights are generally taken from the top of the unfinished floor slab to the underside of the upper unfinished concrete slab, which is greater than the actual clearance that will result between the top of the finished floor coverings and the underside of the finished ceiling as same may be affected by any drop ceilings or soffits, including without limitation to accommodate mechanical equipment. Any listed ceiling heights are approximate and subject to change. Accordingly, during the pre-closing inspection, Buyer should, among other things, review the size and dimensions of the Unit. Buyer shall be deemed to have conclusively agreed to accept the size and dimensions of the Unit, regardless of any variances in the square footage from that which may have been disclosed to Buyer at any time prior to closing, whether included as part of the Condominium Documents, Seller's promotional materials or otherwise.

- (d) The agreements and waivers of Buyer contained in this Section 14 will survive (continue to be effective after) the closing. Notwithstanding the foregoing, Buyer shall not be deemed to waive its rights, to the extent available, pursuant to Section 718.503(1)(a)1, F.S., and Section 718.506, F.S.

15. Certain Items and Materials.

- (a) Buyer understands and agrees that, other than the "Standard Improvements" which include (i) standard flooring (selections to be provided by Seller), (ii) tile in bathrooms, (iii) cabinets and standard plumbing fixtures in bathrooms, (iv) kitchen cabinets and standard appliances and (v) one coat of primer on walls, the Unit is to be delivered at closing in "standard-finish condition". "Standard-finish condition" generally means that the Unit will be delivered in a condition which includes the Standard Improvements and is otherwise ready for decoration and finish by the Buyer after closing. Unless selections are offered by the Seller (which it has no obligation to do), all selections shall be made by the Seller.

- (b) Buyer understands and agrees that certain items such as the following, which may be seen in model units (if any) brochures and/or in illustrations, are not included with the sale of the Unit if not otherwise described as part of the Standard Improvements: wall coverings (including paint other than base primer), accent light fixtures, wall ornaments, drapes, blinds, furniture, knickknacks and other decorator accessories, lamps, mirrors, graphics, pictures, plants, wall-hung shelves, wet bars, intercoms, sound systems, kitchen accessories, linens, window shades, security systems, certain built-in fixtures, cabinetry, carpets or other floor coverings and colors, wood trim, other upgraded items, balcony treatments (e.g., tile, stone, marble, brick, chatahoochee, scored concrete or wood trim), barbecues, planters, window screens, landscaping and any other items of this nature which may be added or deleted by Seller from time to time. This list of items (which is not all-inclusive) is provided as an illustration of the type of items built-in or placed in the model Units (if any) or shown in illustrations strictly for the purpose of decoration and example only. Items such as these will not be included in the Unit unless specifically provided for in a signed amendment to this Agreement signed by both Buyer and Seller. Certain of these items may not even be available. In the event that Seller does provide any of these or other items, however, Buyer agrees to accept them, although not requested by Buyer, as long as Buyer is not required to pay for such items. Any appliances and/or design features or finishes which may be contained in any sales center or model apartments are, if to be included with the Unit, conceptual only and subject to change. Buyer understands agrees that the exact models and manufacturers of appliances to be included with the Unit are subject to change, and that items shown in the sales center and/or model apartments are merely indications of the relative quality of the items to be included (without being representations by Seller as to the actual items to be included). There is no obligation for Seller to provide a model apartment, but if so provided, the foregoing disclaimers will apply.
- (c) Buyer further understands and agrees that certain items, if included with the Unit, such as tile, marble, stone, granite, cabinets, wood, stain, grout, wall and ceiling textures, mica and carpeting, are subject to size and color variations, grain and quality variations, and may vary in accordance with price, availability and changes by manufacturer from those shown in the models or in illustrations or included in Seller's Plans and Specifications or in the published list of standard items (if any). If circumstances arise which, in Seller's opinion, warrant changes of suppliers, manufacturers, brand names, design professionals, models or items, or if Seller elects to omit certain items, Seller may modify the interior design concepts and the list of standard features or make substitutions for equipment, material, appliances, brands, models, etc., with items which in Seller's opinion are of equal or better quality (regardless of cost). Buyer also understands and agrees that Seller has the right to substitute or change materials and/or stain colors utilized in wood decor (if any). Buyer recognizes that certain colors as shown in displays or in the models, including, but not limited to, stone, marble, granite, cabinetry, carpeting and wood stain, will weather and fade and may not be duplicated precisely.
- (d) If Seller allows Buyer to select certain colors and/or materials in the Unit (which Seller is not obligated to do), Buyer understands and agrees that Buyer must submit Buyer's selections to Seller in writing within thirty (30) days after the date the list of selections (if any) is made available to Buyer. If these selections (if any) are not delivered to Seller in

writing within the time period stated above, and no later than October 31, 2020, then it is agreed and understood that the choices will be made by Seller in Seller's sole discretion.

- (e) The agreements and waivers of Buyer contained in this Section 15 will survive (continue to be effective after) closing.

16. Litigation.

- (a) In the event of any litigation between the parties under this Agreement, the prevailing party shall be entitled to reasonable attorneys', paralegals and para-professionals fees and court costs at all trial and appellate levels. In addition, in the event of any litigation between the parties related to this Purchase Agreement (i) the parties shall and hereby submit to the personal jurisdiction of the state and federal courts of the State of Florida and (ii) venue shall be laid exclusively in Miami-Dade County, Florida.
- (b) SELLER AND BUYER AGREE THAT NEITHER SELLER, BUYER, NOR ANY ASSIGNEE, SUCCESSOR, HEIR, OR LEGAL REPRESENTATIVE OF SELLER OR BUYER (ALL OF WHOM ARE HEREINAFTER REFERRED TO AS THE "PARTIES") SHALL SEEK A JURY TRIAL IN ANY LAWSUIT, PROCEEDINGS, COUNTERCLAIM, OR ANY OTHER LITIGATION PROCEDURE BASED UPON OR ARISING OUT OF THIS AGREEMENT, THE CONDOMINIUM DOCUMENTS, ANY RULES OR REGULATIONS OF THE ASSOCIATION, OR ANY INSTRUMENT EVIDENCING OR RELATING TO ANY OF THE FOREGOING, OR ANY DOCUMENT CONTEMPLATED TO BE EXECUTED IN CONJUNCTION HERewith, OR ANY ACTIONS, DEALINGS OR RELATIONSHIP BETWEEN OR AMONG THE PARTIES, OR ANY OF THEM. NONE OF THE PARTIES WILL SEEK TO CONSOLIDATE ANY SUCH ACTION, IN WHICH A JURY TRIAL HAS BEEN WAIVED, WITH ANY OTHER ACTION IN WHICH A JURY TRIAL HAS NOT BEEN WAIVED. THE PROVISIONS OF THIS SECTION HAVE BEEN FULLY NEGOTIATED BY THE PARTIES AND THESE PROVISIONS SHALL BE SUBJECT TO NO EXCEPTIONS. SELLER HAS NOT IN ANY WAY INDICATED THAT THE PROVISIONS OF THIS SECTION WILL NOT BE FULLY ENFORCED IN ALL INSTANCES.
- (c) Inasmuch as Buyer's decision to purchase a Unit is personal and the circumstances regarding the offering of the Unit are unique to Buyer, Buyer agrees that BUYER SHALL NOT JOIN OR CONSOLIDATE CLAIMS WITH OTHER PURCHASERS OF UNITS OR LITIGATE IN COURT OR THROUGH OTHER FORMS OF PROCEEDINGS ANY CLAIMS AS A REPRESENTATIVE OR MEMBER OF A CLASS OR IN A PRIVATE ATTORNEY GENERAL CAPACITY.
- (d) This Section will survive (continue to be effective after) any termination of this Agreement, but shall otherwise be deemed merged into the deed at closing.

17. Maintenance Fee. Buyer understands and agrees that the Estimated Operating Budget for the Association (the "Budget") contained in the Condominium Documents provides only an estimate of what it will cost to run the Association during the period of time stated in the Budget. The Budget is not guaranteed to accurately predict actual expenditures. Actual expenditures may vary based upon a number of factors, many of which are out of Seller's control. These factors include, without limitation, changes in costs, wages, environmental considerations and the effects of natural disasters. In making a decision to acquire the Unit, Buyer should factor in these potential increases in the Budget that may occur

prior to closing, and after (and the resultant increases in the assessment amounts). While in Seller's opinion such changes do not constitute a material modification of the Condominium Documents in a manner which is adverse to the Buyer, nothing herein shall be deemed to deny Buyer the rights as set forth in Section 25 below. Seller, as the sole Unit Owner upon the formation of the Condominium, may vote not to provide any reserves for the initial year of the Association following recording the Substantial Completion Certificate. Thereafter, on an annual basis, a majority of the Association's members (which may include the Seller/Developer during the first and second years) may vote to continue not to provide any reserves. If an election is in fact made to waive reserves, the assessments per Unit payable to the Association will be as set forth in the Estimated Operating Budget as "Assessments per Unit - Without Reserves". If no such election is made, the assessments per Unit payable to the Association will be as set forth in the Estimated Operating Budget as "Assessments per Unit - With Reserves". The provisions of this Section 17 will survive (continue to be effective after) closing.

18. Condominium Association. This Agreement is also Buyer's application for membership in the Association, which membership shall automatically take effect at closing. At that time, Buyer agrees to accept all of the liabilities and obligations of membership.

19. Seller's Use of the Condominium Property. As long as Seller owns a unit or units and is offering same for sale in the ordinary course of business, it and its agents are hereby given full right and authority to place and maintain on, in and about the Condominium Property and/or Association Property (excluding the Unit after closing) model units, sales and leasing offices, administrative offices, signs and lighting related to construction and sales promotion purposes, for such period of time, at such locations and in such forms as shall be determined by Seller in its sole and absolute discretion. Seller, its employees, agents contractors, sub-contractors and prospective buyers are also hereby given, for construction and sales promotion purposes, the right of entry upon, ingress to, egress from and other use of the Condominium and/or Association Property (excluding the Unit after closing), and the right to restrict and regulate access to the Common Elements and/or Association Property, subject to Buyer's reasonable access to and from the Unit after closing, for the purposes of completing construction of the Common Elements, Association Property and/or other units within the Condominium. Seller's salespeople can show units, the Association Property and/or the Common Elements, erect advertising signs and do whatever else is necessary in Seller's opinion to help sell, resell, finance or lease units or other portions of any improvements to be constructed upon the Condominium Property or develop and manage the Condominium Property and/or Association Property and/or to provide management and administration and/or financial services, but Seller's use of the Condominium Property and/or Association Property must be reasonable, and cannot unreasonably interfere with Buyer's use and enjoyment of the Unit. This Section will survive (continue to be effective after) closing.

20. Sales Commissions. Seller will pay all sales commissions due its in-house sales personnel and/or exclusive listing agent and the co-broker, if any, identified at the end of this Agreement (if such space is left blank, it shall mean that Seller has not agreed to pay any co-broker and that Buyer represents that there is no co-broker who can claim by, through or under Buyer), provided that such co-broker has properly registered with Seller as a participating co-broker. Seller has no responsibility to pay any sales commissions to any other broker or sales agent with whom Buyer has dealt. Buyer will be solely responsible to pay any such other brokers. By signing this Agreement, Buyer is representing and warranting to Seller that Buyer has not consulted or dealt with any broker, salesperson, agent or finder other than Seller's sales personnel (and the co-broker, if any, named at the end of this Agreement), nor has the sale been procured by any real estate broker, salesperson, agent or finder other than Seller's sales



personnel (and the co-broker, if any, named at the end of this Agreement). Buyer will defend (with counsel acceptable to Seller), indemnify and hold Seller harmless for and from any such person or company claiming otherwise. Buyer's indemnity and agreement to hold Seller harmless includes, without limitation, Buyer's obligation to pay or reimburse Seller for all commissions, damages and other sums for which Seller may be held liable and all attorneys' fees and court costs actually incurred by Seller (including those for appeals), regardless of whether a lawsuit(s) is actually brought or whether Seller ultimately wins or loses. This Section 20 will survive (continue to be effective after) closing and any termination of this Agreement.

21. Notices.

- (a) Whenever Buyer is required or desires to give notice to Seller, the notice must be in writing and it must be sent by: (i) certified mail, postage prepaid, with a return receipt requested (ii) hand delivery or (iii) a recognized overnight courier service (i.e., Fed Ex, United Parcel Service, etc.), to Seller at **515 Valencia SPE, LLC, 2665 S. Bayshore Drive, Suite 1101, Miami, Florida 33133, Attn: Villa Valencia Project Manager** or to such other address as Seller may otherwise direct.
- (b) Unless this Agreement states other methods of giving notices, whenever Seller is required or desires to give notice to Buyer, the notice must be given either in person, by telephone or in writing and, if in writing, it must be sent either by: (i) certified mail, postage prepaid, with a return receipt requested (unless sent outside of the United States, in which event written notices to Buyer may be sent by regular air mail); (ii) facsimile transmission if Buyer has indicated a telecopy number on Page 1 of this Agreement; (iii) electronic transmission, if Buyer has indicated an email address on Page 1 of this Agreement; or (iv) hand delivery or by recognized overnight courier service (i.e., Fed Ex, Express Mail, United Parcel Service, etc.), to the address for Buyer set forth on Page 1 of this Agreement. By giving the telephone number, telecopy number and/or email address on Page 1 of this Agreement, Buyer hereby consents to receiving telephonic, facsimile and/or email communications, including advertisements, as applicable, made or given by Seller hereunder.
- (c) A change of address notice is effective when it is received. As to other notices, notices delivered by certified mail, shall be deemed received by Buyer on the date that the postal service first attempts delivery of the notice at the Buyer's address (regardless of whether delivery is accepted). Notices delivered by facsimile transmission shall be deemed received on the date that Seller gets confirmation (from the sending machine) that the facsimile was transmitted to the receiving facsimile number. Notices delivered by electronic transmission (e-mail) shall be deemed received by Buyer on the date sent by Seller. Notices delivered by hand delivery or overnight courier service shall be deemed received on the date that the delivery service or overnight courier service first attempts delivery of the notice at the Buyer's address (regardless of whether delivery is accepted). All permitted non-written notices to Buyer are deemed received on the date given by Seller. Further, Buyer expressly understands and agrees that all notices from Seller are and will be in English and to the extent that any person prepares a translation thereof, the English original version nevertheless is controlling.

22. Transfer or Assignment. Buyer shall not be entitled to assign this Agreement or its rights hereunder without the prior written consent of Seller, which may be withheld by Seller with or without cause (and even if Seller's refusal to grant consent is unreasonable). To the extent that Seller consents to any such assignment, said consent may be conditioned in any manner whatsoever including, without limitation, charging an assignment or transfer fee and requiring full disclosure of any beneficial owners of any proposed assignee that is an entity. Any such assignee that is consented to by Seller must fully assume all of the obligations of Buyer hereunder by written agreement for Seller's benefit, a counterpart original executed copy of which shall be delivered to Seller. If Buyer is a corporation, partnership, other business entity, trustee or nominee, a direct or indirect transfer of any stock, voting interest, partnership interest, membership interest, equity, beneficial or principal interest in Buyer will constitute an assignment of this Agreement requiring prior written consent by Seller. No assignment or transfer in violation of the restrictions set forth herein shall be valid or binding on Seller. Without limiting the generality of the foregoing, Buyer shall not, prior to closing on title to the Unit, unless first obtaining the prior written consent of Seller (which may be granted or withheld in Seller's sole and absolute discretion) (i) advertise, market and/or list the Unit for lease, sale or resale, whether by placing an advertisement, listing the Unit with a broker, posting signs at the Unit or at the Condominium, allowing the Unit to be listed for sale on the internet or the Multiple Listing Service, hiring a broker, directly or indirectly, to solicit interest in a resale or otherwise or (ii) enter into any contract or agreement, written or otherwise, for the sale or lease of the Unit with a third party. Notwithstanding any permitted assignment or transfer of any interest in this Agreement and/or the Unit, nothing shall relieve or release Buyer from any obligations or liabilities under this Agreement.

23. Others Bound by this Agreement. If Buyer dies or in any way loses legal control of Buyer's affairs, this Agreement will bind Buyer's heirs and personal representatives. If Buyer has received permission to assign or transfer Buyer's interest in this Agreement, this Agreement will bind anyone receiving such interest. If Buyer is a corporation or other business entity, this Agreement will bind any successor corporation or entity resulting from merger, reorganization or operation of law. If more than one person signs this Agreement as Buyer, each will be equally liable, on a joint and several basis, for full performance of all Buyer's duties and obligations under this Agreement and Seller can enforce this Agreement against either as individuals or together.

24. Public Records. Buyer authorizes Seller to record the documents needed to establish and operate the Condominium, as well as all other documents which Seller deems necessary or appropriate, in the Public Records of Miami-Dade County, Florida. Neither this Agreement, nor any notice or memorandum hereof (nor any Lis Pendens), may be recorded by Buyer. **Buyer further agrees not to seek to impose any type of lien or other claim upon the Unit or all or any portion of the Condominium Property, equitable or otherwise, and any right to impose or seek any such lien or other claim is hereby knowingly, fully and unconditionally waived by Buyer.**

25. Buyer's Right to Cancel.

**THIS AGREEMENT IS VOIDABLE BY BUYER BY DELIVERING WRITTEN NOTICE OF THE BUYER'S INTENTION TO CANCEL WITHIN 15 DAYS AFTER THE DATE OF EXECUTION OF THIS AGREEMENT BY THE BUYER, AND RECEIPT BY BUYER OF ALL OF THE ITEMS REQUIRED TO BE DELIVERED TO HIM OR HER BY THE DEVELOPER UNDER SECTION 718.503, FLORIDA STATUTES. THIS AGREEMENT IS ALSO VOIDABLE BY BUYER BY DELIVERING WRITTEN NOTICE OF THE BUYER'S INTENTION TO CANCEL WITHIN 15 DAYS AFTER THE DATE OF RECEIPT FROM THE DEVELOPER**

**OF ANY AMENDMENT WHICH MATERIALLY ALTERS OR MODIFIES THE OFFERING IN A MANNER THAT IS ADVERSE TO THE BUYER. ANY PURPORTED WAIVER OF THESE VOIDABILITY RIGHTS SHALL BE OF NO EFFECT. BUYER MAY EXTEND THE TIME FOR CLOSING FOR A PERIOD OF NOT MORE THAN 15 DAYS AFTER THE BUYER HAS RECEIVED ALL OF THE ITEMS REQUIRED. BUYER'S RIGHT TO VOID THIS AGREEMENT SHALL TERMINATE AT CLOSING. FIGURES CONTAINED IN ANY BUDGET DELIVERED TO THE BUYER PREPARED IN ACCORDANCE WITH THE CONDOMINIUM ACT ARE ESTIMATES ONLY AND REPRESENT AN APPROXIMATION OF FUTURE EXPENSES BASED ON FACTS AND CIRCUMSTANCES EXISTING AT THE TIME OF THE PREPARATION OF THE BUDGET BY THE DEVELOPER. ACTUAL COSTS OF SUCH ITEMS MAY EXCEED THE ESTIMATED COSTS. SUCH CHANGES IN COST DO NOT CONSTITUTE MATERIAL ADVERSE CHANGES IN THE OFFERING.**

If Buyer does not cancel this Agreement during this 15-day period in the manner set forth above, it means that Buyer ratifies this Agreement and the Condominium Documents and Buyer agrees that their provisions are fair and reasonable in Buyer's opinion.

26. Florida Law; Severability.

- (a) Any disputes that develop under this Agreement and any issues that arise regarding the entering into, validity and/or execution of this Agreement will be settled according to Florida law. If any part of this Agreement violates a provision of applicable law, the applicable law will control. In such case, however, the rest of this Agreement (not in violation) will remain in force.
- (b) Without limiting the generality of the foregoing, it is Buyer's and Seller's mutual desire and intention that all provisions of this Agreement be given full effect and be enforceable strictly in accordance with their terms. If, however, any part of this Agreement is not enforceable in accordance with its terms or would render other parts of this Agreement or this Agreement, in its entirety, unenforceable, the unenforceable part or parts are to be judicially modified, if at all possible, to come as close as possible to the expressed intent of such part or parts (and still be enforceable without jeopardy to other parts of this Agreement, or this Agreement in its entirety), and then are to be enforced as so modified. If the unenforceable part or parts cannot be so modified, such part or parts will be unenforceable and considered null and void in order that the mutual paramount goal (that this Agreement is to be enforced, to the maximum extent possible, strictly in accordance with its terms) can be achieved.
- (c) Without limiting the generality of the foregoing, if the mere inclusion in this Agreement of language granting to Seller certain rights and powers, or waiving or limiting any of Buyer's rights or powers or Seller's obligations (which otherwise would be applicable in the absence of such language), results in a final conclusion (after giving effect to the above judicial modification, if possible) that Buyer has the right to cancel this Agreement and receive a refund of Buyer's deposits, such offending rights, powers, limitations and/or waivers shall be struck, canceled, rendered unenforceable, ineffective and null and void. Under no circumstances shall either Buyer or Seller have the right to cancel this Agreement solely by reason of the inclusion of certain language in this Agreement (other than language which is intended specifically to create such a cancellation right).

27. Changes.

- (a) Seller may make changes in the Condominium Documents in its sole discretion by providing Buyer with all such amendments that are made, provided that, as to these changes, Buyer will have fifteen (15) days from the date of receipt of such changes from Seller which materially alter or modify the offering of the Condominium in a manner adverse to Buyer in which to cancel this Agreement (by delivering written notice to Seller of such cancellation) and receive a refund of any deposits with applicable interest earned, if any. Buyer will not be permitted to prevent Seller from making any change it wishes in its sole discretion.
- (b) If Buyer has the right to cancel this Agreement by reason of a change which materially alters or modifies the offering of the Condominium in a manner adverse to Buyer, Buyer's failure to request cancellation in writing within the 15-day period will mean that Buyer accepts the change and waives irrevocably Buyer's right so to cancel. All rights of cancellation will terminate, if not sooner, then absolutely, at closing.
- (c) Without limiting the generality of the foregoing and other provisions of this Agreement, Seller is specifically authorized to: (i) substitute the final legal descriptions and as-built surveys for the proposed legal descriptions and plot plans contained in the Condominium Documents even though changes occur in the permitting stage and during construction, and/or (ii) combine and/or subdivide units prior to or after the recordation of the Declaration (and incorporate divider wall Common Elements in any such combination units or add common element divider walls in any such subdivision) and/or (iii) update the Condominium Documents to reflect any changes in the Florida Condominium Act adopted by the Legislature (and/or changes to the Administrative Rules adopted by the Division) after the date of this Agreement. Buyer understands and agrees that Seller has no control over changes to the Act and/or Administrative Rules and as such, that Seller shall have no liability with respect to its incorporation of these changes.
- (d) The provisions of this Section 27 will survive (continue to be effective after) closing.

28. Nearby Activities and Views. Buyer understands and agrees that for some time in the future Buyer may be disturbed by the noise, commotion and other unpleasant effects of the nearby activities and that Buyer may be impeded in using portions of the Condominium Property by any one or more of those activities. Demolition or construction of buildings and other structures within the immediate area or within the view lines of any particular Unit or of any part of the Condominium (the "Views") may block, obstruct, shadow or otherwise affect Views, which may currently be visible from the Unit or from the Condominium.

As a result of the foregoing, there is no guarantee of View, security, privacy, location, design, density or any other matter, except as is set forth herein or in the Condominium Documents. Buyer hereby agrees to release Seller, its partners and/or members and its and their officers, members, directors and employees and every affiliate and person related or affiliated in any way with any of them (collectively, "Seller's Affiliates") from and against any and all losses, claims, demands, damages, costs and expenses of whatever nature or kind, including attorneys' fees and costs, including those incurred through all arbitration and appellate proceedings, related to or arising out of any claim against the Seller or Seller's Affiliates related to Views or the disruption, noise, commotion, and other unpleasant effects of

nearby development or construction, or from any other inconveniences, disturbances, obligations and/or liabilities resulting therefrom.

The provisions of this Section 28 shall survive (continue to be effective after) closing.

29. Disclaimer of Implied Warranties.

- (a) All manufacturers' warranties will be passed through to Buyer at closing.
- (b) At closing, Buyer will receive the statutory warranties imposed by the Florida Condominium Act (to the extent applicable and not yet expired). **To the maximum extent lawful, all implied warranties of fitness for a particular purpose, merchantability and habitability, all warranties imposed by statute (except only those imposed by the Florida Condominium Act to the extent they cannot be disclaimed and to the extent they have not expired by their terms) and all other implied or express warranties of any kind or character, including, without limitation, any imposed by statute, ordinance or common law, are specifically disclaimed. Without limiting the generality of the foregoing, Seller hereby disclaims any and all express or implied warranties as to design, construction, View, wind, sound and/or odor transmission, furnishing and equipping of the Condominium Property, the existence of molds, mildew, spores, fungi and/or other toxins within the Condominium Property, except only those set forth in Section 718.203 of the Act, to the extent applicable and to the extent that same have not expired by their terms. Seller has not given and Buyer has not relied on or bargained for any such warranties.**
- (c) As to any implied warranty which cannot be disclaimed entirely, all secondary, incidental and consequential damages are specifically excluded and disclaimed (claims for such secondary, incidental and consequential damages being clearly unavailable in the case of implied warranties which are disclaimed entirely above). Buyer acknowledges and agrees that Seller does not guarantee, warrant or otherwise assure, and expressly disclaims, any right to Views and/or natural light.
- (d) Additionally, properties in South Florida are subject to tropical conditions, which may include sudden, heavy rainstorms, high blustery winds, hurricanes and/or flooding. These conditions may be extreme, creating sometimes unpleasant or uncomfortable conditions or even unsafe conditions, and can be expected to be more extreme at properties like the Condominium. At certain times, the conditions may be such where use and enjoyment of outdoor amenities such as the pool or pool deck and/or other areas may be unsafe and/or not comfortable or recommended for use and/or occupancy. These conditions are to be expected at properties near the water. Buyer understands and agrees to accept these risks and conditions and to assume all liabilities associated with same. By executing and delivering this Agreement and closing, Buyer shall be deemed to have released and indemnified Seller, Seller's Affiliates and Seller's third party consultants, including without limitation, Seller's architect, contractors and engineers, from and against any and all liability or claims resulting from all matters disclosed or disclaimed in this Section, including, without limitation, any liability for incidental or consequential damages (which may result from, without limitation, inconvenience and/or personal injury and death to, or suffered by, Buyer or any of Buyer's Guests as defined below and any other person or

any pets). Buyer understands and agrees that neither Seller, Seller's Affiliates, nor any of Seller's third party consultants, including without limitation, Seller's architect, contractors and engineers, shall be responsible for any of the conditions described above, and Seller hereby disclaims any responsibility for same which may be experienced by Buyer, its pets, its family members and/or its or their guests, tenants and/or invitees (collectively "Buyer's Guests").

- (e) Further, given the climate and humid conditions in South Florida, molds, mildew, spores, fungi and/or other toxins may exist and/or develop within the Unit and/or the Condominium Property. Buyer is hereby advised that certain molds, mildew, spores, fungi and/or other toxins may be, or if allowed to remain for a sufficient period may become, toxic and potentially pose a health risk. By executing and delivering this Agreement and closing, Buyer shall be deemed to have assumed the risks associated with molds, mildew, spores, fungi and/or other toxins and to have released and indemnified Seller, Seller's Affiliates and Seller's third party consultants, including without limitation, Seller's architect, contractors and engineers, from and against any and all liability or claims resulting from same, including, without limitation, any liability for incidental or consequential damages (which may result from, without limitation, the inability to occupy the Unit, inconvenience, moving costs, hotel costs, storage costs, loss of time, lost wages, lost opportunities and/or personal injury and death to or suffered by Buyer and/or any of Buyer's Guests and any other person or any pets). Without limiting the generality of the foregoing, leaks, leaving exterior doors or windows open, wet flooring and moisture will contribute to the growth of molds, mildew, fungus or spores. Buyer understands and agrees that neither Seller, Seller's Affiliates, nor any of Seller's third party consultants, including without limitation, Seller's architect, contractors and engineers, shall be responsible, and Seller hereby disclaims any responsibility for any illness or allergic reactions which may be experienced by Buyer, and/or Buyer's Guests as a result of molds, mildew, fungus or spores. It is solely Buyer's responsibility to keep the Unit clean, dry, well-ventilated and free of contamination.
- (f) Buyer, for itself, its guests, tenants and invitees, acknowledges and agrees that a portion of the parking facilities is (or is to be) constructed as an in-ground below-grade garage (the "In-Ground Garage"). Accordingly, the In-Ground Garage (i) may produce moisture and condensation on the surface areas of the In-Ground Garage and any objects contained therein that would not exist if the In-Ground Garage were constructed above-grade, (ii) is susceptible to leaks through the slabs, concrete or sheet pile walls, and (iii) is subject to damages from flooding or from excessive exposure to moisture. By acquiring title to, or taking possession of, a Unit, or parking a vehicle in the In-Ground Garage, Buyer, for such Buyer and Buyer's tenants, guests and invitees, and its and/or their successors and assigns, hereby expressly assumes any responsibility for loss, damage or liability resulting therefrom and waives any and all liability of the Association and Developer, and its and their third party consultants, including without limitation, architects, resulting from such conditions.
- (g) References in this Section to Developer or Seller shall include each of the named parties, Seller's Affiliates, and each of their members, managers, partners and its and their shareholders, directors, officers, committee and Board Members, employees, agents,

contractors, subcontractors and its and their successors or assigns. This Section 29 will survive (continue to be effective after) closing.

30. Survival. Only those provisions and disclaimers in this Agreement which specifically state that they shall have effect after closing will survive (continue to be effective after) closing and delivery of the deed. All other provisions shall be deemed merged into the deed.

31. Substantial Completion. The Unit will not be considered complete for purposes of this Agreement unless the Unit (and such portion of the Building intended to be used exclusively by Buyer) is physically habitable and usable for the purpose for which the Unit was purchased. The Unit (and such portion of the Building intended to be used exclusively by Buyer) will be considered so useable if (i) the Unit is ready for occupancy and has all necessary and customary utilities extended to it and (ii) access to the Unit from a readily accessible entrance to the Building is complete or substantially complete. The issuance of a temporary, partial or permanent certificate of occupancy for or covering the Unit from the proper governmental agency shall be deemed conclusive evidence that the Unit is considered substantially complete for purposes of this Agreement. Other units (and other portions of the Building, Common Elements and/or recreational facilities) may not necessarily be complete and/or useable. As to any roads, sewers, water, gas or electric service or recreational amenities represented by Seller or its agents to be provided or completed by Seller in connection with the Condominium, Seller agrees to provide or complete same within a reasonable period of time. Buyer and Seller agree that this is an agreement for the purchase and sale of an improved lot. Seller agrees that no closing shall occur until the Declaration has been amended to include the certificate required by Section 718.104(4)(e), Florida Statutes.

32. Disclosures. Buyer is hereby advised as follows:

- (a) RADON GAS: Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of radon that exceed federal and state guidelines have been found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from your county health department. The foregoing notice is provided in order to comply with state law and is for informational purposes only. Seller does not conduct radon testing with respect to the Units or the Condominium, and specifically disclaims any and all representations or warranties as to the absence of radon gas or radon producing conditions in connection with the Condominium.
- (b) ANY CLAIMS FOR CONSTRUCTION DEFECTS ARE SUBJECT TO THE NOTICE AND CURE PROVISIONS OF CHAPTER 558, FLORIDA STATUTES.
- (c) BUYER SHOULD NOT RELY ON THE SELLER'S CURRENT PROPERTY TAXES AS THE AMOUNT OF PROPERTY TAXES THAT THE BUYER MAY BE OBLIGATED TO PAY IN THE YEAR SUBSEQUENT TO PURCHASE. A CHANGE OF OWNERSHIP OR PROPERTY IMPROVEMENTS TRIGGERS REASSESSMENTS OF THE PROPERTY THAT COULD RESULT IN HIGHER PROPERTY TAXES. IF YOU HAVE ANY QUESTIONS CONCERNING VALUATION, CONTACT THE COUNTY PROPERTY APPRAISER'S OFFICE FOR INFORMATION.

When a condominium is newly created, the full value of the units in the condominium are typically not reflected in the real estate taxes until the calendar year commencing after construction has been completed. The County Property Appraiser is responsible for

determining the assessed value of the Unit for real estate taxes, and Seller has no control over the assessed value established by governmental authorities. Seller is not responsible for communicating any information regarding real estate taxes (current or future) and cannot and will not predict what taxes on the Unit may be. Buyer will confirm any information provided concerning appraisals, tax valuation, tax rates, or other tax-related questions with Buyer's personal tax advisor and the local taxing authorities.

- (d) THE BUDGET CONTAINED IN THIS OFFERING CIRCULAR HAS BEEN PREPARED IN ACCORDANCE WITH THE CONDOMINIUM ACT AND IS A GOOD FAITH ESTIMATE ONLY AND REPRESENTS AN APPROXIMATION OF FUTURE EXPENSES BASED ON FACTS AND CIRCUMSTANCES EXISTING AT THE TIME OF ITS PREPARATION. ACTUAL COSTS OF SUCH ITEMS MAY EXCEED THE ESTIMATED COSTS. SUCH CHANGES IN COST DO NOT CONSTITUTE MATERIAL ADVERSE CHANGES IN THE OFFERING.
- (e) To the extent that Buyer's Unit (or the Limited Common Elements appurtenant to Buyer's Unit) includes a Private Pool/Spa, Seller has included, as part of the Prospectus, disclosures regarding the provisions of Chapter 515, Florida Statutes, and a copy of a publication that provides information on drowning prevention and the responsibilities of pool ownership. Buyer acknowledges receipt of said disclosures.
- (f) Pursuant to the mandates of Miami-Dade County Ordinance 93-21 and the provisions of Chapter 11C of the Metropolitan Dade County Code, to the extent applicable, Buyer is hereby advised that:
  - (i) THIS HOME OR STRUCTURE IS LOCATED IN A COASTAL HIGH HAZARD AREA. IF THIS HOME OR STRUCTURE IS BELOW THE APPLICABLE FLOOD ELEVATION LEVEL AND IS SUBSTANTIALLY DAMAGED OR SUBSTANTIALLY IMPROVED, AS DEFINED IN CHAPTER 11C OF THE METROPOLITAN MIAMI-DADE COUNTY CODE, IT MAY, AMONG OTHER THINGS, BE REQUIRED TO BE RAISED TO THE APPLICABLE FLOOD ELEVATION LEVEL; and
  - (ii) THIS HOME OR STRUCTURE IS LOCATED IN A SPECIAL FLOOD HAZARD AREA. IF THIS HOME OR STRUCTURE IS BELOW THE APPLICABLE FLOOD ELEVATION LEVEL AND IS SUBSTANTIALLY DAMAGED OR SUBSTANTIALLY IMPROVED, AS DEFINED IN CHAPTER 11C OF THE METROPOLITAN MIAMI-DADE COUNTY CODE, IT MAY, AMONG OTHER THINGS, BE REQUIRED TO BE RAISED TO THE APPLICABLE FLOOD ELEVATION LEVEL.
- (g) Buyer agrees not to seek to impose any type of lien or other claim upon the Unit, equitable or otherwise, and any right to impose or seek any such lien or other claim is hereby knowingly, fully and unconditionally waived by Buyer.
- (h) Buyer expressly understands and agrees that Seller intends to use Buyer's deposits (both up to [provided that Seller has placed Alternative Assurances approved by the Division], and in excess of 10% of the Purchase Price of the Unit) in order to fund a significant portion of construction and development of the Condominium, all in accordance with the provisions of Section 4 hereof and applicable Florida law.



- (i) In accordance with the ordinances of Miami-Dade County, Buyer is hereby advised that the Unit is or may be submetered, that bills for water service will or may be issued on a submetered basis, and that bills shall not include charges for water service for common areas and facilities (the charges for water service for common areas and facilities instead are included in Common Expenses and paid for through Assessments). Buyer acknowledges receipt of the County Consumer Service Department's Remetering Bill of Rights pamphlet.

Buyer's Initials to acknowledge the foregoing disclosure:  \_\_\_\_\_

33. Representations and Confirmations.

- (a) Buyer acknowledges, warrants, represents and agrees that this Agreement is being entered into by Buyer without reliance upon any representations concerning any potential for future profit, any future appreciation in value, any rental income potential, tax advantages, depreciation or investment potential and without reliance upon any management company or any monetary or financial advantages.
- (b) Buyer acknowledges, warrants, represents and agrees that no statements or representations have been made by Seller, Seller's Affiliates, or any of its agents, employees or representatives with respect to (i) the ability or willingness of Seller or Seller's Affiliates to assist Buyer in financing, renting or selling the Unit (except only in response to a direct inquiry from Buyer), (ii) the economic or tax benefits to be derived from the managerial efforts of a third party as a result of renting the Unit or other units, or (iii) the economic or tax benefits to be derived from ownership of the Unit.
- (c) Buyer acknowledges, warrants, represents and agrees that no such representations, including representations as to the ability or willingness of Seller or Seller's Affiliates to assist Buyer in financing, renting or selling the Unit, have been made by Seller, Seller's Affiliates, or any of its agents, employees or representatives. Buyer further represents and warrants to Seller that Buyer is entering into this Agreement with the full intention of complying with each and every of the obligations hereunder, including, without limitation, the obligation to close on the purchase of the Unit. Neither Seller, Seller's Affiliates, nor anyone working by, through or under Seller, has made any statement or suggestion that Buyer would not be obligated to fully comply with the terms of this Agreement and to close on the purchase of the Unit. Further, Buyer understands and agrees that neither Seller, Seller's Affiliates, nor any brokerage company, on site sales personnel and/or other persons working by, through or under Seller, are under any obligation whatsoever to assist Buyer with any financing or resale of the Unit.
- (d) Buyer further acknowledges, warrants, represents and agrees that information contained in all marketing and advertising materials, including the brochures, is conceptual only and is used to depict the spirit of the lifestyles and environment to be achieved rather than specifics that are to be delivered with the Condominium. Such information is merely intended as illustrations of the activities, community and concepts depicted therein, and/or features consistent with the displayed lifestyle, and should not be relied upon as representations, express or implied, of the actual detail of the Condominium.

- (e) Buyer acknowledges, warrants, represents and agrees that Buyer has not relied upon any verbal representations or promises other than as expressly contained herein and in the Condominium Documents, including, specifically, but without limitation, any representations as to: (a) potential appreciation in or resale value of the Unit, (b) the existence of any "view" from the Unit or that any existing "view" will not be obstructed in the future, (c) traffic conditions in, near or around the Condominium, (d) disturbance from nearby properties, (e) disturbance from air or vehicular traffic or (f) any particular design professional, including, without limitation, any decorator or architect (it being understood that Seller reserves the right to change and/or replace any and all members of its design team at any time, in Seller's discretion).
- (f) Buyer further understands and agrees that a portion of the Common Elements is being included as part of the Public Park. As such, Buyer's expectations of privacy should be tempered to reconcile with these anticipated uses and Buyer may be disturbed by the noise, commotion and other unpleasant effects of same. Buyer hereby agrees to release Seller and Seller's Affiliates from and against any and all losses, claims, demands, damages, costs and expenses of whatever nature or kind, including attorney's fees and costs, including those incurred through all arbitration and appellate proceedings, related to or arising out of any claim against the Seller or Seller's Affiliates related to any disturbances described in this paragraph.
- (g) The provisions of this Section shall survive (continue to be effective after) the closing.

34. Move-In. Buyer understands and agrees that it shall be obligated to coordinate the date and time for move-in with the Association, and that prior approval from the Association may be required. Buyer further understands and agrees that the Association, to the extent permitted by law, may impose a move-in fee and/or other charges for any costs to be incurred by the Association in connection with coordination of the move-in, such as (by way of example, but without limitation, a trash removal and/or dumpster fee).

35. Offer. The submission by Seller of this Agreement to Buyer for examination does not constitute an offer by Seller to Buyer, or a reservation of or option for any Unit in the Condominium. Additionally, Buyer hereby represents that Seller has not solicited, offered or sold the Unit to Buyer in any state or country in which such activity would be unlawful. This Agreement shall not become binding until executed and delivered by both Buyer and Seller. Upon execution by Seller, an executed copy of this Agreement shall be sent to Buyer or Seller shall otherwise demonstrate its acceptance of Buyer's offer, otherwise the offer shall be considered rejected.

36. Private Certification. Seller reserves the right to have professional certification of plans and inspections by architects and engineers who have been privately retained by Seller pursuant to state law as incorporated in Section 2-1265 of the Code of Miami-Dade County, Florida. Accordingly, Seller discloses the following: THIS STRUCTURE HAS BEEN OR WILL BE BUILT IN COMPLIANCE WITH THE FLORIDA BUILDING CODE AS DETERMINED BY STATE LICENSED AND REGISTERED ARCHITECTS AND ENGINEERS PRIVATELY HIRED BY THE OWNER AND APPLICANT FOR PERMITS TO PERFORM CERTIFICATION OF PLANS AND INSPECTIONS AS PROVIDED UNDER THE PROFESSIONAL CERTIFICATION PROGRAM ESTABLISHED UNDER STATE LAW. Inasmuch as it is not now known whether Seller and the applicant for permits will use a privately hired architect or engineer, Seller agrees that if it elects to do so, then once Seller has retained a private architect or engineer, Seller shall inform Buyer that Seller and applicant for permits has

retained a private architect or engineer to certify building plans and perform required inspections for compliance with the building code as and to the extent required by applicable law.

37. Interpretation. Notwithstanding that this Agreement was prepared by one party hereto, it shall not be construed more strongly against or more favorably for either party; it being known that both parties have had equal bargaining power, have been represented (or have had the opportunity to be represented) by their own independent counsel and have equal business acumen such that any rule of construction that a document is to be construed against the drafting party shall not be applicable. Buyer acknowledges and agrees that Buyer has had ample opportunity to inspect other similar condominiums and condominium documents, that Seller has clearly disclosed to Buyer the right to cancel this Agreement for any reason whatsoever, including any dissatisfaction Buyer may have with this Agreement or the Condominium Documents, within fifteen (15) days of the date Buyer executes this Agreement or has received the Condominium Documents, whichever is later, and that although Seller's sales agents are not authorized to change the form of this Agreement, they have strict instructions from Seller to communicate any of Buyer's requests for such changes to Seller's management, which has given Buyer the opportunity to discuss and negotiate such changes.

38. Designation of Registered Agent. Buyer hereby agrees that the person designated as Registered Agent on Page 1 of this Agreement is hereby unconditionally and irrevocably qualified to accept service of process on behalf of Buyer in the State of Florida, which such designation shall be irrevocable unless Buyer effectively appoints a substitute local agent and notifies Seller in writing of such substituted designation. Accordingly, service of process for all purposes under this Agreement shall be deemed to be effective if served on Buyer or on Buyer's Registered Agent, as identified on Page 1 of this Agreement.

39. Miscellaneous. The explanations, definitions, disclaimers and other provisions set forth in the Condominium Documents are incorporated into this Agreement as if repeated at length here. When the words "this Agreement" are used, they shall include in their meaning all modifications, riders and addenda to it signed by Buyer and Seller. Buyer acknowledges that the primary inducement for Buyer to purchase under this Agreement is the Unit, itself, and not the recreational amenities and other Common Elements. Seller's waiver of any of its rights or remedies (which can only occur if Seller waives any right or remedy in writing) will not waive any other of Seller's rights or remedies or prevent Seller from later enforcing all of Seller's rights and remedies under other circumstances. The performance of all obligations by Buyer on the precise times stated in this Agreement is of absolute importance and failure of Buyer to so perform on time is a default, TIME BEING OF THE ESSENCE as to all of Buyer's obligations hereunder. Buyer understands and agrees that Buyer is not acquiring any rights or license in and/or to the name of the Condominium and/or the Condominium Association and that the name of the Condominium is not a material consideration in connection with Buyer's purchase of the Unit. Additionally, the name of the Condominium and/or the Condominium Association may be changed by the Seller, in its sole discretion. If any portion of the Purchase Price or Buyer's deposits under the Agreement are funded through an account of a party other than Buyer ("Third Party Funding"), Buyer represents and warrants to Seller, in order to induce Seller to accept the Third Party Funding, that: (i) the party providing the Third Party Funding is not the subject of a bankruptcy case, receivership or insolvency proceeding, (ii) the Third Party Funding is being given on behalf of Buyer as a loan or for reasonably equivalent value for services performed and/or products delivered to such third party from Buyer and (iii) the party issuing the Third Party Funding has no right, title or interest in and to the Unit and/or the Agreement and/or any portion of the Deposits. Notwithstanding the foregoing or anything contained to the contrary in the Agreement,

Buyer shall remain responsible for full payment of the Purchase Price and other fees, costs and/or expenses as described herein, at closing, including without limitation, all deposits due under this Agreement. Seller shall have the right to litigate ad valorem tax matters, impact charges, service fees and interim and/or special assessments concerning the Unit, the Common Elements or any other portion of the Condominium Property for prior years and/or the year of closing. This Agreement may be executed in one or more counterparts, a complete set of which shall be deemed an original and said counterparts shall constitute but one and the same instrument. Signatures of the parties hereto on copies of this Agreement transmitted by facsimile machine or over the internet shall be deemed originals for all purposes hereunder, and shall be binding upon the parties hereto. The counterparts of this Agreement and all ancillary documents executed or delivered in connection with this Agreement may be executed and signed by electronic signature by any of the parties to this Agreement, and delivered by electronic or digital communications to any other party to this Agreement, and the receiving party may rely on the receipt of such document so executed and delivered by electronic or digital communications signed by electronic signature as if the original has been received. For the purposes of this Agreement, with respect to signatures by Buyer, electronic signature means, without limitation, an electronic act or acknowledgement (e.g., clicking an "I Accept" or similar button), sound, symbol (digitized signature block), or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record. Executive Order 13224 restricts activities with entities, countries and persons (specifically designated nationals) set forth by the Office of Foreign Asset Control ("OFAC"). In order to check the OFAC list, Buyer must provide Seller with a government-issued identification card (for example, a driver's license, passport, or resident alien card). To the extent Buyer's name (or to the extent Buyer is a corporation or other entity, any person or entity constituting a part of Buyer) matches a name or entity on any such OFAC list or publication, the transactions with Buyer contemplated under or in connection with this Agreement will be immediately suspended, and Buyer shall be reported as instructed by OFAC. Additionally, to the extent that Buyer is an entity and/or trust, Buyer shall provide the following to Seller, as applicable, within thirty (30) days following the execution of the Agreement (collectively, the "Entity Conditions"): (i) a copy of the entity's formation documents and/or trust documents, (ii) a certificate of good standing from the State/Country of formation, incorporation and/or organization and/or trust certificate, (iii) proper corporate/entity resolutions regarding the signatory's power and authority to complete the transaction, together with a designation of the individual specifically authorized to complete the transaction and execute all documents on behalf of Buyer, (iv) a sworn certificate or affidavit confirming the identity of all persons with authority to bind the entity, and the identity and address of all persons owning a 25% beneficial interest in the purchasing entity (with copies of picture identification of all such persons attached) and (v) an opinion from Buyer's counsel addressed to Seller confirming that the Buyer is duly formed, in good standing, and that the signatory has the authority to enter into this Agreement and complete the purchase of the Unit without the necessity of any consents or joinders of any other party. Moreover, to the extent that Buyer has delegated signatory authority to an individual other than Buyer (by way of power of attorney or otherwise), Buyer shall deliver to Seller within thirty (30) days following the execution of this Agreement a copy of the document delegating such authority for Seller's review and approval (the "Delegation Conditions"). In the event that Buyer fails to meet the Entity Conditions and/or Delegation Conditions, as applicable, same shall constitute a default under this Agreement. Seller reserves the right to establish prices for units in the Condominium. Seller may, in Seller's sole discretion, increase or decrease the price or price per square foot for any unit, or any offered option, if any, at any time, or offer incentives for the sale of units. Seller makes no representations or warranties that the price for the Unit or options in the Unit will be increased or decreased for other buyers of identical or similar units or options. Seller also makes no representations or warranties that changes made or options, extras or upgrades chosen by Buyer will or will not increase or decrease the market value

of the Unit, and Buyer understands and agrees that such upgrades and options, if any, may not increase the market value of the Unit. Buyer shall, upon request from Seller from time to time, provide Seller with Buyer's valid picture identification, or if Buyer is a trust or other entity, with valid picture identification of all persons authorized to act on behalf of the trust or entity holding, directly or indirectly, a beneficial interest in same.. This paragraph shall survive closing.

40. Entire Agreement. This Agreement is the entire agreement for sale and purchase of the Unit and once it is signed, it can only be amended by a written instrument signed by both Buyer and Seller which specifically states that it is amending this Agreement. This Agreement contains the entire understanding between Buyer and Seller, and Buyer hereby acknowledges that the displays, architectural models, brochures, artist renderings and other promotional materials contained in the sales office and/or the model suite are conceptual and are for promotional purposes only and may not be relied upon. **Any current or prior agreements, representations, understandings or oral statements of sales representatives or others, if not expressed in this Agreement or the Condominium Documents, are void and have no effect. Buyer acknowledges and agrees that Buyer has not relied on them. Notwithstanding the foregoing, Seller shall not be excused from any liability under, or compliance with, the provisions of Section 718.506, Florida Statutes.**

**GENERAL INFORMATION:**

**Co-Broker Information: (See Section 20 above; if the space for Co-Broker's name is left blank, it shall mean that Seller has not agreed to pay any co-broker). (Note: Seller requires the Co-Broker to complete and sign a Co-Broker Registration Agreement as a condition to recognition and agreement for payment)**

**Co-Broker's Name:** \_\_\_\_\_

**Co-Broker's Sales Agent** \_\_\_\_\_

**Co-Broker's Address** \_\_\_\_\_

**Phone No.** \_\_\_\_\_

**Fax No.** \_\_\_\_\_

E-Mail \_\_\_\_\_

License No. \_\_\_\_\_

ANY PAYMENT IN EXCESS OF 10 PERCENT OF THE PURCHASE PRICE MADE TO DEVELOPER PRIOR TO CLOSING PURSUANT TO THIS CONTRACT MAY BE USED FOR CONSTRUCTION PURPOSES BY THE DEVELOPER.

**SELLER:**

**BUYER:**

**515 Valencia SPE, LLC, a Florida limited liability company**

DocuSigned by:  
*Rishi Kapoor*  
By: \_\_\_\_\_  
3908951BE1CB496...  
Authorized Representative

Date of Acceptance: 3/16/2021

DocuSigned by:  
*Richard Cole*  
\_\_\_\_\_  
41FD845C4FF545D...  
Name: Richard Cole

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

Date of Offer: 3/16/2021

# VILLA VALENCIA

515 VALENCIA AVENUE, CORAL GABLES, FL 33134  
786.971.6680 VILLAVALENCIA.COM

**LOCATION**  
VENTURES

ONE

**Sotheby's**  
INTERNATIONAL REALTY

# FREQUENTLY ASKED QUESTIONS & ANSWERS

VILLA VALENCIA CONDOMINIUM ASSOCIATION, INC. AS OF DECEMBER 4, 2018

**WHAT ARE MY VOTING RIGHTS IN THE CONDOMINIUM ASSOCIATION?** The owner(s) of each Unit shall be entitled to one (1) vote on each issue which comes before the condominium association requiring unit owner approval. See Section 5.2 of the Declaration and Section 6.3 of the Articles. . If a unit is owned by more than one person or by an entity (i.e., a corporation, partnership or trust), the unit owner shall file with the association a voting certificate designating the person entitled to vote for the unit. The designation made by voting certificate may be changed at any time by the owner(s) of the unit. Unit owners should be aware that most day to day decisions of the association are made by the board of directors (and do not require a vote of unit owners).

**WHAT RESTRICTIONS EXIST IN THE CONDOMINIUM DOCUMENTS ON MY RIGHT TO USE MY UNIT?** The condominium documents establish certain restrictions on the permitted uses of units. The Units may be used only for residential purposes with ancillary home office use, subject to these restrictions. In addition, various restrictions exist regarding the Units including, but not limited to, restrictions regarding changes and alterations to the units, pets, mitigation or dampness and humidity and installation of floor coverings. Please refer to Section 17 of the Declaration for further information.

**WHAT RESTRICTIONS EXIST IN THE CONDOMINIUM DOCUMENTS ON THE LEASING OF MY UNIT?** No portion of a Unit (other than the entire Unit) may be leased. Leasing of Units shall be subject to the prior written approval of the Association. No lease of a Unit shall be for a period of less than six (6) months and one (1) day and no Unit may be leased more than one (1) time during any calendar year. Please refer to Section 17.8 of the Declaration for additional restrictions and further details.

**HOW MUCH ARE MY ASSESSMENTS TO THE CONDOMINIUM ASSOCIATION FOR MY UNIT TYPE AND WHEN ARE THEY DUE?** Each unit is assessed a portion of the overall estimated operating expenses of the association and of the Common Expenses (as set forth on Exhibit "3"), which portions were determined based upon the relative size of the particular unit in proportion to the size of the other units in the condominium. Assessments per Unit are set forth on the Estimated Operating Budget and range from \$2,678.01/month (\$32,136.11/year), with reserves, and from \$6,379.30/month (\$76,551.55/year), with reserves. In accordance with Section 13.9 of the Declaration and Section 12.2 of the Bylaws, Assessments are payable monthly and due on the first day of each month.

**DO I HAVE TO BE A MEMBER IN ANY OTHER ASSOCIATION?** If so, what is the name of the association and what are my voting rights in this association? Also, how much are my assessments? You are not obligated to join any other association other than the condominium association.

**AM I REQUIRED TO PAY RENT OR LAND USE FEES FOR RECREATIONAL OR OTHER COMMONLY USED FACILITIES? IF SO, HOW MUCH AM I OBLIGATED TO PAY ANNUALLY?** The unit owners are not obligated to pay rent or land use fees for recreational and other commonly used facilities. All of the expenses related to the operation, repair and replacement of recreational and other commonly used facilities are part of the common expenses and are paid for by unit owners through assessments.

**IS THE CONDOMINIUM ASSOCIATION OR ANY OTHER MANDATORY MEMBERSHIP ASSOCIATION INVOLVED IN ANY COURT CASES IN WHICH IT MAY FACE LIABILITY IN EXCESS OF \$100,000.00?** If so, identify each such case? The association is not presently a party to any litigation.

NOTE: THE STATEMENTS CONTAINED HEREIN ARE ONLY SUMMARY IN NATURE. A PROSPECTIVE PURCHASER SHOULD REFER TO ALL REFERENCES, EXHIBITS HERETO, THE SALES AGREEMENT AND THE CONDOMINIUM DOCUMENTS FOR COMPLETE DETAILS.



# VILLA VALENCIA

## RECEIPT FOR CONDOMINIUM DOCUMENTS

(paper copy)

The undersigned acknowledges that the documents checked below have been received or, as to plans and specifications, made available for inspection:

**Name of Condominium:**

**Villa Valencia Condominium**

**Address of Condominium:**

515 Valencia Ave, Coral Gables, FL 33134

Place a check in the column by each document received or, for the plans and specifications, made available for inspection. If an item does not apply, place "N/A" in the column.

<u>Document</u>	<u>Received</u>	<u>By Alternative Media</u>
Prospectus Text	✓	N/A
Declaration of Condominium	✓	N/A
Articles of Incorporation	✓	N/A
Bylaws	✓	N/A
Estimated Operating Budget	✓	N/A
Form of Agreement for Sale or Lease	✓	N/A
Rules or Regulation	N/A	N/A
Covenants and Restrictions	✓	N/A
Ground Lease	N/A	N/A
Management and Maintenance Contracts for More Than One Year	N/A	N/A
Renewable Management Contracts	N/A	N/A
Lease of Recreational and Other Facilities to be Used Exclusively by Unit Owners of Subject Condominiums (See §718.503(1)(b)7, F.S. and §718.504, F.S.)	N/A	N/A
Form of Unit Lease if a Leasehold	N/A	N/A

Declaration of Servitude	<u>          N/A          </u>	<u>          N/A          </u>
Sales Brochure	<u>          N/A          </u>	<u>          N/A          </u>
Phase Development Description (See §718.503(1)(b)11, F.S. and §718.504, F.S.)	<u>          N/A          </u>	<u>          N/A          </u>
Lease of Recreational and Other Facilities to be Used by Unit Owners with Other Condominiums (See §718.503(1)(b)8, F.S. and §718.504, F.S.)	<u>          N/A          </u>	<u>          N/A          </u>
Description of Management for Single Management of Multiple Condominiums (See §718.503(1)(b)5, F.S. and §718.504, F.S.)	<u>          N/A          </u>	<u>          N/A          </u>
Conversion Inspection Report	<u>          N/A          </u>	<u>          N/A          </u>
Conversion Termite Inspection Report	<u>          N/A          </u>	<u>          N/A          </u>
Plot Plan	<u>          ✓          </u>	<u>          N/A          </u>
Floor Plan	<u>          ✓          </u>	<u>          N/A          </u>
Survey of Land and Graphic Description of Improvements	<u>          ✓          </u>	<u>          N/A          </u>
Frequently Asked Questions and Answers Sheet	<u>          ✓          </u>	<u>          N/A          </u>
Evidence of Interest in the Condominium Property	<u>          ✓          </u>	<u>          N/A          </u>
Development Plan Approval	<u>          N/A          </u>	<u>          N/A          </u>
Executed Escrow Agreement	<u>          ✓          </u>	<u>          N/A          </u>
Alternative Media Disclosure Statement (See Rule 61B-17.011, F.A.C.)	<u>          N/A          </u>	<u>          N/A          </u>

<u>Document</u>	<u>Received</u>	<u>Made Available</u>	<u>By Alternative Media</u>
Plans and Specifications	<u>          N/A          </u>	<u>          ✓          </u>	<u>          N/A          </u>

**THE PURCHASE AGREEMENT IS VOIDABLE BY BUYER BY DELIVERING WRITTEN NOTICE OF THE BUYER'S INTENTION TO CANCEL WITHIN 15 DAYS AFTER THE DATE OF EXECUTION OF THE PURCHASE AGREEMENT BY THE BUYER AND RECEIPT BY THE BUYER OF ALL OF THE DOCUMENTS REQUIRED TO BE DELIVERED TO HIM OR HER BY THE**

**DEVELOPER. THE AGREEMENT IS ALSO VOIDABLE BY THE BUYER BY DELIVERING WRITTEN NOTICE OF THE BUYER'S INTENTION TO CANCEL WITHIN 15 DAYS AFTER THE DATE OF RECEIPT FROM THE DEVELOPER OF ANY AMENDMENT WHICH MATERIALLY ALTERS OR MODIFIES THE OFFERING IN A MANNER THAT IS ADVERSE TO THE BUYER. ANY PURPORTED WAIVER OF THESE VOIDABILITY RIGHTS SHALL BE OF NO EFFECT. BUYER MAY EXTEND THE TIME FOR CLOSING FOR A PERIOD OF NOT MORE THAN 15 DAYS AFTER THE BUYER HAS RECEIVED ALL OF THE DOCUMENTS REQUIRED. BUYER'S RIGHT TO VOID THE PURCHASE AGREEMENT SHALL TERMINATE AT CLOSING.**

Executed this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

Purchaser or Lessee

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

Villa Valencia  
Condominium  
Alternative Media  
Disclosure Statement

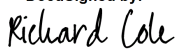
\_\_\_\_\_ (“Purchaser”), the purchaser of Unit \_\_\_\_\_ in Villa Valencia (“Condominium”) from 515 Valencia SPE, LLC, a Florida limited liability company (“Developer”), has elected to receive the Prospectus for the Condominium and the other documents required by Section 718.503, Florida Statutes, to be furnished by a developer to a buyer or lessee (collectively, the Condominium Documents”) on either a thumb drive, media card, tablet, or other portable computing device, application, CD, DVD, via e-mail or other electronic medium (“Alternative Media”), rather than receiving paper copies of same.

Developer has given Purchaser the option of receiving the Condominium Documents on paper, but by signing below, has elected to receive the Condominium Documents by Alternative Media. The Purchaser should not select Alternative Media unless the Purchaser will have the means to read the Condominium Documents before the expiration of the 15-day cancellation period described in the purchase agreement.

The system requirements necessary to view the Condominium Documents by Alternative Media are as follows:

- Operating System: Microsoft Windows XP or higher, including Vista, 7 or 8 or Apple’s Mac OS x10.5 or higher
- Memory: 256 MB of Ram
- Hard Drive: 60 MB of available hard-disk space
- Processor Speed: Intel Core Duo 1.83 GHz or higher
- Software: Adobe Reader 5.0 or higher.
- USB Port – USB 1.1 or higher
- Display Resolution – 1024 x 768 pixels or higher

By signing below, Purchaser hereby elects to receive the Condominium Documents by Alternative Media.

DocuSigned by:  
  
 \_\_\_\_\_  
 Name: Richard Cole  
 Date: 3/16/2021

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

**GOODKIND & FLORIO, P.A.**  
ATTORNEYS AND COUNSELORS AT LAW

4121 LA PLAYA BLVD.  
COCONUT GROVE, FLORIDA 33133

TEL: 305-667-4811  
[Brian@goodkindandflorio.com](mailto:Brian@goodkindandflorio.com)  
[Kenneth@goodkindandflorio.com](mailto:Kenneth@goodkindandflorio.com)

**WIRE TRANSFER INSTRUCTIONS**

ACCOUNT NUMBER	2304979894
PAYABLE TO	Goodkind & Florio, P.A. Real Estate Trust
ABA NUMBER	066004367
BANK	City National Bank 25 West Flagler Street Miami, Florida 33130
REFERENCE NUMBER	Villa Valencia - Deposits Unit No. _____ Buyer _____

## **ADDENDUM TO PURCHASE AGREEMENT**

THIS ADDENDUM is attached to and made a part of that certain Purchase Agreement made by and between 515 VALENCIA SPE, LLC, a Florida limited liability company (hereinafter referred to as the "Seller"), and RICHARD COLE (hereinafter referred to as the "Buyer").

### W I T N E S S E T H :

WHEREAS, Seller and Buyer have executed a certain Purchase Agreement dated of even date herewith (hereinafter referred to as the "Contract") with respect to certain property located in Miami-Dade County, Florida (hereinafter referred to as the "Property"); and

WHEREAS, Seller and Buyer desire to supplement, amend and modify certain terms and conditions of the Contract.

NOW, THEREFORE, for and in consideration of the mutual promises and covenants contained herein, the parties hereto mutually agree as follows:

1. **RECITALS**. The foregoing recitals are true and correct and incorporated herein by this reference. All capitalized terms not defined herein will have the same meaning ascribed to them in the Contract.

2. **ASSIGNMENT**. Notwithstanding anything to the contrary set forth in the Contract, Buyer may assign his interests under the Contract to a trust under which he is a beneficiary.

3. **APPRAISAL CONTINGENCY**. The Buyer intends to finance this purchase with an institutional residential mortgage loan in the amount of \$4,875,000.00 (the "Mortgage Loan"). If the Buyer fails to obtain funding of the Mortgage Loan because the Unit (including the Cabana and Private Garage) fails to appraise for an amount equal to the Purchase Price, then Buyer may, at Buyer's sole option, cancel the Contract by prompt written notice to Seller, whereupon all deposits paid by Buyer shall be promptly refunded to Buyer, and the parties releases from all further obligations under the Contract.. Buyer will use commercially reasonable efforts to attempt to facilitate conversation between the appraiser and Seller so that Seller may have the opportunity to educate appraiser on the building and its comparables.

4. **MUTUAL CONVENIENT TIMING FOR WALK THROUGH INSPECTION AND CLOSING DATE**. The parties shall in good faith schedule mutually convenient dates and times for the pre-closing walk through inspection to be made pursuant to Paragraph 8(a) of the Contract, and the Closing pursuant to Paragraph 10(a) of the Contract.

5. REDUCTION OF DEVELOPMENT FEE. The amount of the Development Fee referenced in Paragraph 11(a)(i) of the Contract is hereby reduced to \$82,500.00.

6. PROPERTY TAX PRORATION. Notwithstanding anything to the contrary in the Contract, the proration of the property taxes shall be made at Closing and included on the Closing Statement as a credit to Buyer or Seller as appropriate. Any proration based on an estimate shall be adjusted directly between the parties upon receipt of the actual property tax bill for the Unit.

7. "DAMAGE DETERMINATION METHODOLOGY". Notwithstanding Paragraph 13 of the Contract to the contrary, the "Damage Determination Methodology" shall be an amount equal to 10% of the Purchase Price and shall be paid from the deposits (the "Liquidated Damage Amount"). The Buyer shall receive a prompt refund of the deposits after Seller retains the Liquidated Damage Amount.

8. CONFIDENTIALITY. Seller expressly agrees not to publicize the name of the Buyer included in the Contract or any individual associated with the Buyer, except to the Seller's attorneys, agents and professional advisors as may be reasonably necessary or as may be otherwise required by laws or by an administrative agency or regulatory body. This provision shall expressly survive closing and/or termination of the Contract. However, the parties acknowledge that the recorded deed shall disclose the name of the Buyer.

9. UPGRADED SPECIFICATIONS. The Unit shall include the upgraded specifications listed on Exhibit "A" attached hereto and made a part hereof. Buyer shall select from the Upgrade listings for the Floor and Millwork Selections provided in Exhibit "A". The cost of all such upgraded specifications are included in the Purchase Price.

10. MODIFIED PLAN. The Unit shall be modified to enclose a portion of the terrace in accordance with the plan attached hereto and made a part hereof as Exhibit "B". The cost of such modification of the Unit is included in the Purchase Price.

11. PRIVATE GARAGE. In addition to the Unit, the Buyer shall receive at Closing the exclusive right to use and enjoy Private Garage 2<sup>nd</sup> Floor South, which shall be evidenced by a deed or assignment made by the Seller pursuant to the terms of the Condominium Documents. See attached location sketch at Exhibit "C" in which the Private Garage is identified as LPHS.

12. PRIVATE CABANA. In addition to the Unit, the Buyer shall receive at Closing the exclusive right to use and enjoy Cabana Number 4, which shall be evidenced by a deed or assignment made by the Seller pursuant to the terms of the Condominium Documents. See attached location sketch at Exhibit "D" in which the Cabana is identified as LPHS.

13. COUNTERPARTS. The Contract and this Addendum may be signed in several counterparts, each of which shall be deemed an original and all of which, taken together, shall be deemed to constitute a single agreement. It is agreed that a facsimile copy or Adobe Portable Document (PDF) copy of the signed Contract and this Addendum shall be binding on the parties to the same extent as an original signed Contract and Addendum.

14. CONFLICT. In the event that any of the terms and conditions of this Addendum shall conflict with or in any way contradict the provisions as contained in the Contract, it is agreed between the parties that the terms of this Addendum shall supersede and control as between the provisions of the Contract and this Addendum.

15. RATIFICATION. Other than as amended and modified herein, the terms of the Contract shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this Addendum on the \_\_\_\_\_ day of March, 2021 as to Seller and on the \_\_\_\_\_ day of March, 2021 as to Buyer.

**SELLER:**

515 VALENCIA SPE, LLC, a Florida limited liability company

By: DocuSigned by:  
*Richard Cole*  
41FD845C4EE545D  
Name: Richard cole  
Title: \_\_\_\_\_  
3/16/2021

**BUYER:**

DocuSigned by:  
*Richard Cole*  
41FD845C4EE545D  
RICHARD COLE  
3/16/2021



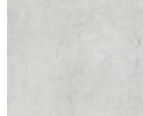
# Exhibit A

# FLOOR SELECTIONS

For each section below, please mark the check box below your finish of choice. Make only one selection per section. When you are finished, please initial at the bottom of the page.

## COMMON AREAS & BEDROOM FLOORS

### STANDARD



MILANO BIANCO MATTE  
24" X 48"



BAYONA SILVER POLISHED  
30" X 60"

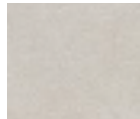


COLORED TEAK  
8" X 64" PLANKS

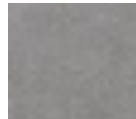
### UPGRADE



AQUALUNA BIANCO LAPATTO  
30" X 60"



UPTOWN WHITE MATTE  
30" X 60"

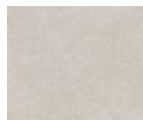


UPTOWN GREY MATTE  
30" X 60"

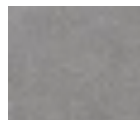


URBANEA GRIS MATTE  
48" X 48"

## TERRACE FLOORS



BEIGE TEXTURED



GREY TEXTURED

RESIDENCE # \_\_\_\_\_

BUYERS INITIALS \_\_\_\_\_

SEE LEGAL DISCLAIMER ON CONTRACT.

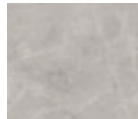


# FLOOR SELECTIONS

For each section below, please mark the check box below your finish of choice. Make only one selection per section. When you are finished, please initial at the bottom of the page.

## MASTER BATH

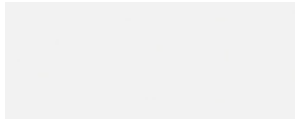
### STANDARD WALLS & FLOORS



BAYONA  
SILVER  
POLISHED  
30" X 60"

## SECONDARY BATH

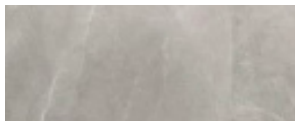
### STANDARD SHOWER & FLOORS



BLANCO BRILLO GLOSS  
12" X 36"

## PENTHOUSE

### UPGRADE



SLABS 48" X 96"

**CUSTOM SLABS TO BE  
DISCUSSED AND PRICED.**

RESIDENCE # \_\_\_\_\_

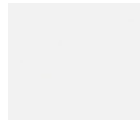
BUYERS INITIALS \_\_\_\_\_



# COUNTER SELECTIONS

For each section below, please mark the check box below your finish of choice. Make only one selection per section. When you are finished, please initial at the bottom of the page.

## KITCHEN COUNTER

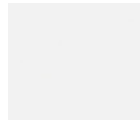


WHITE QUARTZ POLISHED



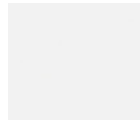
CALCUTTA QUARTZ POLISHED

## TERRACE COUNTER



WHITE QUARTZ POLISHED

## MASTER BATH VANITY



WHITE QUARTZ POLISHED



CALCUTTA QUARTZ POLISHED

RESIDENCE # \_\_\_\_\_

BUYERS INITIALS \_\_\_\_\_



# MILLWORK SELECTIONS

For each section below, please mark the check box below your finish of choice. Make only one selection per section. When you are finished, please initial at the bottom of the page.

## BEDROOM

### BASE MODEL



### UPGRADE



LIGHT WOOD

DARK WOOD

## LIVING SPACE

### BASE MODEL



### UPGRADE



LIGHT WOOD

DARK WOOD

RESIDENCE # \_\_\_\_\_

BUYERS INITIALS \_\_\_\_\_

SEE LEGAL DISCLAIMER ON CONTRACT.



# FIXTURES

Fixtures at Villa Valencia are sourced from industry leading companies Villeroy & Boch, Brizo, and Delta to create the finest high-style experience.



MASTER BATH  
LAVATORY FAUCET



MASTER BATH  
TOILET



MASTER BATH  
SOAKING TUB



MASTER BATH  
FREESTANDING TUB FILLER



SHOWER WAND



SHOWER

RESIDENCE # \_\_\_\_\_

BUYERS INITIALS \_\_\_\_\_

SEE LEGAL DISCLAIMER ON CONTRACT.



# FIXTURES

Villa Valencia has partnered with Villeroy & Boch for bathrooms that are high quality and high design.



POWDER ROOM SINK



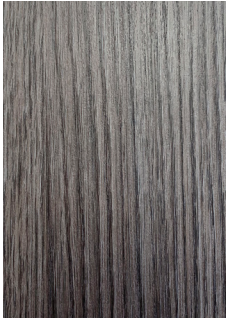
POWDER ROOM SINK



POWER ROOM VANITY



POWDER ROOM TOILET



GREY IMPRESSO



SECONDARY BATH VANITY



SECONDARY BATH TOILET



TOWEL HOLDER



TOILET PAPER HOLDER



24" TOWEL BAR



HOOKS

RESIDENCE # \_\_\_\_\_

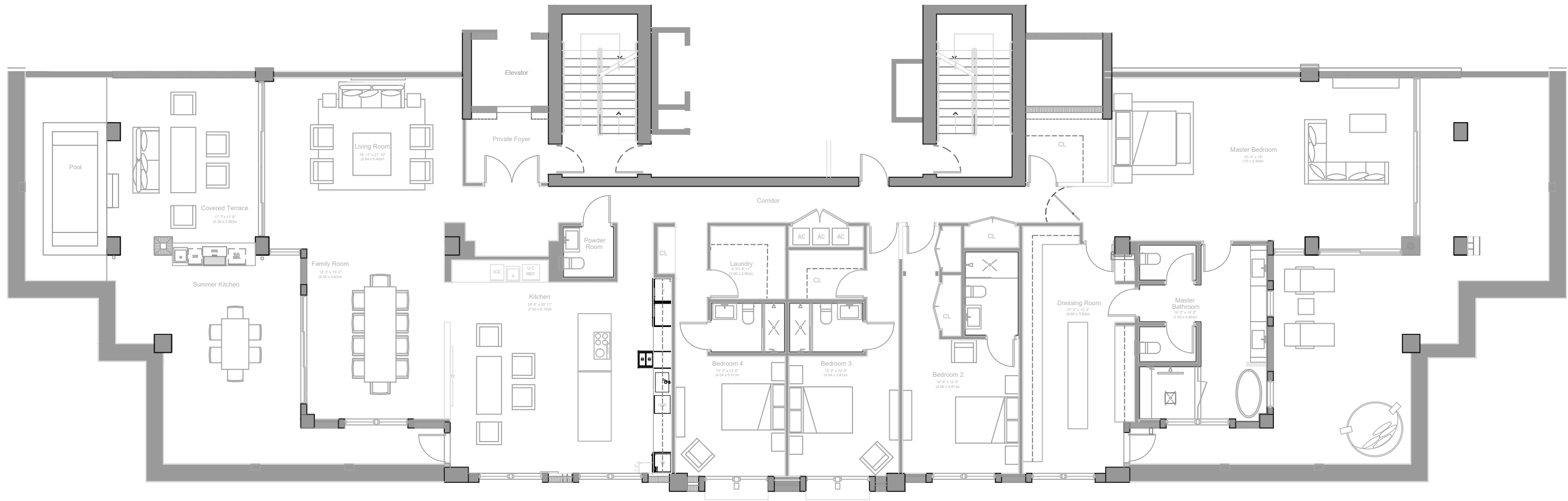
BUYERS INITIALS \_\_\_\_\_

SEE LEGAL DISCLAIMER ON CONTRACT.

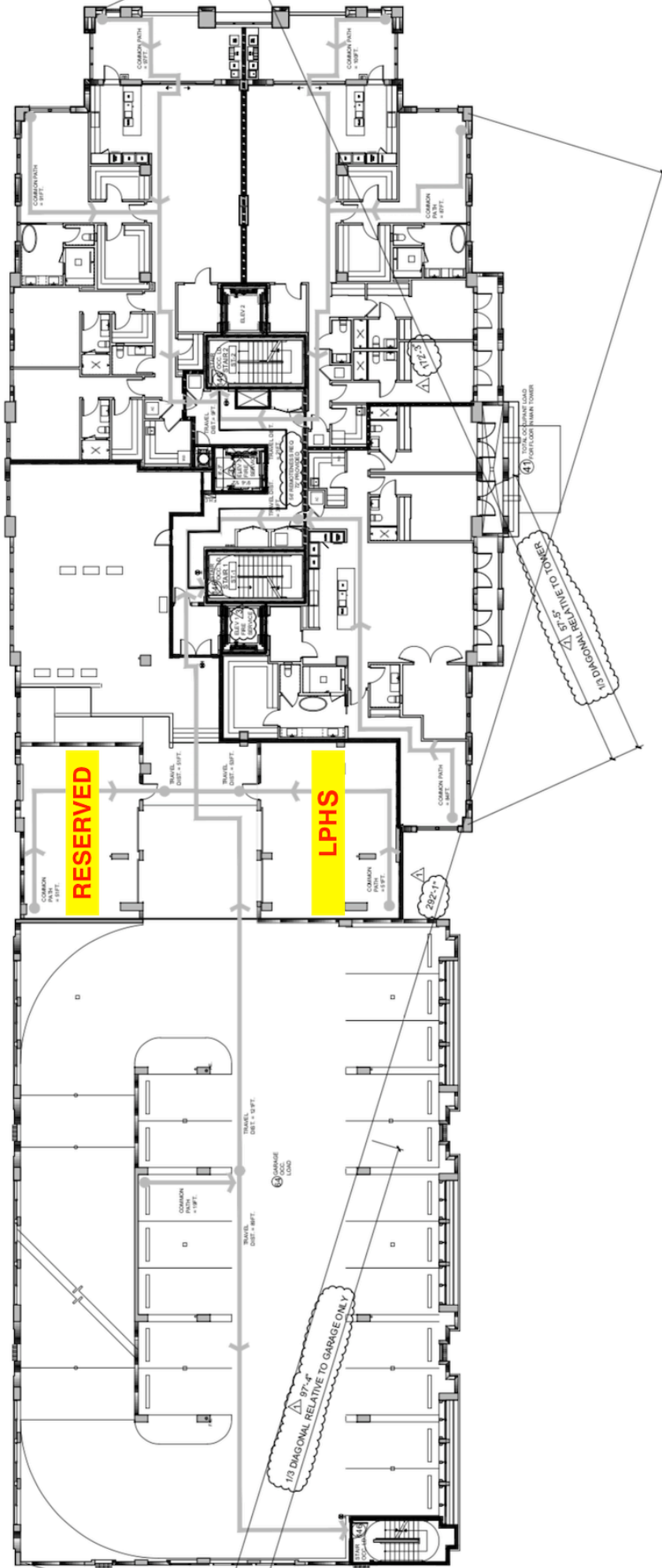


# Exhibit B





# Exhibit C



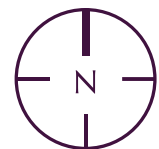
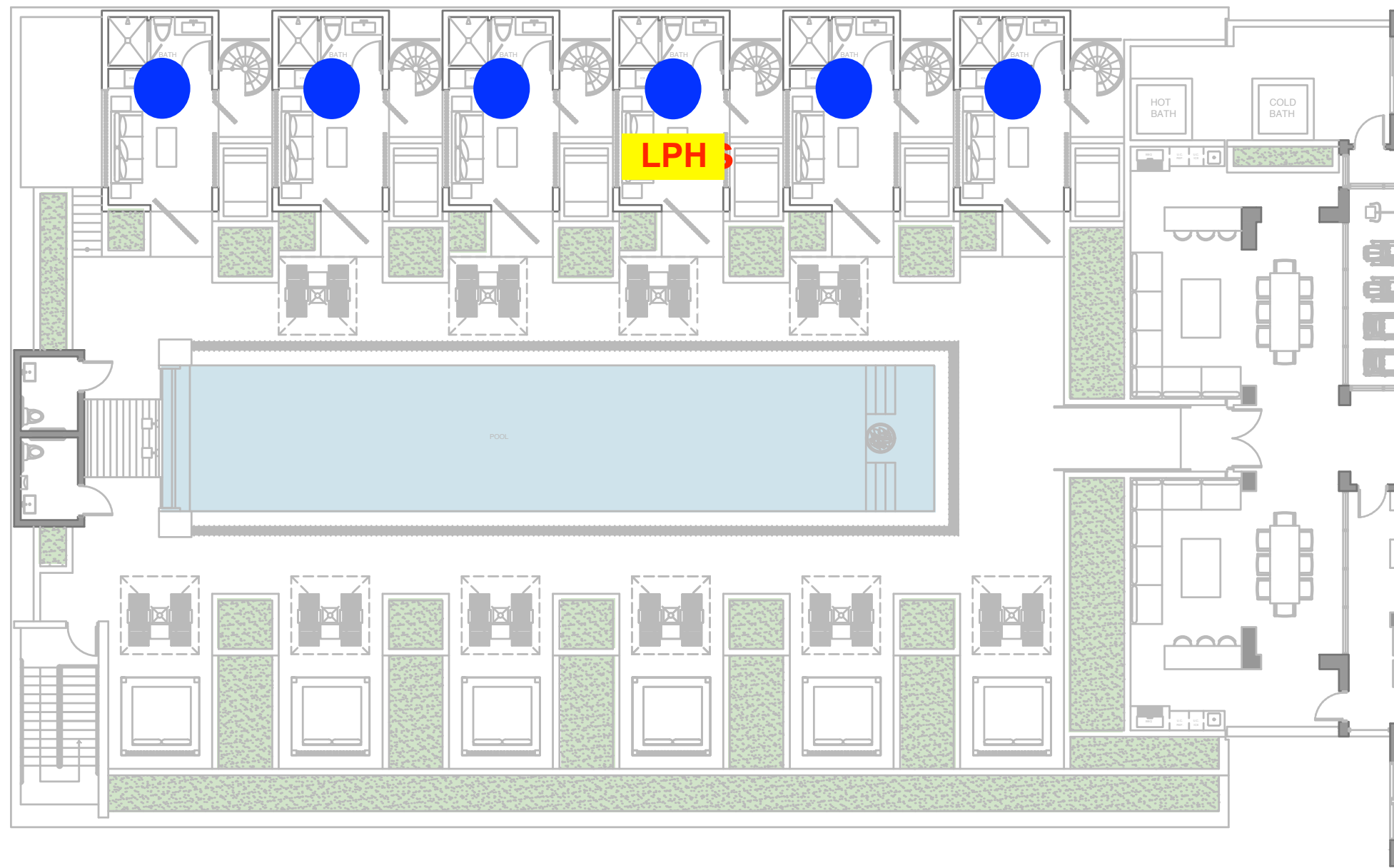
LIFE SAFETY PLAN - 2ND FLOOR  
SCALE 3/32" = 1'-0"



# Exhibit D

KEY PLAN FIFTH FLOOR POOL DECK

# VILLA VALENCIA



DS  
RC

515 VALENCIA AVENUE, CORAL GABLES, FL 33134

786.971.6680

VILLAVALENCIA.COM

LOCATION VENTURES

ONE

Sotheby's INTERNATIONAL REALTY

**ORAL REPRESENTATIONS CANNOT BE RELIED UPON AS CORRECTLY STATING THE REPRESENTATIONS OF THE DEVELOPER. FOR CORRECT REPRESENTATIONS, MAKE REFERENCE TO THIS BROCHURE AND TO THE DOCUMENTS REQUIRED BY SECTION 718.503, FLORIDA STATUTES, TO BE FURNISHED BY A DEVELOPER TO A BUYER OR LESSEE.**

These materials are not intended to be an offer to sell, or solicitation to buy a unit in the condominium. Such an offering shall only be made pursuant to the prospectus (offering circular) for the condominium and no statements should be relied upon unless made in the prospectus or in the applicable purchase agreement. In no event shall any solicitation, offer or sale of a unit in the condominium be made in, or to residents of, any state or country in which such activity would be unlawful. All prices, plans, specifications, features, amenities and other descriptions are preliminary and are subject to change without notice, as provided in your purchase agreement. Stated square footages and dimensions are measured to the exterior boundaries of the exterior walls and the centerline of interior demising walls and in fact vary from the square footage and dimensions that would be determined by using the description and definition of the "Unit" set forth in the Declaration (which generally only includes the interior airspace between the perimeter walls and excludes all interior structural components and other common elements). This method is generally used in sales materials and is provided to allow a prospective buyer to compare the Units with units in other condominium projects that utilize the same method. Accordingly, the area of the actual room will typically be smaller than the product obtained by multiplying the stated length and width. See the Declaration for additional details. All dimensions are estimates which will vary with actual construction, and all floor plans, specifications and other development plans are subject to change and will not necessarily accurately reflect the final plans and specifications for the development. All depictions of furniture, appliances, counters, soffits, floor coverings and other matters of detail, including, without limitation, items of finish and decoration, are conceptual only and are not necessarily included in each Unit. This project is being developed by 515 Valencia SPE, LLC ("Developer"), which has a limited right to use the trademarked names and logos of Location Ventures. Any and all statements, disclosures and/or representations shall be deemed made by Developer and not by Location Ventures and you agree to look solely to Developer (and not to Location Ventures and/or any of its affiliates) with respect to any and all matters relating to the marketing and/or development of the Condominium and with respect to the sales of units in the Condominium.

# Exhibit 2

**ESCROW AGREEMENT**

**THIS AGREEMENT** is made as of the 28th day of November, 2018, by and between **Goodkind & Florio, P.A.** ("Escrow Agent"), having an office at 4121 La Playa Boulevard, Miami, FL 33133, and **515 Valencia SPE, LLC, a Florida limited liability company** ("Developer"), having an office at 2665 S. Bayshore Drive, Suite 1101, Miami, Florida 33133.

**WITNESSETH**

A. Developer proposes to construct and develop a condominium in Coral Gables, Florida, to be located at approximately 515 Valencia Avenue, Coral Gables, Florida, tentatively named **Villa Valencia Condominium** (as may hereafter be renamed, the "Condominium").

B. Developer has or intends to enter into contracts for the sale and purchase of units in the Condominium (each of which is hereinafter called a "Contract").

C. Developer desires to make arrangements to escrow deposits on each Contract in accordance herewith and with the provisions of Section 718.202, Florida Statutes. Deposits under each Contract up to ten percent (10%) of the sales price of the applicable Contract shall be deposited and held, subject to clearance, in a separate escrow account hereinafter referred to as the "Ten Percent Escrow Account" and deposits in excess of ten percent (10%) of the sales price of the applicable Contract shall be deposited and held, subject to clearance, in a separate escrow account hereinafter referred to as the "Special Escrow Account". Developer intends to post other assurances with the Division of Florida Condominiums, Timeshares and Mobile Homes of the Department of Business and Professional Regulation of the State of Florida (the "Division"), having its office at 2601 Blair Stone Road, Tallahassee, Florida 32399, as allowed by Florida Statutes, so as to authorize release of funds to Developer from the Ten Percent Escrow Account in accordance herewith.

D. Escrow Agent has agreed to hold all deposits it receives pursuant to the terms and provisions hereof and otherwise in accordance with Section 718.202, Florida Statutes.

**NOW, THEREFORE**, Escrow Agent and Developer hereby agree as follows:

1. The foregoing recitals are true and correct and incorporated herein as if repeated at length.

2. From time to time, Developer will deliver checks payable to, or direct wire transfers or other electronic transfers of funds to, Escrow Agent which will represent deposits on Contracts, together with a copy of each executed Contract and all exhibits, attachments and modifications thereto (if not previously delivered with prior deposits) and a "Notice of Escrow Deposit" in the form attached hereto. Escrow Agent shall acknowledge receipt of the deposit and deliver an executed copy of same to Developer, and to the individual Condominium unit purchaser upon request. Developer shall also inform Escrow Agent as to whether Developer intends to post alternative assurances, and if so, the estimated amount of such assurance and when it will be provided. In accordance with Paragraph 3 of this Escrow Agreement, in the event the Division accepts the assurance as being sufficient and Developer furnishes Escrow Agent with a copy of the Division's approval along with the Withdrawal Certificate as hereinafter defined, Developer shall be entitled to receive a release of the escrow funds from the "Ten Percent Escrow Account."

3. Developer reserves the option to submit an assurance in accordance with Section 718.202(1), Florida Statutes. Upon such application for an assurance, Developer shall submit a quarterly report pursuant to Rule 61B-17.009 F.A.C. The Division has the discretion to accept alternative assurances from Developer in lieu of the escrow of all or any portion of the funds required to be escrowed hereunder. Developer may, but is not obligated to, submit to the Division for approval a letter of credit or other assurance, such as surety bonds or cash, as may be approved by the Division from time to time. If the Division accepts the assurance as being sufficient, such assurance shall serve as security for all or a portion of the deposits otherwise required to be escrowed hereunder in accordance with the terms and conditions of this Escrow Agreement. Developer shall be obligated to furnish Escrow Agent with a copy of the Division's approval of any assurance along with a certificate of Developer (the "Withdrawal Certificate") that such assurance is adequate in amount to cover deposits up to ten percent (10%) of the sales price for all sales of condominium units in the Condominium. Notwithstanding anything contained herein to the contrary, no substitute assurance arrangements shall be instituted, and Escrow Agent may not rely on any such substitute assurance, without the prior written approval of the Division. All modifications to the terms and conditions of any assurance must be accepted in writing by the Division.

4. Escrow Agent shall establish, in accordance with the requirements of Section 718.202, Florida Statutes separate accounts which shall be identified as the Ten Percent Escrow Account and the Special Escrow Account (collectively referred to herein as the "Escrow Account" or "Escrow Accounts"). Escrow Agent shall, at Developer's discretion, invest the deposits received hereunder in savings or time deposits in institutions designated by Developer and approved by Escrow Agent and which institutions shall be insured by an agency of the United States or in securities of the United States or any agency thereof, provided title thereto shall always evidence the escrow relationship. Escrow Agent shall at all times retain a part of the Escrow Accounts in immediately available forms of investment as a reserve for: (a) any Contract subject to the statutory fifteen (15) day voidability period; (b) anticipated closings; (c) disbursement to Developer from the Special Escrow Account for construction purposes; and (d) disbursement to Developer from the Ten Percent Escrow Account to the extent authorized under any irrevocable letter of credit or surety bond furnished Escrow Agent and the Division in accordance with Section 718.202, Florida Statutes, and this Agreement. To the extent of any pooling of deposits in the Ten Percent Escrow Account and the Special Escrow Account, deposits received under the Agreement by the Escrow Agent shall be deemed to be separate deposits under each respective contract for purchase of units in the Condominium. Escrow Agent assumes no liability or responsibility for any loss of funds which may result from the failure of any institution in which Developer directs that such savings, time deposits or money market accounts be invested nor any loss or impairment of funds deposited in escrow in the course of collection or while on deposit with a trust company, bank, or savings association resulting from failure, insolvency or suspension of such institution.

5. For so long as Developer maintains an acceptable assurance as contemplated herein, Developer will not be obligated to escrow the deposits under each Contract up to ten percent (10%) of the sales price of the applicable Contract ("Initial 10% Deposits") which are otherwise required to be escrowed hereunder with Escrow Agent; provided, however, that (i) the total amount of Initial 10% Deposits retained by Developer is less than or equal to the amount of the assurance, including all increases thereof, and (ii) in the event that Developer receives Initial 10% Deposits which, in the aggregate, exceed the amount of the assurance, any such excess Initial 10% Deposits shall be delivered to Escrow Agent immediately in accordance with the procedures set forth herein. Such excess Initial 10% Deposits may be redelivered to Developer upon the receipt by Escrow Agent of acknowledgement by the Division that the



Division has received an increase in the amount of the assurance to cover the excess of the Initial 10% Deposits. Escrow Agent shall disburse the funds deposited in the Ten Percent Escrow Account in accordance with the following:

- (a) To the purchaser within three (3) business days after receipt of Developer's written certification that the purchaser has properly terminated his Contract;
- (b) To Developer, with any interest earned thereon, within five (5) business days after receipt of Developer's written certification that the purchaser's Contract has been terminated by reason of said purchaser's failure to cure a default in the performance of purchaser's obligations thereunder, together with evidence of the delivery or communication of notice of default from Developer to the purchaser;
- (c) If the deposit of a purchaser held in the Ten Percent Escrow Account, together with any interest earned thereon, has not been previously disbursed in accordance with the provisions of paragraphs 5(a) or 5(b) above, the same shall be disbursed promptly to Developer or its designees upon receipt from Developer of a closing statement or other verification signed by the purchaser, or his attorney or authorized agent, reflecting that the transaction for the sale and purchase of a unit in the Condominium has been closed and consummated; provided, however, that no disbursement shall be made if prior to the disbursement Escrow Agent receives from purchaser written notice of a dispute between the purchaser and Developer until such dispute is settled and joint direction and/or a non appealable order from a court of competent jurisdiction is forwarded to Escrow Agent;
- (d) In the event Developer delivers one or more irrevocable letters of credit or bonds to the Escrow Agent in accordance with Section 718.202, Florida Statutes, and this Agreement, then, upon receipt of a letter from the Division approving same (or any increase or extension of same) and the Developer's Withdrawal Certificate, Escrow Agent shall disburse to Developer the amount of the deposits now or thereafter held in the Ten Percent Escrow Account equal to, but not in excess of, the aggregate amount evidenced by the letter(s) of credit or bond(s) delivered to the Division and so approved; or
- (e) Escrow Agent shall at any time make distribution of the purchaser's deposit and interest earned thereon upon written direction executed by Developer and purchaser.

No disbursement need be made by Escrow Agent until sums necessary to make such disbursement have actually and finally cleared Escrow Agent's account.

6. Escrow Agent shall disburse the funds deposited in the Special Escrow Account in accordance with the following:

- (a) To the purchaser, within three (3) business days after receipt of Developer's written certification that the purchaser has properly terminated his contract.
- (b) To Developer, within five (5) days after the receipt of Developer's written certification that the purchaser's contract has been terminated by reason of said purchaser's failure to cure a default in performance of purchaser's obligations thereunder.
- (c) To Developer (as to that portion of the deposits in the Special Escrow Account) within five (5) days after receipt of the Developer's written certification that construction of the improvements of the Condominium has begun, that the Developer will use such funds in the actual construction and development of the Condominium property and that no part of these funds will be used for salaries or commissions, or for expenses of salesmen or for advertising purposes. Escrow Agent shall not, however, be responsible to assure that such funds are so employed and shall be entitled to rely solely on such certification.
- (d) If the deposit of a purchaser held in the Special Escrow Account has not been previously disbursed in accordance with the provisions of subparagraphs 6(a), 6(a) or 6(c) above, the same shall be disbursed immediately to Developer or its designees upon receipt from Developer of a closing statement or other verification signed by the purchaser, or his attorney or authorized agent, reflecting that the transaction for sale and purchase of the subject condominium unit has been closed and consummated; provided, however, that no disbursement shall be made if prior to the disbursement Escrow Agent receives from purchaser written notice of a dispute between the purchaser and Developer until such dispute is settled and joint direction is forwarded to Escrow Agent.
- (e) Escrow Agent shall at any time make distribution of the purchaser's deposit and interest earned thereon upon written direction duly executed by Developer and purchaser.

No disbursement need be made by Escrow Agent until sums necessary to make such disbursement have actually and finally cleared Escrow Agent's account.

7. From time to time Developer may deliver to the Escrow Agent, one or more irrevocable and unconditional letters of credit or a surety bond in favor of the Division and/or the Escrow Agent. A copy of any letter of credit or surety bond shall be delivered to the Division, which copy shall be certified by the issuer as a true copy of the original. Upon the issuance of any such letter of credit or surety bond, and upon receipt of a letter from the Division approving same, Escrow Agent shall, within three (3) business days thereafter, disburse to Developer deposits held in the Ten Percent Escrow Account, or thereafter paid to Escrow Agent for deposit to the Ten Percent Escrow Account, up to but not exceeding the aggregate amount evidenced by the letter(s) of credit and/or surety bond delivered to the Division and approved in writing by it, subject to the terms, conditions and limitations hereinafter provided:

- (a) The letter(s) of credit and/or surety bond shall be in an amount which, when combined with the amount of any prior outstanding letter(s) of credit or surety bond presented to Escrow Agent, equals or exceeds the total of funds requested to be withdrawn plus the "Withdrawn Funds", as such term is defined below. The term "Withdrawn Funds" shall mean those funds previously withdrawn by Developer from the Ten Percent Escrow Account reduced by: (i) any sums paid to a purchaser as a result of the purchaser's termination of his Contract or as a result of a default by Developer under the Contract; and (ii) any sums paid to Developer as a result of a default by a purchaser under his Contract or as a result of the closing of a Contract. Any letter of credit or surety bond presented to Escrow Agent and the Division as a condition to a request for and disbursement of funds from the Ten Percent Escrow Account shall be in such form as may be approved by the Division.
- (b) Developer shall provide Escrow Agent with a monthly accounting of all funds or other property received from purchasers which are not escrowed because of the existence of an assurance, which monthly accounting shall be used by Escrow Agent as a means of compiling the status report required hereinafter. Escrow Agent shall be entitled to fully and completely rely upon the accuracy of said monthly accountings without the need of any investigation. Such monthly reports shall indicate the amount of monies for each purchaser then held by Developer and a list of purchasers whose Initial 10% Deposits have been retained. Additionally, pursuant to 61B-17.009, F.A.C., Developer shall provide the Division with quarterly reports relating to the escrow funds. A "Summary of Escrow Funds" statement shall be included with any requests for changes to a previously approved assurance. This summary shall include all projects; the amounts, which would be required to be deposited if no alternative assurance existed; the amount of the assurance; the amount available for withdrawal; and the balance in the escrow account.
- (c) Subject to furnishing the letters of credit and/or surety bond and approval thereof in accordance herewith, when Developer desires that funds be disbursed to it from the Ten Percent Escrow Account, it shall provide Escrow Agent with a written request therefor which shall certify to Escrow Agent that such funds will be used solely in compliance with the Condominium Act. Escrow Agent shall be entitled to rely upon Developer's representations in this regard without the need of any investigation and shall not be liable for any misuse by Developer of funds disbursed from the Ten Percent Escrow Account pursuant hereto.
- (d) Notwithstanding anything herein contained to the contrary (i) Developer shall supply the Division with a replacement of the assurance which is acceptable to the Division, not less than forty five (45) days prior to the expiration date of the existing assurance, and (ii) if Escrow Agent has not received notification from the Division that Developer has complied with this obligation, then thirty (30) days prior to the expiration of the assurance, Escrow Agent shall provide to the Division a statement showing the status of the total funds secured by the assurance as of

the thirtieth (30<sup>th</sup>) day prior to the expiration of the assurance based on the monthly reports furnished by the Developer. Escrow Agent shall concurrently make demand for replacement of the alternative assurance, or payment from the Developer to Escrow Agent of that amount of total funds secured by the assurance. In the event that such payment is not received by Escrow Agent within five (5) days following the mailing of the demand by Escrow Agent, then Escrow Agent shall make demand upon the assurance to the extent of the amount of funds and place such funds with Escrow Agent in the Ten Percent Escrow Account, to be held and maintained by Escrow Agent in accordance with the terms of this Agreement. In the event that the Escrow Agent fails to make the necessary demand on the assurance as set forth above, the Division shall have the right to then make the demand on the assurance in accordance with the terms of this Agreement and such funds shall thereafter be placed in escrow pursuant to the terms of this Agreement. It is understood that this procedure shall be similarly followed in the event of any dispute with any purchaser relating to refunds of any funds secured by the assurance from time to time that is not resolved within fifteen (15) days from the date that Developer receives written notice of dispute. Developer shall deposit all funds required to be escrowed at least fifteen (15) days prior to the expiration of the alternative assurance.

- (e) If Escrow Agent is required under Section 718.202, Florida Statutes, or under the provisions of a Contract to refund a purchaser's deposit(s), Escrow Agent shall do so to the extent of Escrow Agent's available funds, within three (3) business days after receipt of the written request for same. If Escrow Agent does not have sufficient funds remaining in its respective Escrow Accounts to refund to the purchaser his or her deposits, then Developer shall, within fifteen (15) days after receipt of such notification from Escrow Agent, pay to Escrow Agent such sums as may be necessary to permit Escrow Agent to make the required refund. If Developer fails to furnish such sums to Escrow Agent within this fifteen (15) day period, the following provisions shall apply: (i) Escrow Agent shall refund to purchaser such portion, if any, of his or her deposits in excess of ten percent (10%) of the sales price as remains in the Special Escrow Account, Developer being responsible for payment of any deficiency therein; and (ii) Escrow Agent shall refund to purchaser such portion of his or her deposits as do not exceed ten percent (10%) of the sales price from the funds, if any, remaining in the Ten Percent Escrow Account. If the funds in the Ten Percent Escrow Account are insufficient to make such refund, Escrow Agent or the Division shall be entitled to draw, in accordance with the procedures set forth in subsection 7(d) above, on any outstanding letter(s) of credit or surety bond or other assurance for a sum in the aggregate not to exceed the amount necessary to make a full refund of the purchaser's deposits up to ten percent (10%) of the Contract sales price. Funds previously released to Developer, which are secured by any assurance may be released from the assurance upon cancellation by a purchaser upon presentation to Escrow Agent of an affidavit stating that the Developer has fully refunded purchaser in accordance with the terms of the purchase agreement. The Escrow

Agent and the Division shall not draw on any letter(s) of credit or surety bond except to the extent necessary to provide refunds due purchasers of their deposits up to ten percent (10%) of their respective sales prices. The Escrow Agent and the Division shall not draw upon any letter of credit or surety bond for the purpose of obtaining funds with which to make refunds to purchasers of deposits in excess of ten percent (10%) of the respective unit sales prices. The parties agree that the issuer of any letter of credit or surety bond is a third party beneficiary of the preceding two (2) sentences.

- (f) The parties acknowledge that as Contracts are closed or otherwise terminated the aggregate sum of the letter(s) of credit and/or or surety bond issued and outstanding pursuant to this Agreement may exceed the total amount of outstanding deposits for which such letter(s) of credit and/or surety bond were given as security. Whenever such circumstance exists, and provided Developer is not otherwise in default of any of its obligations hereunder, Developer shall be entitled to reduce the aggregate sum of such letter(s) of credit and/or surety bond by: (i) terminating one or more of the letters of credit, if any, upon notification to issuer, Escrow Agent, and the Division, pursuant to the terms of this Agreement, so that the remaining letter(s) of credit will in the aggregate equal an amount which is the same or in excess of the total of all Withdrawn Funds; or (ii) delivering to the Escrow Agent, with a copy to the Division, new or replacement letter(s) of credit and/or surety bond(s), to replace the outstanding letter(s) and/or bond(s), in an amount at least equal to the total of all Withdrawn Funds; or (iii) amending the existing letter(s) of credit and/or surety bond and delivering same to the Escrow Agent, with a copy to the Division. Any new letter(s) of credit and/or surety bond delivered pursuant to this paragraph shall meet all requirements of the Act. Notwithstanding anything herein contained to the contrary, funds retained by Developer from Initial 10% Deposits which are secured by the assurance may only be released from the assurance upon presentation to Escrow Agent of certification from Developer that the conditions listed in Section 718.202(1), Florida Statutes, have been met.
- (g) Upon receipt of new letter(s) of credit and/or surety bonds approved by the Division in the amount and in the form prescribed herein, Escrow Agent agrees to (i) terminate the prior letter(s) of credit and/or surety bonds being replaced and accept the new letter(s) of credit and/or surety bonds in full substitution therefor, and (ii) surrender to the issuer of a new letter of credit and/or surety bond any prior letter(s) of credit and/or surety bond properly designated therein. Any such new letter of credit or surety bond shall require the approval of the Division as otherwise provided herein. In the event that the issuer of a letter of credit or surety bond gives notice that the letter(s) of credit and/or surety bond will not be renewed beyond the term then in effect, Developer shall, at least forty-five (45) days prior to the expiration date of such letter of credit and/or surety bond, furnish to Escrow Agent either cash or a new letter of credit or surety bond in an amount which, when combined with the amount of all other outstanding letters of credit and/or surety bonds delivered to the Escrow Agent under this

Agreement, equals or exceeds the Withdrawn Funds. The Division shall either advise Escrow Agent and Developer of its approval of any letter of credit or surety bond delivered to it or it shall return such letter of credit or surety bond to Developer together with its written explanation of any deficiencies. If there are any deficiencies noted, Developer shall provide a replacement letter of credit or surety bond correcting the stated deficiencies so that the Division will issue its written approval of same in accordance herewith as a condition to the disbursement of any amounts from the Ten Percent Escrow Account to Developer. Developer shall provide to Escrow Agent a copy of the Division's approval of a new letter of credit or surety bond prior to drawing any previously undisbursed escrowed funds covered thereby.

- (h) If an alternative assurance is no longer required in order to enable Developer to satisfy the conditions set forth in the Condominium Act and the provisions of this Agreement and Developer desires to terminate the alternative assurance, Developer shall so notify Escrow Agent, the Division and the issuer of the assurance in writing by certified mail at least forty five (45) days in advance of the expiration date of the applicable assurance and Escrow Agent shall thereafter return the assurance to the issuer. For purposes hereof, the expiration date of any assurance which is automatically renewable shall be extended by the applicable renewal periods unless Escrow Agent receives written notice from the issuer that the issuer will not renew the assurances. Developer shall provide written instructions to Escrow Agent and Division for handling return of original assurances. Escrow Agent is authorized to rely upon a statement from Developer as to whether alternative assurances are no longer required to satisfy the conditions set forth in the Condominium Act and herein.

8. Escrow Agent has no liability in the event of the refusal of the issuer of any letter of credit or surety bond to honor drafts drawn on such letter of credit, or the failure of any bonding company to disburse funds under any bond. Further, Escrow Agent has no liability for the obligations of the Division or the Developer hereunder. Under no circumstances shall Escrow Agent be liable for the insolvency of any depository institution.

9. Notwithstanding anything contained herein to the contrary, the total funds held by Escrow Agent in the Ten Percent Escrow Account plus the balance of all outstanding and unexpired letter(s) of credit and/or surety bonds delivered to the Division and approved by it hereunder must at all times be equal to or in excess of all purchasers' deposits originally paid to Escrow Agent up to 10% of the purchase price under each Contract, less the amount of each purchaser's deposit paid to or retained by purchaser or Developer as a consequence of default, termination, or closing, or as otherwise provided in this Agreement.

10. Escrow Agent shall keep an accurate account of all deposits received by it for deposit to either the Ten Percent Escrow Account or the Special Escrow Account, and the disposition thereof. Escrow Agent shall notify the Division in writing of the termination of any letter of credit or surety bond resulting from the occurrence of one or more of the events specified hereunder. In addition, but subject to and limited by any governmental or regulatory restrictions imposed on Escrow Agent and its books and

records, the Division shall have the right to inspect Escrow Agent's books and records regarding the Escrow Accounts, provided, however, that the Division conducts such inspection in a reasonable manner during the normal working hours of Escrow Agent and after giving written notice to Escrow Agent of its exercise of such right, which notice shall be given at least five (5) days prior to the inspection.

11. Escrow Agent may act in reliance upon any writing, instrument or signature which it, in good faith, believes to be genuine, may assume the validity and accuracy of all statements or assertions contained in such writing or instrument and may assume that any person purporting to give any writing, notice, advice or instruction in connection with the provisions hereof has been duly authorized to do so. Escrow Agent shall not be liable in any manner for the sufficiency or correctness as to form, manner of execution, or validity of any written instructions delivered to it, nor as to the identity, authority, or rights of any person executing the same. The duties of Escrow Agent shall be limited to the safekeeping of the deposits and the disbursement of same in accordance with the written instructions described above. Escrow Agent undertakes to perform only such duties as are expressly set forth herein, and no implied duties or obligations shall be read into this Agreement against Escrow Agent. Upon Escrow Agent disbursing the deposit of a purchaser in accordance with the provisions hereof, the escrow shall terminate with respect to said purchaser's deposit, and Escrow Agent shall thereupon be released of all liability hereunder in connection therewith. Unless otherwise expressly stated herein, all notices given to Escrow Agent pursuant to this Agreement must, in order to be effective, be in writing and delivered to Escrow Agent via both (a) nationally recognized overnight courier to the address then on file for Brian K. Goodkind with the Florida Bar, and (b) via email to [brian@goodkindflorio.com](mailto:brian@goodkindflorio.com) and [kenneth@goodkindflorio.com](mailto:kenneth@goodkindflorio.com).

12. Escrow Agent may consult with counsel of its own choice and shall have full and complete authority and protection for any action taken or suffered by it hereunder in good faith and in accordance with the opinion of such counsel. Escrow Agent shall not be liable for any mistakes of fact or errors of judgment, or for any acts or omissions of any kind unless caused by its intentional misconduct or gross negligence, and Developer agrees to indemnify and hold Escrow Agent harmless from and against any claims, demands, causes of action, liabilities, damages, judgments, including the cost of defending any action against it together with any reasonable attorneys' fees incurred therewith, in connection with Escrow Agent's undertaking pursuant to the terms and conditions of this Escrow Agreement, unless such action or omission is a result of the intentional misconduct or gross negligence of Escrow Agent.

13. In the event of a good faith disagreement about the interpretation of this Agreement, or about the rights and obligations, or the propriety, of any action contemplated by Escrow Agent hereunder, Escrow Agent may, at its sole discretion, file an action in interpleader to resolve said disagreement. Under no circumstances shall Escrow Agent be obligated to take any action or omit to take any action that Escrow Agent believes, in good faith, would be a violation of any existing law, regulation or obligation of professional responsibility. Escrow Agent shall be indemnified by Developer for all costs, including reasonable attorneys' fees, in connection with the aforesaid interpleader action and any other such costs incurred in connection with this Agreement or Escrow Agent's role as an escrow agent, excepting only those proximately caused by Escrow Agent's own wrongdoing.

14. Escrow Agent may resign at any time upon the giving of thirty (30) days' written notice to Developer and the Division. If a successor to Escrow Agent is not appointed within thirty (30) days after notice of resignation, Escrow Agent may petition any court of competent jurisdiction to name a successor escrow agent and Escrow Agent shall be fully released from all liability under this Agreement to any and

all parties, upon the transfer of the escrow deposit to the successor escrow agent either designated by Developer or appointed by the Court. The successor escrow agent must be authorized to act as such by the Florida Condominium Act.

15. Developer shall have the right to replace Escrow Agent upon thirty (30) days' written notice with a successor escrow agent named by Developer. Developer shall give written notice to the Division of the replacement of the escrow agent and any replacement escrow agreement and the new escrow agent and/or new escrow agreement shall be subject to the approval of the Division. In the event the new escrow agent is approved by the Division and Escrow Agent is so replaced, Escrow Agent shall turn over to the successor escrow agent all funds, documents, records and properties deposited with Escrow Agent in connection herewith and thereafter shall have no further liability hereunder. The successor or other escrow agent must be authorized to act as such by the Florida Condominium Act.

16. This Agreement shall be construed and enforced according to the laws of the State of Florida and this Agreement may be made a part, in its entirety, of any prospectus, offering circular or binder of documents distributed to purchasers or prospective purchasers of condominium units in the Condominium. Any action brought on, arising from or in any way related to this Agreement shall (a) be tried without a jury, it being agreed that use of the Escrow Agent's services constitutes a waiver of any right to trial by jury, and (b) brought only in the courts of the State of Florida sitting in Miami-Dade County.

17. This Escrow Agreement shall be expressly incorporated by reference in all Contracts between Developer and purchasers and a copy delivered to purchasers at the time of execution of their purchase agreement.

18. As used herein, interest will be deemed earned on a specific deposit at the rate which is the average for all deposits held hereunder over the period the specific deposit is held.

19. This Agreement may be executed in any number of counterparts and by the separate parties hereto in separate counterparts, each of which when taken together shall be deemed to be one and the same instrument.

20. This Agreement represents the entire agreement between the parties with respect to the subject matter hereof and shall be binding upon the parties, their respective successors and assigns.


*[signatures on next page]*



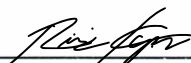
[Escrow Agreement signature page]

IN WITNESS WHEREOF, the parties have executed this Agreement on the day and year first above written.

Goodkind & Florio, P.A.

By:   
Name: BRIAN K. GOODKIND  
Title: PRESIDENT

515 Valencia SPE, LLC, a Florida limited liability company

By:   
Name: Rishi Kapoor  
Title: Manager

**NOTICE OF ESCROW DEPOSIT  
VILLA VALENCIA CONDOMINIUM**

Date: \_\_\_\_\_

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

Re: **Purchase of Unit No. \_\_\_\_\_ in Villa Valencia Condominium**

Gentlemen:

The purchaser(s) named below has entered into a Purchase Agreement for the purchase of the above-referenced Condominium Unit and we deliver herewith a deposit of \$\_\_\_\_\_ in accordance with the Purchase Agreement.

Name of Purchaser(s): \_\_\_\_\_  
\_\_\_\_\_

Mailing Address of Purchaser(s): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\* \* \* \* \*

**RECEIPT**

Receipt is acknowledged of the above deposit, subject to clearance of said funds, if a check.

**Goodkind & Florio, P.A.**

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

Date of Receipt:

\_\_\_\_\_

# **Exhibit 3**



A Member of the Tokio Marine Group

## Condominium Escrow Deposit Surety Bond

Bond # PB00541800037

KNOW ALL PERSONS BY THESE PRESENTS THAT Principal and Surety are held and firmly bound unto the **Division of Florida Condominiums, Timeshares, and Mobile Homes, Department of Business and Professional Regulation (the "Division")**, and/or GOODKIND & FLORIO, P.A. (the "**Escrow Agent**"), as Obligees, in the penal sum of One Million Four Hundred Thousand and 00/100 Dollars (\$ 1,400,000.00), lawful money of the United States of America (said amount being the maximum total sum of all deposits paid by purchasers to "Developer," as such term is defined below, pursuant to purchase agreements for the purchase of condominiums in the State of Florida) for which payment will be made, Principal and Surety bind themselves, their heirs, executors and administrators, successors and assigns, and each of them, jointly and severally, firmly by these presents.

WHEREAS, 515 VALENCIA SPE, LLC, (the "Developer") is developing that certain condominium, Villa Valencia Condominium, and the Escrow Agreement, attached hereto and made a part hereof; and

WHEREAS, Principal is a "developer" as that term is defined by Section 718.103(15), Florida Statutes; and

WHEREAS, the Condominium Act (Chapter 718, Florida Statutes) requires that Principal, as developer, shall pay into an escrow account with an authorized escrow agent all deposits received by the Developer from purchasers of condominiums, said funds to be released from escrow in accordance with Chapter 718, Florida Statutes, and in accordance with the Escrow Agreement attached hereto; and

WHEREAS, the Director of the Division has the discretion to accept other assurances in lieu of requiring the Developer to escrow such funds, including, but not limited to, as surety bond or an irrevocable letter of credit in an amount equal to the escrow requirement of Chapter 718, Florida Statutes.

NOW, THEREFORE, Principal and Surety herein do covenant and agree as follows:

1. All terms defined in Chapter 718, Florida Statutes, The Florida Condominium Act, the rules promulgated thereto, in any receipt, contract agreement, and the Escrow Agreement shall have the same meanings when used in this Bond.
2. This Bond may be cancelled only in accordance with the Escrow Agreement.
3. Upon certification of cancellation by the Escrow Agent to the Division as provided in paragraph two (2) above, and upon approval of the Division, such approval not to be unreasonably withheld, the obligations of the Surety under this bond shall expire.
4. When Principal fails to refund deposits as required by Chapter 718, Florida Statutes, and/or agreements with buyers, the Escrow Agent, or the Division may declare this Bond in default and Surety is required to disburse funds in the amount of refund deposits that are due and payable, within 30 days by Surety as a debt to the Escrow Agent or the Division the amount payable being subject to any reductions in the face amount calculated pursuant to paragraph five (5) herein.
5. This Bond shall be called upon only to the extent and amount necessary to bring the Developer into compliance with the Escrow Agreement.



# PHILADELPHIA INSURANCE COMPANIES

A Member of the Tokio Marine Group

6. Principal hereby covenants, promises and agrees that if as a result of this Bond, Surety pays any sum of money to or at direction of the Escrow Agent or the Division, Principal shall pay said sum of money immediately to Surety.
7. In no event shall the Surety's liability under this Bond exceed the stated penal sum.
8. No right of option shall accrue on this Bond to or for the use of any person or corporation other than the Escrow Agent or the Division.
9. Surety may terminate its liability by giving not less than thirty (30) days written notice of its intent mail to Principal, the Escrow Agent, and the Division. Such termination shall not relieve Surety of any liabilities incurred prior to the effective termination of liability stated in written notice mailed but shall be final thereafter.

IN WITNESS WHEREOF, Principal and Surety have signed and sealed this Bond this 04 day of October, 2022.

**PRINCIPAL:**

515 VALENCIA SPE, LLC

By: [Signature]  
Ficki, Ryan, Manager  
Print Name & Title

**WITNESS:**

By: [Signature]  
Jay Brooks  
Print Name

**Philadelphia Indemnity Insurance Company**

By: [Signature]  
Layne A Holmes  
Print Name of Attorney-in-Fact

By: [Signature]  
Jamien Neil  
Print Name

**PHILADELPHIA INDEMNITY INSURANCE COMPANY**

One Bala Plaza, Suite 100  
Bala Cynwyd, PA 19004-0950

**Power of Attorney**

KNOW ALL PERSONS BY THESE PRESENTS: That **PHILADELPHIA INDEMNITY INSURANCE COMPANY** (the Company), a corporation organized and existing under the laws of the Commonwealth of Pennsylvania, does hereby constitute and appoint **Michael Gorham, Michael A. Holmes, Layne A. Holmes of Brown & Brown of Florida, Inc.** its true and lawful Attorney-in-fact with full authority to execute on its behalf bonds, undertakings, recognizances and other contracts of indemnity and writings obligatory in the nature thereof, issued in the course of its business and to bind the Company thereby, in an amount not to exceed \$50,000,000.

This Power of Attorney is granted and is signed and sealed by facsimile under and by the authority of the following Resolution adopted by the Board of Directors of PHILADELPHIA INDEMNITY INSURANCE COMPANY on the 14<sup>th</sup> of November, 2016.

**RESOLVED:** That the Board of Directors hereby authorizes the President or any Vice President of the Company: (1) Appoint Attorney(s) in Fact and authorize the Attorney(s) in Fact to execute on behalf of the Company bonds and undertakings, contracts of indemnity and other writings obligatory in the nature thereof and to attach the seal of the Company thereto; and (2) to remove, at any time, any such Attorney-in-Fact and revoke the authority given. And, be it

**FURTHER RESOLVED:** That the signatures of such officers and the seal of the Company may be affixed to any such Power of Attorney or certificate relating thereto by facsimile, and any such Power of Attorney so executed and certified by facsimile signatures and facsimile seal shall be valid and binding upon the Company in the future with respect to any bond or undertaking to which it is attached.

IN TESTIMONY WHEREOF, PHILADELPHIA INDEMNITY INSURANCE COMPANY HAS CAUSED THIS INSTRUMENT TO BE SIGNED AND ITS CORPORATE SEAL TO BE AFFIXED BY ITS AUTHORIZED OFFICE THIS 5TH DAY OF MARCH, 2021.

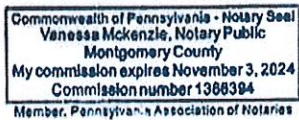


(Seal)

John Glomb, President & CEO  
Philadelphia Indemnity Insurance Company

On this 5<sup>th</sup> day of March, 2021 before me came the individual who executed the preceding instrument, to me personally known, and being by me duly sworn said that he is the therein described and authorized officer of the **PHILADELPHIA INDEMNITY INSURANCE COMPANY**; that the seal affixed to said instrument is the Corporate seal of said Company; that the said Corporate Seal and his signature were duly affixed.

Notary Public:



residing at:

Bala Cynwyd, PA

My commission expires:

November 3, 2024

I, Edward Sayago, Corporate Secretary of PHILADELPHIA INDEMNITY INSURANCE COMPANY, do hereby certify that the foregoing resolution of the Board of Directors and the Power of Attorney issued pursuant thereto on the 5<sup>th</sup> day March, 2021 are true and correct and are still in full force and effect. I do further certify that John Glomb, who executed the Power of Attorney as President, was on the date of execution of the attached Power of Attorney the duly elected President of PHILADELPHIA INDEMNITY INSURANCE COMPANY.

In Testimony Whereof I have subscribed my name and affixed the facsimile seal of each Company this 04 day of October 2022.



Edward Sayago, Corporate Secretary  
**PHILADELPHIA INDEMNITY INSURANCE COMPANY**

## **Exhibit 4**

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA**

CASE NO.: 23-cv-24903-CIV-JB

SECURITIES AND EXCHANGE  
COMMISSION,

Plaintiff,

v.

RISHI KAPOOR; *et al.*,

Defendants.

---

**ORDER APPROVING RECEIVER’S MOTION TO APPROVE STIPULATION WITH  
GREGORY T. MARTINI, AS TRUSTEE OF VV 1201 TRUST AGREEMENT,  
GOODKIND & FLORIO, P.A. AND PHILADELPHIA INDEMNITY  
AND INSURANCE COMPANY**

THIS CAUSE came before the Court upon the Receiver’s Motion to Approve Stipulation with Gregory T. Martini, as Trustee of VV 1201 Trust Agreement, Goodkind & Florio, P.A. and Philadelphia Indemnity and Insurance Company (the “Motion”) ECF No. [\_\_\_\_] between Bernice C. Lee, as Receiver, Gregory T. Martini as Trustee of VV 1201 Trust Agreement, Goodkind & Florio, P. A. and Philadelphia Indemnity and Insurance Company. Having considered the Motion and Stipulation and finding that good cause exists, it is hereby **ORDERED** as follows:

1. The Motion ECF No. [\_\_\_\_] is **GRANTED**.
2. The Stipulation is approved.
3. The performance of the actions set forth in the Stipulation by any of the parties thereto *shall not* constitute or be treated as a violation of the Court’s January 12, 2024, Order granting the Receiver Motion (the “Receivership Order”) [DE 28], notwithstanding any provision of the Receivership Order to the contrary.



**DONE AND ORDERED** in Miami, Florida this \_\_\_\_ day of \_\_\_\_\_, 2025.

---

**JACQUELINE BECERRA**  
**UNITED STATES DISTRICT JUDGE**