

IN THE CIRCUIT COURT OF THE
ELEVENTH JUDICIAL CIRCUIT, IN
AND FOR DADE COUNTY, FLORIDA

STATE OF FLORIDA, OFFICE OF FINANCIAL
REGULATION,

CASE NO.: 07-43672 CA 09

Plaintiff,

v.
BERMAN MORTGAGE CORPORATION, a
Florida corporation, M.A.M.C.
INCORPORATED, a Florida corporation, DANA
J. BERMAN, as Owner and Managing Member,

THE ORIGINAL
FILED ON:

OCT 30 2008

IN THE OFFICE OF
CIRCUIT COURT DADE CO. FL

Defendant.

and,

DB ATLANTA, LLC, a Florida Limited Liability
Company, **DB DURHAM, LLC**, a Florida
Limited Liability Company, **NORMANDY
HOLDINGS II, LLC**, a Florida Limited Liability
Company, **NORMANDY HOLDINGS III, LLC**,
a Florida Limited Liability Company,
ACQUISITIONS, LLC, a Florida Limited
Liability Company, **DBKN GULF
INCORPORATED**, a Florida Limited Liability
Company, **OCEANSIDE ACQUISITIONS,**
a Florida Limited Liability Company, **DB
MIAMI, LLC**, a Florida Limited Liability
Company, **DB BILOXI II, LLC**, a Florida
Limited Liability Company, **DB BILOXI III,
LLC**, a Florida Limited Liability Company, **DBDS
VERO BEACH, LLC**, a Florida Limited Liability
Company, **DB TAMPA, LLC**, a Florida Limited
Liability Company, **DB SIMPSONVILLE, LLC**,
a Florida Limited Liability Company, **DBDS
NORTH MIAMI, LLC**, a Florida Limited
Liability Company, **REDLANDS RANCH
HOLDINGS, LLC**, a Florida Limited Liability
Company, **DBDS BISCAYNE PARK, LLC**, a
Florida Limited Liability Company, **DB
CARROLL STREET, LLC**, a Florida Limited
Liability Company,

Relief Defendants.

BERGER SINGERMAN
1780427-1 attorneys at law

Boca Raton Fort Lauderdale Miami Tallahassee

200 South Biscayne Boulevard Suite 1000 Miami, Florida 33131-5308 Telephone 305-755-9500 Facsimile 305-714-4340

**RECEIVER'S EMERGENCY MOTION TO APPROVE THE
EXECUTION OF THE PURCHASE AND SALE AGREEMENT**

Michael I. Goldberg, as State Court Appointed Receiver over Defendants Berman Mortgage Corporation, M.A.M.C. Incorporated, et al., and Relief Defendants DB Atlanta LLC, et al., by and through undersigned counsel, hereby files this *Emergency* Motion to Approve the Execution of the Purchase and Sale Agreement between Ruth Ecker Hall, Inc., and Relief Defendant MAMC Florida Sportsdance, LLC, and states:

1. On December 11, 2007, this Court appointed Michael Goldberg (the "Receiver") to be the Receiver for the Defendants and the Relief Defendants. *See* Temporary Injunction and Agreed Order Appointing Receiver ("Receivership Order"), previously filed with this Court.

2. Among the Relief Defendants is MAMC Florida Sportsdance, LLC. Consequently, MAMC Florida Sportsdance, LLC as well as all of its assets, are receivership assets subject to the exclusive jurisdiction of Judge Wilson in the Circuit Court of the Eleventh Judicial Circuit, and subject to the exclusive control of the Receiver:

The Court hereby takes exclusive jurisdiction and possession of the Defendants, Berman Mortgage, M.A.M.C., and Relief Defendants' Receivership Assets, which includes, but are not limited to, documents, leases, mortgages, investments, contracts, effects, lands, agreements, judgments, bank accounts, books of accounts, rents, goods, chattels, rights, credit claims, both asserted and unasserted, pending court actions and appeals, files and documents in the possession of attorneys and accountants of all of the Defendants and Relief Defendants, all other property, business offices, computers, servers, electronic data storage units, offsite storage locations, safety deposit boxes, monies, securities, choses in action, and properties, real and personal, tangible and intangible, of whatever kind and description, wherever situated of the Defendants ... and Relief Defendants. The Receiver shall retain custody and control of all of the foregoing pursuant to the terms of this Agreed Order.

Receivership Order, ¶ 3 (emphasis added).

3. MAMC Florida Sportsdance, LLC, is the owner of property located at 403 Cleveland Street, Clearwater, FL 33755-4004 (the "Property"), and with the following legal description:

Lot 6, LESS the East 19 feet 9 inches, and the East ½ of Lot 7, Block B, JOHN R. DAVEY, ET AL., RESUBDIVISION, according to the map or plan thereof as recorded in Plat Book 1, page 87, of the public records of Hillsborough County, Florida, of which Pinellas County was formerly a part.

4. On behalf of MAMC Florida Sportsdance, LLC, the Receiver seeks to sell the Property to Ruth Eckerd Hall, Inc., a Florida Corporation, pursuant to the terms of the Purchase and Sale Agreement (the "Agreement") attached hereto as Exhibit "A," and for the purchase price of \$975,000.00.

5. The closing on the sale is scheduled to take place on December 9, 2008.

6. Importantly, the Agreement has already been executed by the Receiver, as this Court has previously authorized the Receiver to execute contracts, instruments, and other documents on behalf of the Receivership Defendants and the Receivership Defendants:

The Receiver is further authorized to ... execute, deliver, file and record such contracts, instruments, releases, indentures, certificates, and other agreements and documents, and to take such action as he deems advisable or proper for the marshalling, maintenance or preservation of the Receivership Assets. From and after the date of the entry of this Order, the Receiver shall have the authority to conduct the business operations of the Receivership Defendants and any entity it controls[.]

Receivership Order, ¶17. (emphasis added).

7. In line with the aforementioned authority granted by this Court, the Receiver now seeks this Court's approval of the execution of the Agreement.

8. Moreover, the Receiver believes that the sale of the Property pursuant to the terms of the Agreement is absolutely necessary to ensure the preservation and/or recovery of receivership assets, and thereby prevent any further waste or dissipation, and most of all, protect the Investor Group.

This is an Emergency Request

9. Undersigned counsel has recently learned that Your Honor will be unavailable for uniform motion calendar during November and December of 2008.

10. As discussed above, however, the closing on the sale is scheduled to take place on December 9, 2008. Most importantly, per the Agreement, the Court's ruling on this Motion is a condition precedent to the closing.

WHEREFORE, the Receiver moves this Court for entry of an Order Approving the Execution of the Purchase and Sale Agreement between Ruth Ecker Hall, Inc., and Relief Defendant MAMC Florida Sportsdance, LLC, and any other relief deemed necessary by this

CERTIFICATE OF SERVICE

WE HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. Mail on this 30th day of October 2008, to: **Cristina Saenz, Assistant General Counsel**, STATE OF FLORIDA, OFFICE OF FINANCIAL REGULATION, 401 N.W. 2nd Avenue, Suite N-708, Miami, Florida 33128; to **Alan M. Sandler, Esquire**, *Counsel for Defendants, Joel and Deborah Sokol, Darlene Levasser, Robert Dzimidas IRA, Lawrence Meyer IRA, Lawrence Meyer Roth IRA and Mary Joe Meyer SD IRA and Mary Joe Meyer Roth IRA*, of SANDLER & SANDLER, 117 Aragon Avenue, Coral Gables, Florida 33134; to **Allan A. Joseph, Esquire**, *Counsel for The Amadi Companies and Amedia Family Investors*, DAVID AND JOSEPH, P.L., 1001 Brickell Bay Drive, Suite 2002, Miami, Florida 33131; to **Richard R. Robles, Esquire**, LAW OFFICES OF RICHARD ROBLES, P.A., *Counsel for the Four Ambassadors Association, Inc.*, 905 Brickell Bay Drive, Tower II, Mezzanine, Suite 228, Miami, Florida 33131; to **Daniel Kaplan, Esquire**,

Counsel for Deborah A. Berman, at the LAW OFFICES OF DANIEL KAPLAN, P.A., Turnberry Plaza, Suite 600, 2875 N.E. 191st Street, Aventura, Florida 33180; to **Howard N. Kahn, Esquire**, *Attorneys for Intervenor, Ira Sukoff*, KAHN, CHENKIN & RESNIK, P.L., 1815 Griffin Road, Suite 207, Dania, Florida 33304; to **Charles Pickett, Esquire and Linda Dickhaus Agnant, Esquire**, *Attorneys for Johns Manville*, CASEY CIKLIN LUBITZ MARTENS & O'CONNELL, P.A., 515 North Flagler Drive, Suite 1900, West Palm Beach, Florida 33401; to **Helen Schwartz Romañez, Esquire**, *Attorneys for Turnberry Bank & Bank of Coral Gables*, The Romañez Law Firm, 255 Alhambra Circle, Suite 850, Coral Gables, Florida 33134; to **Charles W. Throckmorton, Esquire**, *Attorneys for Dana Berman*, KOZYAK TROPIN THROCKMORTON, P.A., 2525 Ponce de Leon Boulevard, 9th Floor, Coral Gables, Florida 33134; to **James S. Telepman, Esquire**, *Attorneys for Jericho All-Weather Opportunity Fund, LP*, COHEN, NORRIS, SCHERER, WEINBERGER & WOLMER, 712 U.S. Highway One, Suite 400, North Palm Beach, Florida 33408-7146; to **J. Andrew Baldwin, Esquire**, *Attorneys for Regions Bank*, THE SOLOMON LAW GROUP, P.A., 1881 West Kennedy Boulevard, Tampa, Florida 33606-1606; to **Rey Hicks and Javier Castillo** of COMPLETE PROPERTY MANAGEMENT, at Post Office Box 402507, Miami Beach, Florida 33140; to **Daren Schwartz**, BERMAN MORTGAGE CORPORATION D/B/A M.A.M.C., INC., at 402 Continental Plaza, 3250 Mary Street, Coconut Grove, Florida 33133; to **Norman S. McGill, Esquire**, *Attorneys for Skilled Services of Tampa Bay, LLC*,

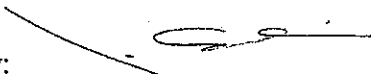
SIEMER & RUSSELL, P.A., 701 Brickell Avenue, Suite 1900, Aventura, Florida 33180; to **Norman Malinski, Esquire**, *Counsel for Various Construction*, 2875 Turnberry Plaza, Aventura, Florida 33180; **Gabrielle D'Alemberte, Esquire**, LAW OFFICES OF ROBERT PARKS, 2121 Ponce de Leon Boulevard, Suite 505, Coral Gables, Florida 33134; to **Robert B. Miller, Esquire**, *Attorneys for Atlantic Lending, LLC*, TABAS, FREEDMAN, SOLOFF & MILLER, P.A., The Ingraham Building 25 SE 2nd Avenue, Suite 919, Miami, Florida 33131-1538; to **Richard P. Cole, Esquire, Edward S. Polk, Esquire and/or Crystal Leah Arocha, Esquire**, *Attorneys for Meland Russin Hellinger & Budwick, P.A.* COLE SCOTT & KISSANE, P.A., Pacific National Bank Building, 1390 Brickell Avenue, Third Floor, Miami, Florida 33131; to **David A. Wheeler, Esquire**, *Counsel for Various Unit Owners at Le Chateau Condominiums at DB Biloxi II, LLC* WHEELER & WHEELER, PLLC, 185 Main Street, Biloxi, Mississippi 39530; **Michael A. Hanzman, Esquire**, HANZMAN GILBERT, LLP, 2525 Ponce de Leon Boulevard, Suite 700, Coral Gables, Florida 33134; to **Dean C. Colson, Esquire**, COLSON HICKS EIDSON, 255 Aragon

Avenue, Second Floor, Coral Gables, Florida 33134; and to **Jason S. Miller, Esquire, Counsel for Flagstar Bank**, ADORNO & YOSS, LLP, 2525 Ponce de Leon Boulevard, Suite 400, Coral Gables, Florida 33134.

Respectfully submitted,

BERGER SINGERMAN
Attorneys for Receiver
1000 Wachovia Bank Centre
200 South Biscayne Boulevard
Miami, Florida 33131
Telephone: (305) 755-9500
Facsimile: (305) 714-4340

By: _____


JAMES D. GASSENHEIMER
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1780427.1

PURCHASE AND SALE AGREEMENT

THIS PURCHASE AND SALE AGREEMENT (the "Agreement") is made and entered into this ____ day of _____, 2008, by and between **MAMC FLORIDA SPORTSDANCE, LLC**, a Florida limited liability company, whose mailing address is: 3250 Mary Street, Suite 402, Coconut Grove, FL 33133, hereinafter referred to as the "Seller", and **RUTH ECKERD HALL, INC.**, a Florida corporation, whose business address is: c/o Mr. Robert Freedman, 1111 McMullen Booth Road, Clearwater, FL 33759, hereinafter referred to as the "Buyer".

RECITALS:

(A) The Seller is the owner of the hereinafter described property, and is able to convey good and marketable title, free and clear of all liens and encumbrances, except as otherwise herein provided, to Buyer, and Buyer desires to purchase the Property from the Seller and to close on said property subject to the terms as hereinafter set forth, said property being commonly known as 403 Cleveland Street, Clearwater, FL 33755-4004 and more fully described as follows:

See Exhibit "A" attached hereto and made a part hereof by reference,
[the "Property"]

Parcel I.D.#: 16-29-15-20358-002-0070

NOW THEREFORE, in consideration of the mutual promise of the Seller under this Agreement and for other valuable consideration, the receipt and adequacy of which is acknowledged by each party, the recitals set forth above are incorporated herein by reference, and Seller agrees to sell and the Buyer agrees to purchase the Property upon the following terms and conditions:

ARTICLE ONE – PURCHASE PRICE AND ESCROW

1.1 **Purchase Price.** The total purchase price hereunder is NINE HUNDRED SEVENTY-FIVE THOUSAND AND NO/100 (\$975,000.00) Dollars:

(a) The amount of the deposit is \$10,000.00 as an earnest money deposit (the "Earnest Money Deposit") is held by the Buyer's attorneys (the "Escrow Agent"). The Escrow Agent shall hold the Earnest Money Deposit in escrow until closing. At closing, the Earnest Money Deposit shall be paid by the Escrow Agent to Seller and all such



monies shall be applied against the purchase price due from Buyer at closing. At the request of Buyer, said escrow deposit shall be placed in an interest-bearing account, with interest accruing to the benefit of the Buyer. Upon written request, Buyer shall provide said attorneys' with Buyer's Federal I.D. Number for purposes of reporting income.

(b) If the Buyer obtains approval from the City of Clearwater November 6, 2008 as hereinafter provided, then within three (3) business days, the Buyer shall pay to the Escrow agent the sum of \$40,000.00, hereinafter referred to as the "Additional Earnest Money Deposit". For purposes of this Agreement, the term "Additional Earnest Money Deposit" shall be incorporated in the definition of Earnest Money Deposit. Upon said approval, the initial \$10,000.00 shall be fully earned as hereinafter provided, and upon posting the additional deposit the entire Earnest Money Deposit shall be non-refundable, absent Seller default, or failure of Buyer to obtain marketable title to the contiguous site per Section 5.1(c) below.

(c) The balance of the purchase price, subject to prorations, adjustments and other matters specified herein, shall be paid in cash at closing.

ARTICLE TWO - TITLE INSURANCE

2.1 Title Insurance. Buyer has received an acceptable title commitment, subject to being updated with no changes and customary deletions being made at closing.

ARTICLE THREE - SURVEY

3.1 Survey. Intentionally deleted.

ARTICLE FOUR - INSPECTION PERIOD

4.1 Inspection Period. Buyer has inspected the premises, and accepts them in the current condition. Seller is to convey the premises in the present condition, only reasonable wear and tear being accepted.

ARTICLE FIVE - PROPERTY

5.1 Conditions Precedent. Buyer's obligations under this Agreement are conditioned upon the following conditions precedent having been met to the satisfaction of Buyer, and to the extent such conditions are not met as hereinafter provided Buyer shall have the right to terminate this Agreement, receive all deposits made hereunder, or

alternatively to extend or to waive such conditions and proceed to closing as herein provided.

(a) Inspection/Feasibility Study. Intentionally deleted.

(b) State Court Receivership Approvals. The parties acknowledge that Seller is subject to a State Court Receivership in Miami, Florida before Judge Thomas Wilson, Jr., and Michael I. Goldberg is the receiver appointed in connection thereto (the "Receiver"). Accordingly, the Purchase Agreement, and the transactions contemplated thereby, are subject to Seller obtaining the Court's approval. The Court's Order shall specify who is to sign any deed of conveyance. Upon execution here by both parties, Seller shall obtain approval prior to Closing. If not approved and this contract is cancelled, Seller will immediately reimburse Buyer for all costs, fees and expenses incurred incident to Buyer doing its due diligence hereunder, to include attorneys' fees incurred by Buyer in enforcing this Seller obligation should litigation arise as to such reimbursements.

(c) Acquisition of Contiguous Parcel. Buyer's obligations hereunder are specifically subject to Buyer obtaining a Purchase and Sale Agreement, acceptable to Buyer, for the contiguous properties located at 401 Cleveland Street, Clearwater, FL 33755, and closing simultaneously on that site or property [the "Contiguous Site"], along with the properties to be purchased hereunder. Within ten (10) days from the Effective Date, Buyer shall advise Seller in writing as to the status of obtaining a Purchase and Sale Agreement for the contiguous site, and if not executed by then, either party may cancel the Agreement. If the closing fails to occur on the Contiguous Site, Buyer shall have the right to cancel this said Agreement, and recover all deposits made in writing, to the Escrow Agent and to the Seller. In the event Buyer fails to acquire the Contiguous Site within the terms of this Agreement, the Seller's acquisition of the Property which is the subject of this Agreement will be held contemporaneously with the Closing of the Buyer's acquisition of the Contiguous Site, whenever it may occur as set forth herein.

(c) City Approval. Approval of the Purchase and Sale Agreements for 401 and 403 Cleveland Street properties by the City of Clearwater at its regularly scheduled meeting November 6, 2008 without further conditions, other than marketable title being transferred at closing free and clear of all liens and encumbrances, unless otherwise provided herein, and the condition of the Property remaining the same, reasonable wear and tear being excepted. If the two Agreements are not approved, this Agreement shall be of no further force and effect.

ARTICLE SIX

6.1 **GENERAL DISCLAIMER.** EXCEPT AS SPECIFICALLY SET FORTH IN THIS AGREEMENT, THE SALE OF THE PROPERTY HEREUNDER IS AND WILL BE MADE ON AN "AS IS," "WHERE IS," AND "WITH ALL FAULTS" BASIS, WITHOUT REPRESENTATIONS AND WARRANTIES OF ANY KIND OR NATURE, EXPRESS, IMPLIED OR OTHERWISE, INCLUDING ANY REPRESENTATION OR WARRANTY CONCERNING TITLE TO THE PROPERTY, THE PHYSICAL CONDITION OF THE PROPERTY (INCLUDING THE CONDITION OF THE SOIL OR THE IMPROVEMENTS), THE ENVIRONMENTAL CONDITION OF THE PROPERTY (INCLUDING THE PRESENCE OR ABSENCE OF HAZARDOUS SUBSTANCES ON OR AFFECTING THE PROPERTY), THE COMPLIANCE OF THE PROPERTY WITH APPLICABLE LAWS AND REGULATIONS (INCLUDING ZONING AND BUILDING CODES OR THE STATUS OF DEVELOPMENT OR USE RIGHTS RESPECTING THE PROPERTY), ANY REPRESENTATION OR WARRANTY RESPECTING ANY INCOME, EXPENSES, CHARGES, LIENS OR ENCUMBRANCES, RIGHTS OR CLAIMS ON, AFFECTING OR PERTAINING TO THE PROPERTY OR ANY PART THEREOF. PURCHASER ACKNOWLEDGES THAT, DURING THE INSPECTION PERIOD, PURCHASER WILL EXAMINE, REVIEW AND INSPECT ALL MATTERS WHICH IN PURCHASER'S JUDGMENT BEAR UPON THE PROPERTY AND ITS VALUE AND SUITABILITY FOR PURCHASER'S PURPOSES. EXCEPT AS TO MATTERS SPECIFICALLY SET FORTH IN THIS AGREEMENT: (A) PURCHASER WILL ACQUIRE THE PROPERTY SOLELY ON THE BASIS OF HIS OWN PHYSICAL AND FINANCIAL EXAMINATIONS, REVIEWS AND INSPECTIONS AND NOT ON THE BASIS OF INSURANCE PROTECTION AFFORDED BY ANY POLICY OR POLICIES OF INSURANCE WHICH PURCHASER MAY HAVE IN EFFECT AT THE TIME OF ACQUISITION. PURCHASER'S ACCEPTANCE OF THE PROPERTY AND THIS AGREEMENT, INCLUDING THE FOREGOING, SHALL CONSTITUTE PURCHASER'S ACCEPTANCE OF THE PROPERTY AND SHALL CONSTITUTE PURCHASER'S RELEASE AND WAIVER OF ALL RIGHTS AND REMEDIES OTHERWISE MAY HAVE AT LAW OR IN EQUITY, INCLUDING THE RIGHT TO SEEK DAMAGES FROM SELLER IN CONNECTION WITH THE ENVIRONMENTAL CONDITION OF THE PROPERTY, INCLUDING ANY RIGHT OF CONTRIBUTION UNDER THE COMPREHENSIVE ENVIRONMENTAL RESPONSE COMPENSATION AND LIABILITY ACT.

6.2 **RELEASE.** EXCEPT FOR MATTERS SET FORTH IN THIS AGREEMENT THAT SPECIFICALLY SURVIVE THE CLOSING OF THIS AGREEMENT, EFFECTIVE AS OF THE CLOSING, PURCHASER SHALL BE DEEMED TO HAVE RELEASED SELLER AND ANY AGENT, ADVISOR, REPRESENTATIVE, AFFILIATE, EMPLOYEE, DIRECTOR, PARTNER, MEMBER, BENEFICIARY, INVESTOR, SERVANT, SHAREHOLDER, TRUSTEE OR OTHER PERSON OR ENTITY ACTING ON SELLER'S BEHALF OR OTHERWISE RELATED TO OR AFFILIATED WITH SELLER (COLLECTIVELY, "SELLER RELATED PARTY") FROM ALL CLAIMS WHICH PURCHASER OR ANY AGENT, REPRESENTATIVE, AFFILIATE, EMPLOYEE, DIRECTOR, OFFICER, PARTNER,

MEMBER, SERVANT, SHAREHOLDER OR OTHER PERSON OR ENTITY ACTING ON PURCHASER'S BEHALF OR OTHERWISE RELATED TO OR AFFILIATED WITH PURCHASER (EACH, A "PURCHASER RELATED PARTY") HAS OR MAY HAVE ARISING FROM OR RELATED TO ANY MATTER OR THING RELATED TO OR IN CONNECTION WITH THE PROPERTY INCLUDING THE DOCUMENTS AND INFORMATION REFERRED TO HEREIN, ANY CONSTRUCTION DEFECTS, ERRORS OR OMISSIONS IN THE DESIGN OR CONSTRUCTION OF ALL OR ANY PORTION OF THE PROPERTY AND ANY ENVIRONMENTAL CONDITIONS, AND PURCHASER SHALL NOT LOOK TO SELLER OR ANY SELLER RELATED PARTIES IN CONNECTION WITH THE FOREGOING FOR ANY REDRESS OR RELIEF. THIS RELEASE SHALL BE GIVEN FULL FORCE AND EFFECT ACCORDING TO EACH OF ITS EXPRESSED TERMS AND PROVISIONS, INCLUDING THOSE RELATING TO UNKNOWN AND UNSUSPECTED CLAIMS, DAMAGES AND CAUSES OF ACTION.

ANYTHING HEREIN TO THE CONTRARY NOTWITHSTANDING, THE SELLER HAS NO KNOWLEDGE THAT IT WOULD KNOW TO BE MATERIAL TO THE TRANSACTION, THAT HAS NOT BEEN DISCLOSED.

ARTICLE SEVEN – CLOSING

7.1 Closing.

(a) Closing shall be on or before December 31, 2011, or such other date as mutually agreed to between the parties. At closing, Seller shall pay the purchase price, subject to prorations and adjustments as set forth in the Closing Statement, and execute and deliver to Buyer a sufficient and recordable deed conveying a good marketable record fee simple title in and to the Property subject only to applicable zoning regulations, ad valorem taxes for the year of closing, if not yet due and payable, and the Permitted Exceptions. Seller shall also execute and deliver an owner's affidavit in standard form acceptable to the title insurance company issuing the commitment indicating that Seller has exclusive possession of the Property, that the Property is not subject to mechanics' liens or potential claims of mechanics' liens, that Seller is not a foreign person as contemplated by Section 1445 of the Internal Revenue Code to avoid the necessity to withhold a portion of the purchase price and indicating Seller's Taxpayer Identification number. All prior taxes and assessments shall be fully paid by Seller; taxes for the current year shall be prorated to the Closing Date. In the event the current year's tax amount is not then available, the taxes shall be prorated based upon the previous year's tax bill, adjusted in accordance with known changes. Either party may request that the taxes be prorated in accordance with the actual tax amount. Risk of loss shall remain with Seller until closing and possession shall be given to Buyer at the time of closing, except that Buyer may, after the Inspection Period, has rights of

entry as hereinabove provided and may place signage on the site regarding its proposed development, provided all is at the sole cost and expense of the Buyer.

(b) Buyer shall have the right to extend the date for completing Conditions Precedent and obtaining the required Approvals for one (1) additional thirty (30) day periods, provided that as a condition for such extension, Buyer shall post an additional \$25,000.00 with the escrow agent for such extension period, which shall apply to the purchase price, but shall be fully earned and non-refundable absent the default of Seller.

ARTICLE EIGHT - CLOSING COSTS

8.1 Closing Costs: Seller shall pay for prorata taxes, assessments on the property as of closing, and any costs to correct any title defects as hereinabove provided. Buyer shall pay for the documentary stamps to be affixed to the deed, costs of title insurance commitment and title insurance policy as hereinabove provided, broker's commissions as to any brokerage fees due as a result of the Buyer's involvement with Klein & Heuchan, Inc., recording the deed, for all inspections, permitting, zoning or other fees incident to seeking approvals for the property and its use, and for any costs pertaining to financing.

ARTICLE NINE - DEFAULTS

9.1 Defaults. If all of the terms and conditions hereof are not met, and Buyer fails to close upon this Agreement, then, upon demand by Seller, the Deposit shall be delivered by Escrow Agent to Seller as full consideration for the Property under this Agreement and in full settlement of all claims for damages, and Buyer shall thereupon be relieved of all further obligations each to the other hereunder. In the event Seller intentionally fails to perform any of the covenants hereof, or if any of the conditions herein are not met, Buyer may elect to demand and receive return of the Deposit and any accrued interest thereon from Escrow Agent, to recover any and all costs, fees, expenses expended or incurred by Buyer incident to contracting for and attempting to acquire the Property from Seller not to exceed \$10,000.00, as agreed upon limitation to damages sustained, or Buyer may elect to have specific performance of this Agreement and collect said damages incident thereto, including pursuing all rights of Seller under prior Agreements for said Property, which are assigned hereby, in the appropriate court, and recover all cost and expenses incurred incident thereto, including attorneys' fees, and damages for Seller's failure or refusal to close hereunder.

ARTICLE TEN - NOTICES

10.1 Any notice or demand which may be given under this Agreement or under any law shall be in writing and shall be deemed to have been given when delivered either by personal delivery, national overnight courier company, or when mailed by first class U.S. Mail, postage prepaid and deposited into the U.S. Mail, being deemed the delivery of notice, or when given by facsimile transmission or via e-mail, as follows:

To Seller: MAMC FLORIDA SPORTSDANCE,
LLC
402 Continental Plaza
3250 Mary Street
Suite 402
Coconut Grove, Florida 33133
Fax: (305) 358-5160

With a copy to: Mr. Lawrence B. Steinberg
Berger Singerman PA
2650 N. Military Trail, Suite 240
Boca Raton, Florida 33431
Fax: (561) 998-0028

To Buyer: Ruth Eckerd Hall, Inc.
Attn: Mr. Robert Friedman
111 1st Street
Clearwater, FL 33757
FAX: (727) 442-8470

To Escrow Agent: Harry S. Cline, Esq.
Macfarlane Ferguson & McMullen
625 Court Street
Suite 200
Post Office Box 1669
Clearwater, FL 33757
FAX #: (727) 442-8470

Copy to Broker: Mr. Mark Klein
Klein & Heuchan, Inc.
1744 N. Belcher Road
Clearwater, FL 33765
FAX #: (727) 449-1724

ARTICLE ELEVEN - CONDEMNATION; CASUALTY

11.1 **Condemnation.** If prior to the Closing Date all or part of the Property becomes the subject of a condemnation proceeding by any governmental authority, then Buyer shall have the right to elect within twenty (20) days of receiving actual notice of such proceeding to:

(a) take title to the Property on the Closing Date without an abatement or adjustment to the Purchase Price, in which event Seller shall unconditionally assign Seller's rights in the condemnation award (or portion thereof allocated to the portion of the Property being taken) to Buyer (or give Buyer a credit against the Purchase Price equal to such award if it has theretofore been received by Seller); or

(b) terminate this Agreement, whereupon the duties and obligations thereunder of the Parties shall end, and Escrow Agent shall promptly return the Deposit to Buyer.

11.2 **Casualty.** If prior to the Closing Date all or a material part of the Property becomes the subject of a casualty that materially adversely affects Buyer's ability to use the Property, then Buyer shall have the right to elect within twenty (20) days of receiving actual notice of such proceeding to:

(a) take title to the Property on the Closing Date without an abatement or adjustment to the Purchase Price, in which event Seller shall unconditionally assign Seller's rights in any insurance proceeds, if any, (or portion thereof allocated to the Property) to Buyer (or give Buyer a credit against the Purchase Price equal to such proceeds if they have theretofore been received by Seller); or

(b) terminate this Agreement, whereupon the duties and obligations thereunder of the Parties shall end, and Escrow Agent shall promptly return the Deposit to Buyer.

ARTICLE TWELVE - REAL ESTATE BROKERS

12.1 **Sales Commission.** Seller and Buyer warrant and represent to each other that, except for Klein & Heuchan, Inc., there are no other brokers in connection with this Agreement or the purchase and sale of the Property. Buyer shall pay any commission as to such broker. Except as otherwise provided herein, Seller and Buyer shall and do each hereby indemnify, defend and hold harmless the other from and against the claims, demands, actions and judgments of any and all brokers, agents and other persons or entities alleging a commission, fee or other payment to be owing by reason of their respective dealings, negotiations or communications in connection with this Agreement or the purchase and sale of the Property except as set forth in this Section 12. The terms

and provisions of this Section 12 shall survive the Closing or any termination of this Agreement.

ARTICLE THIRTEEN - MISCELLANEOUS

13.1 The covenants herein contained shall bind and the benefits and advantages shall inure to the respective heirs, personal representatives, successors and assigns of the parties hereto. Whenever used, the singular number shall include the plural, the plural the singular, and the use of any gender shall include all genders.

13.2 The captions and headings herein are for convenience and reference only and in no way define or limit the scope or content of this Agreement or in any way affect its provisions.

13.3 This Agreement shall be effective as of the last date upon which each of the parties hereto have executed this Agreement.

13.4 This Agreement shall be interpreted, construed, and enforced in accordance with the laws of the State of Florida. The venue for any action hereon shall be in the county where the property is located.

13.5 Where necessary to effectuate the evident intent of the parties, the warranties, covenants and Agreements contained herein shall survive the closing of this transaction.

13.6 Time is of the essence of this Agreement.

13.7 In the event it becomes necessary to commence litigation to enforce the terms of this Agreement, the prevailing party shall be entitled to payment of all of its expenses, including reasonable attorneys' fees in trial and appellate proceedings, this provision to survive closing hereunder.

13.8 Seller shall not from the date of this contract, execute any instrument of any type (including, but not limited to, leases, deeds, mortgages or liens) affecting the property without the prior written consent of the Buyer.

13.9 This Agreement may be executed in several counterparts, each of which shall be deemed an original, and all such counterparts together shall constitute one and the same instrument. Any party may execute this Agreement by signing any one counterpart. Receipt of a facsimile transmission (followed promptly by an original executed counterpart) shall be deemed receipt of an original.

13.10 This contract may not be assigned without the prior written consent of Seller, which shall not be unreasonably withheld. The consent of Seller shall not be required incident to any assignment, in whole or in part, to the City of Clearwater, or any related entity incident to plans by Buyer and the City or its agencies to attempt to restore and activate the Property. Anything herein to the contrary notwithstanding, if Seller should withhold its consent, and it be determined by a court of competent jurisdiction that said action was not reasonable, then in such event Buyer shall be entitled to seek all consequential damages as a result thereof.

13.11 Seller shall fully cooperate incident to joining in any and all appropriate inspections, applications with government or processing other matters pursued incident to qualifying the property for its Intended Use or meeting the terms, conditions or provisions of this Agreement, expressed or implied.

13.12 Within five (5) days from the date of execution of this Agreement, Seller shall deliver to Buyer copies of the existing title insurance loan policy, with all exceptions from its files [if any]. Seller represents that it has located no other data pertaining to said site.

13.13 All deposits or other payments made hereunder, at any time, whether to the Escrow Agent or any sums released to Seller(s), shall be fully applicable to the purchase price unless expressly stated to the contrary in this said Agreement.

13.14 Seller acknowledges and agrees that Buyer's attorney, Harry S. Cline of the firm of Macfarlane Ferguson & McMullen, or in his absence, _____, shall act as the attorney for Buyer hereunder, and if an attorney has appeared for Buyer hereunder, such attorney shall be deemed notice to Seller, and that attorney may act on behalf of Seller.

13.15 **WAIVER OF TRIAL BY JURY.** SELLER AND BUYER HEREBY WAIVE TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM (WHETHER ARISING IN TORT OR CONTRACT) BROUGHT BY EITHER AGAINST THE OTHER ON ANY MATTER ARISING OUT OF OR IN ANY WAY CONNECTED WITH THIS AGREEMENT.

13.16 **Limitation of Liability.** No agent of Seller, nor any Seller Related Parties, shall have any personal liability, directly or indirectly, under or in connection with this Agreement or any agreement made or entered into under or pursuant to the provisions of this Agreement, or any amendment or amendments to any of the foregoing made at any time or times, heretofore or hereafter, and Buyer and its successors and assigns and, without limitation, all other persons and entities, shall look solely to Property for the payment of any claim or for any performance, and Buyer, on behalf of itself and its successors and assigns, hereby waives any and all such personal liability. The provisions of this Section shall survive the Closing or a termination of this Agreement.

ARTICLE FOURTEEN – ESCROW AGENT

14.1. During the term of this Agreement, the Escrow Agent shall hold and disburse the deposit(s) in accordance with the terms and provisions hereof. In the event of any dispute as to disbursements, the Escrow Agent shall disburse funds only upon the joint written instructions of the Seller and Buyer, or upon court order. If the Escrow Agent shall receive notice from Buyer during the Inspection Period, requesting that the funds be paid to Buyer, Escrow Agent shall be authorized to immediately do so and simply notify Seller in writing of such event. If Escrow Agent shall receive written notice from Buyer that conditions set forth as Conditions Precedent in the Agreement have not been met, or cannot be met, on a reasonable basis for customary costs, expenses and charges, then in such event the Escrow Agent shall give written notice to Seller that the Buyer is seeking to cancel the Agreement and requesting release of the Deposit(s) back to the Buyer, and in said notice Escrow Agent shall give Seller ten (10) calendar days within which time to register objection to release of the funds per the Buyer's request. If written objection is not received within said time frame, with reasons stated for the objection, then in such event Escrow Agent shall be, and the same hereby is, authorized to release said funds and this Agreement shall be of no further force and effect. By joining herein, the Escrow Agent undertakes only to perform the duties and obligations imposed upon the Escrow Agent under the terms of this Agreement and expressly does not undertake to perform any of the other covenants, terms and provisions incumbent upon the Seller and the Buyer hereunder. Buyer and Seller hereby agree and acknowledge that the Escrow Agent assumes no liability in connection herewith except for negligence or willful misconduct; that the Escrow Agent shall not be responsible for the validity, correctness or genuineness of any document or instrument submitted to it under this Agreement; and that in the event of any dispute under this Agreement, the Escrow Agent may seek advice from its own counsel and shall be fully bound by the action taken by it in good faith in accordance with the opinion of its counsel. Escrow Agent shall be fully indemnified by the parties hereto except in the case of Escrow Agent's gross negligence, for all of its expenses, costs, and reasonable attorney's fees incurred in connection with any interpleader action which Escrow Agent may file to resolve any dispute as to the Deposit, or which may be filed against the Escrow Agent. If Escrow Agent is made a party to any judicial, non-judicial or administrative action, hearing or process based on acts of any of the other parties hereto and not on the malfeasance and/or negligence of Escrow Agent in performing its duties hereunder, the expenses, costs and reasonable attorney's fees incurred by Escrow Agent in responding to such action, hearing or process may be deducted from the funds held hereunder and the party/parties whose alleged acts are a basis for such proceedings shall indemnify, save and hold Escrow Agent harmless from said expenses, costs and fees so incurred.

ARTICLE FIFTEEN - EXECUTION BY SELLER

15.1 In the event Seller does not execute and deliver a copy of this Agreement to Buyer on or before 5:00 p.m. _____, 2008, Buyer's offer contained in this Agreement shall terminate and be of no further force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement, and shall be deemed to have executed such, on the day and year first written above.

Signed, sealed and delivered
in the presence of:

As to "Buyer"

As to "Seller"

**RUTH ECKERD HALL, INC.,
INC., a Florida corporation**

By: _____

Dated: _____, 2008

**MAMC FLORIDA SPORTSDANCE,
LLC, a Florida limited liability
company**

By: _____

Michael I. Goldberg, Manager

Dated: _____, 2008

EXHIBIT "A"

LEGAL DESCRIPTION

Lot 6, LESS the East 19 feet 9 inches, and the East ½ of Lot 7, Block B, JOHN R. DAVEY, ET AL., RESUBDIVISION, according to the map or plat thereof as recorded in Plat Book 1, page 87, of the public records of Hillsborough County, Florida, of which Pinellas County was formerly a part.

EXHIBIT "B"

BROKER COMMISSION(S) DUE BY BUYER

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ARTICLE FIFTEEN - EXECUTION BY SELLER

15.1 In the event Seller does not execute and deliver a copy of this Agreement to Buyer on or before 5:00 p.m. _____, 2008, Buyer's offer contained in this Agreement shall terminate and be of no further force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement, and shall be deemed to have executed such, on the day and year first written above.

Signed, sealed and delivered
in the presence of:

As to "Buyer"

**RUTH ECKERD HALL, INC.,
INC., a Florida corporation**

By: _____

Dated: _____, 2008

**MAMC FLORIDA SPORTSDANCE,
LLC, a Florida limited liability
company**

As to "Seller"

By: 
Michael I. Goldberg, Manager

Dated: October 21, 2008

**Subject to Court approval*

ARTICLE FIFTEEN - EXECUTION BY SELLER

15.1 In the event Seller does not execute and deliver a copy of this Agreement to Buyer on or before 5:00 p.m. October 27, 2008, Buyer's offer contained in this Agreement shall terminate and be of no further force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement, and shall be deemed to have executed such, on the day and year first written above.

Signed, sealed and delivered
in the presence of:

Norma A. Roney

As to "Buyer"

**RUTH ECKERD HALL, INC.,
INC., a Florida corporation**

By: Robert A. Funes

Dated: October 21, 2008

**MAMC FLORIDA SPORTSDANCE
LLC, a Florida limited liability
company**

By: Michael I. Goldberg, Manager

As to "Seller"

Dated: _____, 2008