

Instructions for Bidder Qualification

ONLINE REAL ESTATE AUCTION BY ORDER OF THE U.S. BANKRUPTCY COURT

RE: CACTUS LAND HOLDINGS, INC. | Case No. 23-19135-PDR

74 Vacant Lots as one Unit of Sale in the Meadows of Astatula, a residential community in Lake County, Florida

Begins Thursday, March 7, 2024 @ 11:00 AM ET & Ends Thursday, March 7, 2024 @ 1:00 PM ET

subject to any time extensions

The following instructions are to help guide you in becoming a Qualified Bidder for the Online Auction of the 74 Vacant Lots sold as one Unit of Sale in the Meadows of Astatula along with those rights granted in both the Developer Assignment and the Water Agreement as defined and described within the Purchase and Sale Agreement attached hereto (the "Real Property Assets"). The following Documents, Proof of Funds, Corporate Authority and Initial Escrow Deposit are due on or before **Tuesday, March 5, 2024, 5:00PM ET.**

1. Complete and sign the Bidder Pre-Registration Form.
2. Complete and sign the Return of Initial Escrow Deposit Form.
3. Complete and sign the Acknowledgement of Review of the Purchase and Sale Agreement ("PSA") and the United States Bankruptcy Court Bid Procedures (containing the Bidding Procedures) which is attached as "Exhibit B" to such PSA.
4. Wire into Debtor's Counsel, Shapiro Blasi Wasserman Hermann P.A.'s Trust Account (the "Escrow Agent") via a Federal wire transfer in U.S. Funds (not an ACH Credit) a \$100,000 Initial Escrow Deposit no later than Tuesday, March 5, 2024 5:00 PM ET. Contact Fisher Auction Company for wiring instructions via email info@fisherauction.com or call 954.942.0917.
5. Provide written evidence that in the discretion of the Broker/Auctioneer, establishes that the Bidder has the financial ability to consummate the purchase of the Real Property Assets within fifteen (15) days after the entry of the Sale Order, should such bidder submit the highest bid, as defined in the Bidding Procedures ("Proof of Funds") - i.e. bank letter, recent financial statements, account statements, or tax return.
6. Provide written evidence acceptable to the Debtor in its sole discretion demonstrating the appropriate corporate authorization of the Bidder to consummate the purchase of the Real Property Assets (Declaration of Disinterestedness).
7. You must submit your complete package (including items 1 – 6), and a copy of your valid State issued Driver's License or a valid Passport, no later than **Tuesday, March 5, 2024 5:00PM ET, via email or facsimile** to the following;

Fisher Auction Company
info@fisherauction.com
Facsimile: 954.782.8143
Phone: 954.942.0917

The Auction will begin at 11:00 AM ET, on Thursday March 7, 2024 and conclude at 1:00 PM ET, subject to any time extensions, on Thursday, March 7, 2024, on Fisher Auction Company's Online Bidder Application which can be accessed through the Fisher Auction Company website. Please note that each Bidder will need to click "accept" to agree to the Online Bidding Application terms prior to the start of the sale in order to become activated to bid.

The Successful Bidder shall execute the Purchase and Sale Agreement after the conclusion of the Auction and shall supplement its Bidder Deposit by an additional amount such that the total deposit equals not less than ten percent (10%) of the Total Purchase Price. The supplemental amount shall be provided by Federal Wire Transfer to Debtor's Counsel, Shapiro Blasi Wasserman Hermann P.A., (the "Escrow Agent").

A Sale Hearing ("Sale Hearing") shall be held on Friday, March 8, 2024 at 1:30PM ET (or such other time as the Bankruptcy Court may establish) at the U.S. Courthouse, 299 E Broward Blvd., Courtroom 301, Ft Lauderdale, FL 33301, for the U.S. Bankruptcy Court to approve the Sale of the Real Property Assets free and clear of all liens, claims and encumbrances to the Highest and Best Purchaser pursuant to the Purchase and Sale Agreement, Bidding Procedures and the United States Bankruptcy Court Order

BIDDER PRE-REGISTRATION FORM

ONLINE REAL ESTATE AUCTION BY ORDER OF THE U.S. BANKRUPTCY COURT

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(Please Type or Print Clearly)

Name:	
Company Name (if applicable):	
Company Address:	
City, State & Zip:	
City, Country & Country Code (if outside the U.S.):	
Residential Address:	
City, State & Zip:	
City, Country & Country Code (if outside the U.S.):	
Valid State Issued Driver's License No. or Passport (Copy of License or Passport Required):	
Contact Phone:	Facsimile:
Email:	
Entity in which Bidder will take Title:	
Marital Status:	
Bidder Signature:	Date:

Return of Initial Escrow Deposit Form

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In the event that you do not become the Successful Purchaser of the Assets, please fill out this form to instruct Debtor's Counsel, Shapiro Blasi Wasserman Hermann P.A (the "Escrow Agent") as to how to return your Initial Escrow Deposit. **Please note, any return of escrowed funds will be returned to the same bank account where the funds had originated.**

The amount of the Initial Escrow Deposit held in Escrow is: \$100,000.

I, _____, hereby authorize Debtor's Counsel, Shapiro Blasi Wasserman Hermann P.A (the "Escrow Agent" and Debtor's Counsel), to release my Initial Escrow Deposit back to me within five (5) business days via:

PLEASE TYPE OR PRINT CLEARLY

A wire transfer to the originating bank to the originator per the wiring instructions below:

Bank Information

Bank Name:	
Address:	
City, St., Zip:	
Swift Code (International Wires):	
ABA Number:	

Account Information

Account Name:	
Account Number:	
Address:	
City, St., Zip:	

Bidder Signature:	Date:
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ACKNOWLEDGEMENT OF REVIEW OF: THE PURCHASE AND SALE AGREEMENT, THE AMENDED ORDER GRANTING DEBTOR'S EXPEDITED MOTION TO AUTHORIZE SALE OF CERTAIN REAL PROPERTY ASSETS FREE AND CLEAR OF ALL LIENS, CLAIMS, AND ENCUMBRANCES, TO APPROVE OF AUCTION AND BIDDING PROCEDURES, TO APPROVE THE FORM AND MANNER OF NOTICE IN CONNECTION THEREWITH, AND FOR OTHER RELATED RELIEF AND THE BIDDING PROCEDURES CONTAINED IN SUCH ORDER (EXHIBIT A OF THE ORDER).

I _____, hereby acknowledges that I have read and
(Name of Bidder)

agree to be bound by the Purchase and Sale Agreement ("PSA"), the Amended Order Granting Debtor's Expedited Motion to Authorize Sale of Certain Real Property Assets Free and Clear of all Liens, Claims, and Encumbrances, to Approve of Auction and Bidding Procedures, to Approve the Form and Manner of Notice in Connection Therewith, and for Other Related Relief, the Bidding Procedures contained in such Order (Exhibit A of the Order), as well as the Court's ruling at the Sale Approval Hearing that shall be held on Friday, March 8, 2024 at 1:30PM ET (or such other date and time as the Bankruptcy Court may set) at the U.S. Courthouse, 299 E Broward Blvd., Courtroom 301, Ft Lauderdale, FL 33301.

Acknowledged:

Signature	Date	Time

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF FLORIDA
BROWARD DIVISION
www.flsb.uscourts.gov**

In re:

Cactus Land Holdings, Inc.

CASE NO.: 23-19135-PDR
Chapter 11
Subchapter V Election

Debtor.

_____ /

DECLARATION OF DISINTERESTEDNESS

I, _____, pursuant to 28 U.S.C. § 1746, hereby declare that the following is true and correct to the best of my information, knowledge, and belief:

1. I am an officer of _____ [NAME] (the "Company") holding the title of _____ [TITLE]. I am authorized to make this Declaration on behalf of the Company.

2. The Company is a _____ [PRIVATELY HELD/PUBLICLY HELD] _____ [CORPORATION/LLC/OTHER FORM OF OWNERSHIP].

3. The identity of the Company's officers, directors, managers, members, and equity holders (collectively, the Company's "Affiliates") is as follows: _____

_____.

4. The Company _____ [is / is not] an "affiliate" or "insider" of Cactus Land Holdings, Inc. ("Debtor"), which is the Debtor-in-Possession in the above-captioned bankruptcy case, as

such terms are defined under 11 U.S.C. § 101 et seq.

5. The Company and its Affiliates have no relationship to the Debtor, or to the officers, directors, managers, members, principals or equity holders, of the Debtor or the Debtor’s equity owners other than as follows: _____

_____.

6. The Company and its Affiliates also have no relationship to the creditors and interested parties, or to the officers, directors, managers, members, principals or equity holders of those creditors and interested parties, their affiliates or their equity owners other than as follows: _____

_____.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct to the best of my information, knowledge, and belief.

Dated: _____, 2024.

Name:
Title:_____

PURCHASE AND SALE AGREEMENT

THIS CONTRACT (“**Contract**”) is made as of its Effective Date (defined below) between **Cactus Land Holdings, Inc., a Florida Corporation** (“**Seller**” or “**Debtor**”), whose address is 300 SE 13th Street, Fort Lauderdale, Florida 33316 and _____, (“**Buyer**”) whose address is _____. References below to the “Parties” means both Seller and Buyer. References to a “Party” means either of Seller or Buyer. In consideration of the mutual rights and obligations set forth in this Contract, the Parties agree as follows:

BACKGROUND:

Seller is fee owner of those certain real properties located in the *Meadows of Astatula*, a residential community in Lake County, Florida (the “**Subdivision**”), which are more particularly described in Exhibit "A" attached hereto and made a part hereof by reference. Seller also holds the rights as the developer of the Subdivision (the “**Developer**”), as that term is defined in Fla. Stat. § 720.301(6), including, without limitation, those rights granted in both the Developer Assignment and the Water Agreement, as defined below within paragraphs 1(i) and 1(v) respectively (collectively the “**Real Property Assets**”).

On November 6, 2023, Debtor filed a voluntary petition for relief under Chapter 11, Title 11 of the United States Code (the “**Bankruptcy Code**”) in the United States Bankruptcy Court for the Southern District of Florida, Fort Lauderdale Division (the “**Bankruptcy Court**”). The case is pending in the Bankruptcy Court as Case No. 23-19135-PDR (the “**Bankruptcy Case**”). Debtor’s bankruptcy estate is referred to herein as the “**Estate**.”

On January 10, 2024, the Bankruptcy Court entered the Bid Procedures Order (defined below) authorizing the sale of the Real Property Assets by auction pursuant to the Bid Procedures contained in such Order attached hereto as Exhibit "B".

Buyer is entering into this Contract, pursuant to the Bid Procedures Order, as [check one]:

- The Successful Bidder
- The Back-Up Bidder

Buyer wishes to purchase the Real Property Assets from the Debtor, and Debtor desires to sell the Real Property Assets to Buyer, subject to the approval of the Bankruptcy Court and as more particularly provided below.

1. Definitions. In addition to all other defined terms contained in this Contract, the terms listed below shall have the following meanings:

- a. **“Auction”** means the live online-only auction to be conducted pursuant to that certain Bid Procedures Order and the Bid Procedures.
- b. **“Back-Up Bid”** means the next highest and best bid submitted at the Auction after the Successful Bid, [in the amount of \$_____ if this Contract is executed by the Back-up Bidder], as determined by Debtor through the Broker/Auctioneer.
- c. **“Back-Up Bidder”** means the bidder that submits the Back-Up Bid designated by the Debtor through the Broker/Auctioneer.
- d. **“Bid Procedures”** means those certain Bid Procedures approved by the Bankruptcy Court for the sale and auction of the Real Property Assets pursuant to and contained within the Bid Procedures Order attached hereto as **“Exhibit B.”**
- e. **“Bid Procedures Order”** means that certain *Order Granting Certain Relief Requested in Debtor’s Expedited Motion to Authorize Sale of Certain Real Property Assets Free and Clear of all Liens, Claims and Encumbrances, to Approve of Auction and Bidding Procedures, to Approve the Form and Manner of Notice in Connection Therewith, and for other Related Relief* entered by the Bankruptcy Court on January 10, 2024 (Doc. No. 78) in the Bankruptcy Case (Only Amended from Doc. No. 77 to include the hearing location for Status Conference).
- f. **“Closing”** shall mean the consummation of the conveyance of the Real Property Assets to Buyer and receipt of the Total Purchase Price (defined below) no later than March 25, 2024, or at such other time as may be ordered by the Bankruptcy Court, and the satisfaction or waiver of all other conditions for closing prescribed by this Contract.
- g. **“Closing Agent”** means the offices of Preferred Title, Inc. located at 7777 Glades Road, Suite 400, Boca Raton, Florida 33434.
- h. **“Data Room”** means the online data room maintained by Fisher Auction Company (**“Broker/Auctioneer”**), which contains material information with respect to the Real Property Assets.
- i. **“Developer Rights”** means those rights as the statutory Developer of the Subdivision, as granted pursuant to that certain *Assignment of Developer Rights*, recorded on March 7, 2019, at Book 5245, Page 2075 of the Official Records of Lake County, Florida.
- j. **“Effective Date”** means the date the Sale Order is entered by the Bankruptcy Court.
- k. **“Escrow Agent”** means the offices of Shapiro Blasi Wasserman Hermann P.A., located at 7777 Glades Road, Suite 400, Boca Raton, Florida 33434.
- l. **“Lien”** means a charge against or interest in property to secure payment of a debt or

performance of an obligation

- m. **“Person”** means an individual, partnership and corporation, but does not include governmental unit, except that a governmental unit that acquires an asset from a person as a result of the operation of a loan guarantee agreement; or as receiver or liquidating agent of a person; is a guarantor of a pension benefit payable by or on behalf of the debtor or an affiliate of the debtor; or is the legal or beneficial owner of an asset of an employee pension benefit plan that is a governmental plan, as defined in section 414(d) of the Internal Revenue Code of 1986; or an eligible deferred compensation plan, as defined in section 457(b) of the Internal Revenue Code of 1986; shall be considered, for purposes of section 1102 of this title, to be a person with respect to such asset or such benefit.
- n. **“Purchase Price”** means either (i) if this Contract is submitted by the Successful Bidder: the Successful Bid Amount or (ii) if this Contract is submitted by the Back-Up Bidder: the Back-Up Bid Amount. The Purchase Price does not include the Buyer’s Premium (as defined in the Section below titled “Buyer’s Premium”), which the purchaser at Closing (whether Successful Bidder or Back-Up Bidder) must pay at Closing, in addition to the Purchase Price.
- o. **“Real Property Assets”** shall mean collectively, the Developer Rights, the Water Agreement, and the real properties described in **Exhibit “A”** together with all improvements on those real properties; permits; impact fee credits; rents; income; profits; timber; crops; contract rights; rights relating to sewer, water, and other utilities, easements, rights-of-way, strips and gores of land appurtenant to or lying adjacent to the real property, riparian and other water rights, lands lying in the bed of any stream, canal, lake, or other water body adjacent to the real property, lands underlying any adjacent streets or roads, impact fee and mobility fee credits, mitigation credits, reservations and capacity for utilities services, and other entitlements and development rights; and all other rights, claims, and interests appurtenant to, relating or incident to, or otherwise benefiting, the real property. The legal descriptions for the real properties attached hereto as **Exhibit “A”** is an approximate description based on the best information currently available to the Parties and will be replaced by the legal description later confirmed by the Closing Agent.
- p. **“Sale Order”** has the meaning provided therefore in the Section below titled “Bankruptcy Court Approval.”
- q. **“Section”** means each provision of this Contract included under any underlined heading or title. Each Section shall include all clauses and paragraphs contained between the underlined heading for that Section and the underlined heading of the following Section.

- r. **“Successful Bid”** means highest and best bid submitted at the Auction [in the amount of \$_____ if this Contract is executed by the Successful Bidder], as determined by the Debtor through the Broker/Auctioneer.
- s. **“Successful Bidder”** means the bidder at the Auction who is designated by the Debtor through the Broker/Auctioneer to have submitted the Successful Bid.
- t. **“Taxes”** means any federal, state, local, or foreign real property, personal property, sales, use, room, occupancy, ad valorem, or similar taxes, assessments, levies, charges, or fees levied with respect to the Properties or to operations thereon, including, without limitation, any interest, penalty, or fine with respect thereto, but expressly excluding any: (a) federal, state, local, or foreign income, capital gain, gross receipts, capital stock, franchise, profits, estate, gift, or generation skipping tax; or (b) transfer, documentary stamp, recording, or similar tax, levy, charge, or fee incurred with respect to the transaction described in this Contract; provided, that Seller shall request that the Bankruptcy Court include a provision in the Sale Order providing that the transfer of the Property shall be exempt from any stamp, real estate transfer, mortgage reporting, sales, use, or other similar tax.
- u. **“Total Purchase Price”** means the total of the Purchase Price and the Buyer’s Premium together.
- v. **“Water Agreement”** means the *Central Water and Sewer Agreement*, attached and incorporated by reference into the *First Amended to the Declaration of Covenants, Conditions and Restrictions of the Meadows*, as recorded on August 29, 2003, at O.R. Book 2370, Page 197 of the Official Records of Lake County, Florida.

Any terms not defined in this Contract shall have the meaning as defined in Bid Procedures Order and the Bid Procedures; or 11 U.S.C. § 101. Defined terms may be used in the singular or the plural. When used in the singular preceded by “a,” “an,” or “any,” such term shall mean one or more members of the relevant class. When used in the plural, such term shall mean some or all, as applicable in the context, of the members of the relevant class.

- 2. Court Approval. The Parties’ respective obligations to purchase and sell the Real Property Assets pursuant to this Contract are subject to: (a) Bankruptcy Court approval after notice and a hearing and (b) and the provisions, requirements, and limitations of the Sale Order.
- 3. Purchase Price and Method of Payment. Subject to all the requirements and conditions of this Contract and of the Sale Order, and subject in all events to the approval of the Bankruptcy Court, Seller will sell the Real Property Assets to Buyer, and Buyer will purchase the Real Property Assets from Seller. Buyer will pay to Seller in exchange for the Real Property Assets the purchase price of _____ and NO/100 DOLLARS (\$_____.00) (the **“Purchase Price”**). Buyer will pay the Purchase Price as follows:

- a. In order to participate in the Auction, Buyer paid a deposit of ONE HUNDRED THOUSAND DOLLARS AND NO/100 DOLLARS (\$100,000.00) (the “**Initial Deposit**”), which is held by the Escrow Agent. On Buyer’s becoming the Successful Bidder, the Initial Deposit shall become earnest money security for Buyer’s performance of this Contract and shall constitute a portion of the “**Deposit.**”
 - b. No later than 24 hours after the Auction, Buyer shall deliver to Escrow Agent an additional deposit (the “**Additional Deposit**”) the amount of which is the difference between 10% of the Total Purchase Price amount and the Initial Deposit (such that the sum of the Initial Deposit and the Additional Deposit together equal 10% of the Total Purchase Price). The Total Purchase Price shall include the Purchase price plus the “Buyer’s Premium” (the “**Total Purchase Price**”) as described below in paragraph 14. The Additional Deposit will be wire transferred to Escrow Agent to be held in escrow in accordance with this Contract.
 - c. The total earnest money from time to time paid by Buyer, are referred to below as the “**Deposit**”. At Closing the Deposit shall be delivered to Seller and credited for Buyer toward payment of the Purchase Price.
 - d. At Closing, Buyer shall pay the balance of the Total Purchase Price, adjusted for prorations and other adjustments required in this Contract, by wire transfer of funds. Buyer will also pay at Closing the closing costs allocated in this Contract to Buyer.
4. Bankruptcy Court Approval. Buyer’s obligation to purchase, and Seller’s obligation to sell, the Real Property Assets are expressly contingent on and subject to the final entry by the Bankruptcy Court of the Sale Order conforming to the requirements of this Contract.
- a. If, on or before May 15, 2024, the Bankruptcy Court has not entered the Sale Order conforming to the requirements of this Contract, then either of Seller or Buyer may terminate this Contract by delivering written notice to the other of the election to terminate. In the event of such a termination, Escrow Agent will return the Deposit to Buyer.
 - b. Notwithstanding the foregoing, the appointment of a Chapter 11 trustee, or the conversion or dismissal of the Bankruptcy Case, shall NOT relieve the Buyer of its duties under this Contract, absent further order of the Bankruptcy Court.
 - c. Seller shall use commercially reasonable efforts to obtain Bankruptcy Court approval of the sale of the Real Property Assets to the Buyer in accordance with this Contract, and such order shall contain the following provisions (the “**Sale Order**”):
 - i. a finding that Seller prepared and mailed a motion requesting entry of the Sale Order, and such motion and notice were proper and sufficient as to all parties entitled to it;

- ii. a finding that Buyer is a “good faith” purchaser of the Real Property Assets within the meaning of Section 363(m) of the Bankruptcy Code;
 - iii. the sale and transfer of the Real Property Assets to the Buyer is approved pursuant to Sections 105 and 363(f) of the Bankruptcy Code;
 - iv. Pursuant to Section 363(f) of the Bankruptcy Code, Buyer will receive title to the Real Property Assets free and clear of all liens, claims, encumbrances and interests in or to the Real Estate Assets (collectively, “**Liens**”), including, without limitation, all claims and interests asserted by the Meadows of Astatula Homeowners Association, Inc. (the “**Association**”) in that *Notice of Lis Pendens* recorded on May 20, 2020, at Book 5473, Page 2104 of the Official Records of Lake County, Florida [Inst. No. 2020055563], in connection with Lake County Circuit Court Case No. 2019-CA-001245, with all such Liens attaching to the sale proceeds, and otherwise in accordance with the requirements of this Contract.
5. Acceptance of the Real Property Assets “As Is”. Buyer acknowledges Buyer was allowed to thoroughly investigate the Real Property Assets and all components thereof before electing to participate in the Auction. In deciding to participate in the Auction and acquire the Real Property Assets, Buyer has relied on Buyer’s investigation of the Real Property Assets conducted before the Auction.
- a. Buyer shall have no right or discretion whatsoever to terminate this Contract because of conditions affecting or information concerning the Real Property Assets of which Buyer becomes aware after the Effective Date, regardless of the nature of those conditions or information. Further, Seller’s performing repairs or replacements to remedy conditions affecting the Real Property Assets, or otherwise upgrading or improving any component of or condition affecting the Real Property Assets, is not a condition of Buyer’s obligation to purchase the Real Property Assets. Seller shall have no obligation to perform any such repairs or replacements, or to upgrade or improve any component of or condition affecting the Real Property Assets.
 - b. NOTWITHSTANDING ANY CONTRARY OR CONFLICTING PROVISION OF THIS CONTRACT, BUYER SHALL AT CLOSING ACCEPT THE REAL PROPERTY ASSETS AS IS, WHERE IS, AND SUBJECT TO ALL FAULTS, DEFECTS, AND OTHER CONDITIONS, KNOWN AND UNKNOWN, PATENT AND LATENT. SELLER MAKES NO WARRANTIES OR REPRESENTATIONS RELATING TO THE REAL PROPERTY ASSETS, THEIR CONDITION OR OPERATIONS, THE COST OR FEASIBILITY OF REPAIRING, RESTORING, OR UPGRADING THE REAL PROPERTY ASSETS, OR OTHER MATTERS EXCEPT THE WARRANTIES AND REPRESENTATIONS THAT ARE EXPRESSLY STATED IN THIS CONTRACT. SELLER DISCLAIMS ALL OTHER WARRANTIES, REPRESENTATIONS, AND GUARANTIES; AND BUYER AGREES NO OTHER WARRANTIES, REPRESENTATIONS, OR GUARANTIES FROM SELLER SHALL BE IMPLIED. BUYER BEARS ALL RISKS OF DEFECTS, FAULTS, AND OTHER

CONDITIONS OF THE REAL PROPERTY ASSETS.

6. Closing. The Closing shall occur no later than March 25, 2024, or at such other time as may be ordered by the Bankruptcy Court (the “**Closing Date**”). If the Buyer under this Contract is the Back-Up Bidder, then the Closing Date shall occur no later than fifteen (15) days after Seller notifies the Back-Up Bidder that the Successful Bidder has failed to close on the purchase of the Real Property Assets. Seller shall place Buyer in full possession of the Real Property Assets simultaneous with the Closing.
 - a. Closing will occur at the offices of Preferred Title, Inc.; 7777 Glades Road, Suite 400, Boca Raton, Florida 33434, or as otherwise agreed by Buyer and Seller in writing.
 - b. At Closing Seller shall convey fee simple title for the Real Property Assets to Buyer by a Quit Claim Deed and an Assignment of the Developer Rights and the Water Agreement, free and clear of all Liens in accordance with sections 363(b) and (f) of the Bankruptcy Code, subject to matters of record, including without implied limitation subject to: (1) comprehensive land use plans, zoning, building codes, bulkhead laws, ordinances, restrictions, prohibitions or regulations imposed by any applicable governmental authority, rights or interests vested in the United States of America or the state in which the Community is located; (2) real estate taxes and other taxes for the year of conveyance and subsequent years including taxes or assessments of any special taxing or community development district (including assessments relating to capital improvements and bonds); (3) the general printed exceptions contained in an owner's title insurance policy; (4) utility easements, sewer agreements, telephone agreements, cable agreements, telecommunications agreements, monitoring agreements, restrictions and reservations common to any plat affecting title to the Properties or otherwise common to the development in which the Properties are located; (5) matters that would be disclosed by an accurate survey or inspection of the Properties; (6) outstanding oil, gas and mineral rights of record without right-of-entry; (7) any laws and restrictions, covenants, conditions, limitations, reservations, agreements or easements recorded in the public records for the County (for example, use limitations and obligations, easements (right-of-way) and agreements relating to telephone, gas or electric lines, water and sewer lines and drainage; (8) minor encroachments on easements that do not substantially interfere with an easement holder's interest in the Properties; and (9) acts done or suffered by Buyer and any mortgage obtained by Buyer for the purchase of the Properties.
 - c. At Closing, Buyer and Seller will execute and deliver the documents required by this Contract, those authorized or directed in the Sale Order, and those necessary to accomplish the requirements and purposes of this Contract or to comply with applicable law. Without limiting the foregoing, Seller will execute and deliver an owner's affidavit in favor of Buyer and the Title Company, sufficient to allow deletion of the standard printed exceptions from the title insurance policy pursuant to Section 627.7842, *Florida Statutes*. The Parties will execute and deliver such documents, and take such other actions, as the Title Company may require, as may

be required by the Sale Order, or as may be appropriate for satisfying reasonable legal concerns. The Closing documents will incorporate the warranties and representations contained in this Contract and will otherwise meet Buyer's and Seller's reasonable approval.

- d. Notwithstanding any other provision of this Contract, time is of the essence with respect to the Closing Date. No grace period, notice, or tender shall be required as a condition to declaring Buyer in immediate default for failure timely to close.
7. Prorations. Taxes, special and general municipal assessments, any applicable special and general association dues or assessments, rent, and other expenses and revenues of the Real Property Assets shall be prorated through the day before the Closing. At Closing, payment of the Total Purchase Price shall be increased or decreased as may be required by these prorations. Taxes shall be prorated based on the current year's tax. If Closing occurs before the current year's tax is available, then taxes shall be prorated based on the prior year's tax. Further, if the Real Property Assets are a portion of a larger tax parcel, the Closing Agent will allocate the assessed taxes to the Real Property Assets based on reasonable criteria. Any tax proration based on an estimate may after Closing at the request of either Buyer or Seller be reconciled on receipt of the tax actual bill. Seller shall be at Closing charged an amount equal to the most recent estimate by the public body of any special assessments for public improvement that are, as of Closing, pending liens.
 8. Closing Expenses. Buyer will pay all costs of Closing and of transfer and conveyance of the Real Property Assets, including, without implied limitation, documentary stamps required to be affixed to the deed, the cost of recording all instruments required to be recorded, the title insurance premiums and charges for related title services, the fees and expenses of the Escrow and Closing Agent, and the costs and fees for Buyer's own attorneys, accountants, and consultants.
 9. Default and Remedies.
 - a. If the Closing fails to occur because of an unexcused default, misrepresentation, or breach of warranty by Buyer, or as the result of Buyer's default or unexcused failure to perform its obligations under this Contract, then Seller may elect to recover and retain the Deposit for account of the Seller as liquidated damages upon which this Agreement shall terminate, or, at Seller's option, may retain the Deposit and proceed in equity to enforce Seller's rights under this Contract. In any such event, Buyer shall continue to be liable under any provisions of this Contract that expressly survive the termination of this Contract. The portion of the Deposit, if any, paid to the Broker/Auctioneer and Realtor upon default by the Buyer, shall be paid to Broker/Auctioneer and Realtor pursuant to separate agreement between Seller and Broker/Auctioneer and Realtor, as approved by the Bankruptcy Court.
 - b. If the Closing fails to occur because this Contract is not approved by the Bankruptcy Court or if all of the contingencies set forth in this Contract are satisfied or waived in writing by Buyer, and Seller then fails, after the entry of the Approval Order, to close on the sale of the Real Property Assets to Buyer as required by this Contract, then

Buyer may, as its sole and exclusive remedy in law and in equity, receive a return of its Deposit and terminate this Contract by notice to Seller. Upon return of the Deposit as set forth herein, this Contract shall be terminated, except for the specific provisions as set forth in this Contract, and neither Party shall have any further obligations under this Contract, except Buyer shall not be relieved of any obligation hereunder which by its terms survives the termination of this Contract. In no event shall Buyer be entitled to seek specific performance of this Contract if the Court approves the sale of the Real Property Assets to a different Buyer in accordance with the Bid Procedures.

- c. This is a cash transaction and not contingent on financing. Buyer's failure to close on the purchase of the Properties will constitute a default by Buyer and the remedies available to Seller for Buyer's default under this Agreement shall apply.

10. Escrow Instructions. This Contract shall constitute the escrow instructions for the Escrow and Closing Agents. The Escrow and Closing Agents will hold and dispose of the Deposit in accordance with the following provisions and with other applicable provisions of this Contract.

- a. If any dispute arises concerning disposition of the Deposit, the Escrow and/or Closing Agent may retain the Deposit until receipt by the Escrow and/or Closing Agent of written instructions signed by both Parties directing the manner in which the Escrow and/or Closing Agent should dispose of the Deposit. The Escrow and/or Closing Agent may at any time, but is not required to, bring an action to interplead the Deposit pending a final determination of the disputants' rights.
- b. The Escrow and/or Closing Agent shall incur no liability to any person whomsoever in connection with the Deposit or actions taken or omissions occurring in connection with this Contract, except liability for the Escrow and/or Closing Agent's gross negligence or willful misconduct. Accordingly, the Escrow and/or Closing Agent shall not incur any liability with respect to (i) any action taken or omitted in good faith, including upon advice of its legal counsel given with respect to any questions relating to the duties and responsibilities of the Escrow and/or Closing Agent under this Contract, or (ii) any action taken or omitted in reliance on any instrument, not only as to its due execution and the validity and effectiveness of its provisions, but also as to the truth and accuracy of any information contained therein, which the Escrow and/or Closing Agent shall in good faith believe to be genuine, to have been signed or presented by a person or persons having authority to sign or present such instrument, and to conform with the provisions of this Contract.
- c. The Escrow and/or Closing Agent shall have no liability for the failure of any institution in which the Escrow and/or Closing Agent deposits the Deposit. The Deposit will not accrue interest while controlled by the Escrow and/or Closing Agent.

- d. The Parties, jointly and severally, agree to indemnify, defend, and hold the Escrow and/or Closing Agent harmless from all fines, penalties, claims, damages, losses, expenses (including without limitation court costs and reasonable attorneys' fees incurred by the Escrow and/or Closing Agent before all tribunals), obligations, or liabilities arising in connection with the handling or disposition of the Deposit. The Escrow and/or Closing Agent may reimburse itself from the Deposit all reasonable attorneys' fees and court costs incurred by the Escrow and/or Closing Agent in connection with judicial proceedings initiated by or on behalf of the Escrow and/or Closing Agent, including without limitation proceedings for further instructions or for interpleader.
 - e. If conflicting demands relating to this Contract are made upon the Escrow and/or Closing Agent, the Parties hereto expressly agree that the Escrow and/or Closing Agent shall have the absolute right to do either or both of the following: (i) withhold and stop all actions in performance of this escrow and await settlement of the controversy by final appropriate legal proceedings or as otherwise mutually directed in writing by Buyer and Seller; or (ii) file suit in declaratory relief or interpleader and obtain an order from the Bankruptcy Court requiring the Parties to interplead and litigate in such court their several claims and rights amongst themselves. Upon the filing of any such declaratory relief or interpleader suit and depositing with the Bankruptcy Court all funds deposited by the Parties under this Contract, the Escrow and/or Closing Agent shall thereupon be fully released and discharged from any and all obligations to further perform the duties or obligations imposed upon it by this Contract.
11. Eminent Domain. Promptly on learning of the institution of proceedings for the condemnation of any part of the Real Property Assets, Seller or Buyer will notify the other of those proceedings. In the event of the condemnation of any portion of the Real Property Assets or the transfer of any portion of the Real Property Assets in lieu of condemnation, then the Buyer may terminate this Contract by delivering notice in writing to Seller, in which event the Deposit shall be returned to Buyer; or Buyer may elect to honor and enforce this Contract, in which event at Closing Seller will transfer to Buyer all proceeds theretofore received by Seller from the pending condemnation, and will also transfer to Buyer all other right, claim, and interest of Seller with respect to the condemnation proceeds.
12. Notices. All notices, elections and other communications permitted or required in this Contract ("**Notice**") will be in writing, signed by the Party making the Notice, and will be: (i) delivered personally, or (ii) sent by reputable overnight delivery service or by registered or certified mail, return receipt requested, or (iii) transmitted by email (with a copy via one of the other aforesaid means) to the other Party at the addresses provided in this Contract. The date of Notice will be the date of personal delivery, consignment for overnight delivery, mailing, or email, as the case may be, unless otherwise specified herein. Notices delivered by or to the attorney for a Party through one of the methods listed above will be deemed given by or to, as the case may be, the applicable Party.

Any Notice to Escrow Agent will be addressed as follows: Shapiro Blasi Wasserman & Hermann, P.A.; 7777 Glades Road, Suite 400, Boca Raton, Florida 33434; Attn: Linley B. Schatzman, Esq., lschatzman@sbwh.law, and Matthew Kish, Esq., mkish@sbwh.law.

Any Notice to the Closing Agent will be addressed as follows: Preferred Title, Inc.; 7777 Glades Road, Suite 400, Boca Raton, Florida 33434; Attn: Linley B. Schatzman, Esq., lschatzman@sbwh.law.

Any Notice to the Seller will be addressed as follows: via Seller's Counsel, Shapiro Blasi Wasserman & Hermann, P.A.; 7777 Glades Road, Suite 400, Boca Raton, Florida 33434; Attn: Matthew Kish, Esq., mkish@sbwh.law.

Any Notice to the Buyer will be addressed as follows:

13. **Risk of Loss.** During the term of this Contract, Seller shall bear all risk of loss or damage to the Real Property Assets. If prior to closing the Real Property Assets or any portion of it is lost, damaged or destroyed, Seller may in its sole discretion, elect not to restore the damage to the Real Property Assets. If Seller elects not to restore the Real Property Assets at Seller's expense, then Buyer may terminate this Contract and obtain the return of the Deposit by delivering notice of termination to Seller within ten (10) days of receiving Seller's notice that it elects not to restore the Real Property Assets.
14. **Buyer's Premium.** At Closing, in addition to all other amounts Buyer must pay pursuant to this Contract, Buyer shall pay a commission to both Broker/Auctioneer and Realtor equal to six percent (6%) of the Purchase Price ("Buyer's Premium") to split evenly between the Broker/Auctioneer, the Realtor, and a Buyer's Broker (at two percent 2% each), if any. If there is no Buyer's Broker, the Broker/Auctioneer and Realtor shall retain the six percent (6%). The Buyer's Premium is to be paid by the Buyer in addition to the Purchase Price and therefore the Purchase Price together with the Buyer's Premium shall constitute the "Total Purchase Price" as defined in paragraphs 1(u) and 3(b) above. Buyer shall indemnify and hold the Seller harmless from the claims of any other broker or finder claiming through the Buyer. The provisions of this Section shall survive the Closing and any termination of this Contract. The Buyer's Premium shall be allocated as set forth in the Bid Procedures Order, the Sale Order, or other applicable orders of the Bankruptcy Court.
15. **Successors and Assigns.** Buyer will have such rights to assign this Contract as are granted by the Sale Order, subject to the conditions and requirements of the Sale Order. If the Sale Order is silent concerning Buyer's right to assign this Contract, Buyer will have no right to assign this Contract without first receiving Seller's consent to assign.
 - a. In the event of Buyer's assignment of this Contract, Buyer shall remain liable in all respects for performance of, and all obligations and liabilities arising from, this Contract.

- b. This Contract shall inure to the benefit of and shall be binding upon the Parties and their respective heirs, personal representatives, successors and assigns.
 - c. If either Party consists of more than one person, all such persons shall be jointly and severally liable under this Contract.
16. Counterparts. This Contract may be executed in multiple counterparts. The signature of any Party to a counterpart shall be deemed to be the signature to, and may be appended to, any other counterpart. A Party shall be bound by this Contract by executing a counterpart hereof, then transmitting the executed counterpart to the other Parties via email in .pdf or similar format.
17. Rules of Construction.
- a. As used in this Contract: (i) words in the singular shall be held to include the plural and vice versa, (ii) words of one gender shall be held to include the other genders as the context requires, (iii) the terms “hereof”, “herein” and “herewith” and words of similar import shall, unless otherwise stated, be construed to refer to this Contract and not to any particular provision of this Contract, (iv) references to Section, paragraph, Exhibit and Schedule are references to the Sections, paragraphs, Exhibits and Schedules of this Agreement, unless otherwise specified, (v) Section headings in this Contract are solely for convenience of reference, and are not intended to be a part of or to affect the meaning or interpretation of this Contract, (vi) the word “including” and words of similar import when used in this Contract, shall mean “including, without limitation,” unless otherwise specified, and (vii) the word “or” shall not be exclusive.
 - b. Each Party and its counsel have reviewed this Contract. The normal rule of construction to the effect that any ambiguities are to be resolved against the drafting Party shall not be employed in the interpretation of this Contract or of any amendments or exhibits to this Contract.
 - c. Time is of the essence of this Contract. The time in which any act is to be done under this Contract is computed by excluding the first day and including the last day, unless the last day is not a Business Day in which case that day is also excluded. Unless otherwise expressly provided for herein to the contrary, time periods of five days or less will be Business Days and time periods of five days or more will be calendar days. “**Business Days**” means all days other than Saturday, Sunday, and federal holidays. Federal holidays will include the day immediately following Thanksgiving Day, the day immediately following Christmas Day, and the day immediately following New Years Day. Each time period shall expire at 5:00 P.M. Eastern Time on the last day of the applicable time period.
18. Attorneys' Fees. If either Party initiates or is made a Party to legal proceedings (whether judicial, administrative, declaratory, in arbitration, or otherwise) in connection with this Contract, then the nonprevailing Party in those proceedings will pay the costs and

reasonable attorney's fees, including the costs and reasonable attorney's fees of appellate proceedings, incurred by the prevailing Party. This obligation to pay reasonable attorney's fees and costs will apply also to settlements of disputes and to collection efforts.

19. Miscellaneous.

- a. This Contract may not be amended except by an instrument in writing signed on behalf of each Party.
- b. The Deposit, Purchase Price, Total Purchase Price and other payments due from Buyer under this Contract shall be remitted in immediate funds by federal wire transfer in accordance with wire transfer instructions provided by the required recipient, Seller, Escrow and/or Closing Agent, or Trustee.
- c. This Contract, together with the Schedules and other agreements referred to in this Contract, constitute the entire agreement between the Parties pertaining to the subject matter of this Contract and supersede all prior and contemporaneous agreements, understandings, negotiations and discussions, whether oral or written, of the Parties regarding such subject matter.
- d. Regardless of whether the transactions contemplated by this Contract are consummated, each Party shall pay its or their own costs and expenses, including legal costs and investment banking, accounting, consulting, and other professional fees, incurred in connection with the negotiation, preparation, investigation and performance by such Party of this Contract and the transactions contemplated under this Contract.
- e. This Contract shall not be recorded by Buyer. Any attempt to record this Contract or any memorandum hereof or any reference hereto by Buyer or any agent or representative of Buyer shall, at the sole option of Seller, constitute a material default by Buyer, in which event Escrow and/or Closing Agent shall deliver the Deposit to Seller and Buyer shall execute and deliver such documents, and take such other actions, as Seller may require in order to evidence of record that Buyer has no right, title, claim, or interest in the Real Property Assets.
- f. Seller and Buyer will, without additional consideration, sign, acknowledge, and deliver any other documents and take any other action necessary or appropriate and reasonably requested by the other to carry out the intent and purpose of this Contract.
- g. The determination that any covenant, agreement, condition or provision of this Contract, which is not necessary to the enjoyment by either Party of the benefit contemplated herein, is invalid and shall not affect the enforceability of the remaining covenants, agreements, conditions or provisions hereof and, in the event of any such determination, this Contract shall be construed as if such invalid covenant, agreement, condition or provision were not included herein.

- h. No failure or delay of either Party in the exercise of any right given to such Party hereunder shall constitute a waiver thereof unless the time specified herein for exercise of such right has expired, nor shall any single or partial exercise of any right preclude any other or further exercise thereof or of any other right. The waiver of any breach hereunder shall not be deemed to be a waiver of any other or any subsequent breach hereof.
 - i. The Parties neither intend to confer any benefit hereunder on any Person other than the Parties hereto, nor shall any such third party have any rights hereunder.
 - j. This Contract shall be governed by, construed, interpreted and the rights of the Parties determined in accordance with the laws of the State of Florida without reference to its choice or conflicts of laws principles. Each Party: (i) irrevocably submits to the jurisdiction of the Bankruptcy Court; (ii) waives any objection to laying venue in any such action or proceeding in the Bankruptcy Court; (iii) waives any objection that the Bankruptcy Court is an inconvenient forum or does not have jurisdiction over any Party; and (iv) agrees that service of process upon such Party in any such action or proceeding shall be effective if given in accordance with the notice provisions of this Contract.
 - k. BUYER AND SELLER HEREBY EACH WAIVE THE RIGHT TO A TRIAL BY JURY IN ANY ACTION OR PROCEEDING BASED UPON, OR RELATED TO, THE SUBJECT MATTER OF THIS CONTRACT.
 - l. Buyer acknowledges receipt of the Bid Procedures Order and represents that it has either had its counsel review and advise Buyer regarding the terms of the Bid Procedures Order, or that Buyer has had the opportunity to have counsel review the Bid Procedures Order. Buyer agrees to be bound by the terms and conditions of the Bid Procedures Order and the Bid Procedures approved thereby. Any omission from this Contract of any condition, obligation, or requirement contained in the Bid Procedures Order shall not relieve Buyer of such condition, obligation, or requirement. Buyer acknowledges that it is entering into this Contract, and upon the Closing shall take the Real Property Assets, subject to the terms, conditions, and requirements of the Bid Procedures Order, and the Sale Order.
20. Exhibits. The following Exhibits referenced elsewhere in this Contract are attached hereto and incorporated herein by reference:
- a. **Exhibit "A"**, Description of the Real Property Assets.
 - b. **Exhibit "B"**, Bid Procedures Order.

[The Parties have signed on the following page.]

IN WITNESS WHEREOF, the Parties have executed this Contract on the dates stated under their respective signatures.

SELLER:

Cactus Land Holdings, Inc.

By: _____

Print name: Jack Rust, Jr.

As its: _____

Date: _____, 2024

BUYER:

By: _____

Print name:

As its: _____

Date: _____, 2024

EXHIBIT "A"

DESCRIPTION OF THE REAL PROPERTY ASSETS

EXHIBIT "A"

Parcel ID	Legal Description	Property Address	City	State	Zip
28 20 26 1300 000 00100	ASTATULA MEADOWS SUB LOTS 1 2 PB 49 PG 27-31 ORB 4403 PG 1660	25001 ALAMANDA DR	ASTATULA	FL	34705
28 20 26 1300 000 00300	ASTATULA MEADOWS SUB LOTS 3 4 PB 49 PG 27-31 ORB 4403 PG 1660	25013 ALAMANDA DR	ASTATULA	FL	34705
28 20 26 1300 000 00700	ASTATULA MEADOWS SUB LOTS 7 8 PB 49 PG 27-31 ORB 4403 PG 1660	25037 ALAMANDA DR	ASTATULA	FL	34705
28 20 26 1300 000 05500	ASTATULA MEADOWS SUB LOT 55 PB 49 PG 27-31 ORB 4403 PG 1660	25115 GOLD RUSH CT	ASTATULA	FL	34705
28 20 26 1300 000 06800	ASTATULA MEADOWS SUB LOT 68 PB 49 PG 27-31 ORB 4403 PG 1660	25132 SPANISH MOSS CIR	ASTATULA	FL	34705
28 20 26 1300 000 06900	ASTATULA MEADOWS SUB LOT 69 PB 49 PG 27-31 ORB 4403 PG 1660	25136 SPANISH MOSS CIR	ASTATULA	FL	34705
28 20 26 1300 000 07000	ASTATULA MEADOWS SUB LOT 70 PB 49 PG 27-31 ORB 4403 PG 1660	25140 SPANISH MOSS CIR	ASTATULA	FL	34705
28 20 26 1300 000 07200	ASTATULA MEADOWS SUB LOT 72 PB 49 PG 27-31 ORB 4403 PG 1660	25148 SPANISH MOSS CIR	ASTATULA	FL	34705
28 20 26 1300 000 07300	ASTATULA MEADOWS SUB LOT 73 PB 49 PG 27-31 ORB 4403 PG 1660	25152 SPANISH MOSS CIR	ASTATULA	FL	34705
28 20 26 1300 000 07400	ASTATULA MEADOWS SUB LOT 74 PB 49 PG 27-31 ORB 4403 PG 1660	25156 SPANISH MOSS CIR	ASTATULA	FL	34705
28 20 26 1300 000 07500	ASTATULA MEADOWS SUB LOT 75 PB 49 PG 27-31 ORB 4403 PG 1660	25160 SPANISH MOSS CIR	ASTATULA	FL	34705
28 20 26 1300 000 07700	ASTATULA MEADOWS SUB LOT 77 PB 49 PG 27-31 ORB 4403 PG 1660	25104 SPANISH MOSS CIR	ASTATULA	FL	34705
28 20 26 1300 000 07800	ASTATULA MEADOWS SUB LOT 78 PB 49 PG 27-31 ORB 4403 PG 1660	25108 SPANISH MOSS CIR	ASTATULA	FL	34705
28 20 26 1300 000 08000	ASTATULA MEADOWS SUB LOT 80 PB 49 PG 27-31 ORB 4403 PG 1660	25116 SPANISH MOSS CIR	ASTATULA	FL	34705
28 20 26 1300 000 08300	ASTATULA MEADOWS SUB LOT 83 PB 49 PG 27-31 ORB 4403 PG 1660	25128 SPANISH MOSS CIR	ASTATULA	FL	34705
28 20 26 1300 000 09300	ASTATULA MEADOWS SUB LOT 93 PB 49 PG 27-31 ORB 4403 PG 1660	25113 SPANISH MOSS CIR	ASTATULA	FL	34705
28 20 26 1300 000 09400	ASTATULA MEADOWS SUB LOT 94 PB 49 PG 27-31 ORB 4403 PG 1660	14033 RED CEDAR WAY	ASTATULA	FL	34705
28 20 26 1300 000 09500	ASTATULA MEADOWS SUB LOT 95 PB 49 PG 27-31 ORB 4403 PG 1660	14027 RED CEDAR WAY	ASTATULA	FL	34705
28 20 26 1300 000 09600	ASTATULA MEADOWS SUB LOT 96 PB 49 PG 27-31 ORB 4403 PG 1660	14023 RED CEDAR WAY	ASTATULA	FL	34705
28 20 26 1300 000 10000	ASTATULA MEADOWS SUB LOT 100 PB 49 PG 27-31 ORB 4403 PG 1660	14018 STAG HORN CT	ASTATULA	FL	34705
28 20 26 1300 000 10300	ASTATULA MEADOWS SUB LOT 103 PB 49 PG 27-31 ORB 4403 PG 1660	25122 ALAMANDA DR	ASTATULA	FL	34705
28 20 26 1300 000 10400	ASTATULA MEADOWS SUB LOT 104 PB 49 PG 27-31 ORB 4403 PG 1660	25128 ALAMANDA DR	ASTATULA	FL	34705
28 20 26 1300 000 10500	ASTATULA MEADOWS SUB LOT 105 PB 49 PG 27-31 ORB 4403 PG 1660	25134 ALAMANDA DR	ASTATULA	FL	34705
28 20 26 1300 000 10600	ASTATULA MEADOWS SUB LOT 106 PB 49 PG 27-31 ORB 4403 PG 1660	25140 ALAMANDA DR	ASTATULA	FL	34705
28 20 26 1300 000 10700	ASTATULA MEADOWS SUB LOT 107--LESS BEG AT NW COR OF LOT 107 RUN S 89-51-34 E ALONG N LINE 12 FT S 0-12-05 W 711.11 FT TO S LINE OF SAID LOT 107 N 89-51-34 W ALONG SAID S LINE 12 FT TO W LINE OF LOT 107 N 0-12-05 E 71.11 FT TO POB--PB 49 PG 27-31 ORB 4403 PG 1660	25133 HUCKLEBERRY WAY	ASTATULA	FL	34705
28 20 26 1300 000 11100	ASTATULA MEADOWS SUB LOT 111 PB 49 PG 27-31 ORB 4403 PG 1660	25124 HUCKLEBERRY WAY	ASTATULA	FL	34705
28 20 26 1300 000 11300	ASTATULA MEADOWS SUB LOT 113 PB 49 PG 27-31 ORB 4403 PG 1660	25136 HUCKLEBERRY WAY	ASTATULA	FL	34705
28 20 26 1300 000 11600	ASTATULA MEADOWS SUB LOT 116 PB 49 PG 27-31 ORB 4403 PG 1660	25139 BUTTONWOOD DR	ASTATULA	FL	34705
28 20 26 1300 000 11700	ASTATULA MEADOWS SUB LOT 117 PB 49 PG 27-31 ORB 4403 PG 1660	25133 BUTTONWOOD DR	ASTATULA	FL	34705
28 20 26 1300 000 12000	ASTATULA MEADOWS SUB LOT 120 PB 49 PG 27-31 ORB 4403 PG 1660	25120 BUTTONWOOD DR	ASTATULA	FL	34705
28 20 26 1300 000 12100	ASTATULA MEADOWS SUB LOT 121 PB 49 PG 27-31 ORB 4403 PG 1660	25126 BUTTONWOOD DR	ASTATULA	FL	34705
28 20 26 1300 000 12200	ASTATULA MEADOWS SUB LOT 122 PB 49 PG 27-31 ORB 4403 PG 1660	25132 BUTTONWOOD DR	ASTATULA	FL	34705
28 20 26 1300 000 12400	ASTATULA MEADOWS SUB LOT 124 PB 49 PG 27-31 ORB 4403 PG 1660	25144 BUTTONWOOD DR	ASTATULA	FL	34705
28 20 26 1300 000 12500	ASTATULA MEADOWS SUB LOT 125 PB 49 PG 27-31 ORB 4403 PG 1660	25150 BUTTONWOOD DR	ASTATULA	FL	34705
28 20 26 1300 000 12700	ASTATULA MEADOWS SUB LOT 127 PB 49 PG 27-31 ORB 4403 PG 1660	14210 MORNING GLORY WAY	ASTATULA	FL	34705
28 20 26 1300 000 12800	ASTATULA MEADOWS SUB LOT 128 PB 49 PG 27-31 ORB 4403 PG 1660	14216 MORNING GLORY WAY	ASTATULA	FL	34705

EXHIBIT "A"

Parcel ID	Legal Description	Property Address	City	State	Zip
28 20 26 1300 000 12900	ASTATULA MEADOWS SUB LOT 129 PB 49 PG 27-31 ORB 4403 PG 1660	14222 MORNING GLORY WAY	ASTATULA	FL	34705
28 20 26 1300 000 13000	ASTATULA MEADOWS SUB LOT 130 PB 49 PG 27-31 ORB 4403 PG 1660	14228 MORNING GLORY WAY	ASTATULA	FL	34705
28 20 26 1300 000 13100	ASTATULA MEADOWS SUB LOT 131 PB 49 PG 27-31 ORB 4403 PG 1660	14234 MORNING GLORY WAY	ASTATULA	FL	34705
28 20 26 1300 000 13200	ASTATULA MEADOWS SUB LOT 132 PB 49 PG 27-31 ORB 4403 PG 1660	14240 MORNING GLORY WAY	ASTATULA	FL	34705
28 20 26 1300 000 13300	ASTATULA MEADOWS SUB LOT 133 PB 49 PG 27-31 ORB 4403 PG 1660	25207 FAIR ST	ASTATULA	FL	34705
28 20 26 1300 000 13400	ASTATULA MEADOWS SUB LOT 134 PB 49 PG 27-31 ORB 4403 PG 1660	25201 FAIR ST	ASTATULA	FL	34705
28 20 26 1300 000 13500	ASTATULA MEADOWS SUB LOT 135 PB 49 PG 27-31 ORB 4403 PG 1660	14251 TASSLEFLOWER CT	ASTATULA	FL	34705
28 20 26 1300 000 13700	ASTATULA MEADOWS SUB LOT 137 PB 49 PG 27-31 ORB 4403 PG 1660	14211 TASSLEFLOWER CT	ASTATULA	FL	34705
28 20 26 1300 000 13800	ASTATULA MEADOWS SUB LOT 138 PB 49 PG 27-31 ORB 4403 PG 1660	14207 TASSLEFLOWER CT	ASTATULA	FL	34705
28 20 26 1300 000 13900	ASTATULA MEADOWS SUB LOT 139 PB 49 PG 27-31 ORB 4403 PG 1660	14201 TASSLEFLOWER CT	ASTATULA	FL	34705
28 20 26 1300 000 14000	ASTATULA MEADOWS SUB LOT 140 PB 49 PG 27-31 ORB 4403 PG 1660	14202 TASSLEFLOWER CT	ASTATULA	FL	34705
28 20 26 1300 000 14200	ASTATULA MEADOWS SUB LOT 142 PB 49 PG 27-31 ORB 4403 PG 1660	14214 TASSLEFLOWER CT	ASTATULA	FL	34705
28 20 26 1300 000 14300	ASTATULA MEADOWS SUB LOT 143 PB 49 PG 27-31 ORB 4403 PG 1660	14220 TASSLEFLOWER CT	ASTATULA	FL	34705
28 20 26 1300 000 14400	ASTATULA MEADOWS SUB LOT 144 PB 49 PG 27-31 ORB 4403 PG 1660	14226 TASSLEFLOWER CT	ASTATULA	FL	34705
28 20 26 1300 000 14500	ASTATULA MEADOWS SUB LOT 145 PB 49 PG 27-31 ORB 4403 PG 1660	14232 TASSLEFLOWER CT	ASTATULA	FL	34705
28 20 26 1300 000 14600	ASTATULA MEADOWS SUB LOT 146 PB 49 PG 27-31 ORB 4403 PG 1660	14240 TASSLEFLOWER CT	ASTATULA	FL	34705
28 20 26 1300 000 14700	ASTATULA MEADOWS SUB LOT 147 PB 49 PG 27-31 ORB 4403 PG 1660	14246 TASSLEFLOWER CT	ASTATULA	FL	34705
28 20 26 1300 000 14800	ASTATULA MEADOWS SUB LOT 148 PB 49 PG 27-31 ORB 4403 PG 1660	14252 TASSLEFLOWER CT	ASTATULA	FL	34705
28 20 26 1300 000 14900	ASTATULA MEADOWS SUB LOT 149 PB 49 PG 27-31 ORB 4403 PG 1660	14229 MISTLETOE WAY	ASTATULA	FL	34705
28 20 26 1300 000 15000	ASTATULA MEADOWS SUB LOT 150 PB 49 PG 27-31 ORB 4403 PG 1660	14223 MISTLETOE WAY	ASTATULA	FL	34705
28 20 26 1300 000 15100	ASTATULA MEADOWS SUB LOT 151 PB 49 PG 27-31 ORB 4403 PG 1660	14217 MISTLETOE WAY	ASTATULA	FL	34705
28 20 26 1300 000 15200	ASTATULA MEADOWS SUB LOT 152 PB 49 PG 27-31 ORB 4403 PG 1660	14211 MISTLETOE WAY	ASTATULA	FL	34705
28 20 26 1300 000 15300	ASTATULA MEADOWS SUB LOT 153 PB 49 PG 27-31 ORB 4403 PG 1660	14205 MISTLETOE WAY	ASTATULA	FL	34705
28 20 26 1300 000 15400	ASTATULA MEADOWS SUB LOT 154 PB 49 PG 27-31 ORB 4403 PG 1660	25131 SPANISH MOSS CIR	ASTATULA	FL	34705
28 20 26 1300 000 15500	ASTATULA MEADOWS SUB LOT 155 PB 49 PG 27-31 ORB 4403 PG 1660	14241 MORNING GLORY WAY	ASTATULA	FL	34705
28 20 26 1300 000 15600	ASTATULA MEADOWS SUB LOT 156 PB 49 PG 27-31 ORB 4403 PG 1660	14237 MORNING GLORY WAY	ASTATULA	FL	34705
28 20 26 1300 000 15700	ASTATULA MEADOWS SUB LOT 157 PB 49 PG 27-31 ORB 4403 PG 1660	14233 MORNING GLORY WAY	ASTATULA	FL	34705
28 20 26 1300 000 15800	ASTATULA MEADOWS SUB LOT 158 PB 49 PG 27-31 ORB 4403 PG 1660	14229 MORNING GLORY WAY	ASTATULA	FL	34705
28 20 26 1300 000 16100	ASTATULA MEADOWS SUB LOT 161 PB 49 PG 27-31 ORB 4403 PG 1660	14211 MORNING GLORY WAY	ASTATULA	FL	34705
28 20 26 1300 000 16200	ASTATULA MEADOWS SUB LOT 162 PB 49 PG 27-31 ORB 4403 PG 1660 ORB 5707 PG 1215	14205 MORNING GLORY WAY	ASTATULA	FL	34705
28 20 26 1300 000 16500	ASTATULA MEADOWS SUB LOT 165 PB 49 PG 27-31 ORB 4403 PG 1660	25213 BUTTONWOOD DR	ASTATULA	FL	34705
28 20 26 1300 000 16700	ASTATULA MEADOWS SUB LOT 167 PB 49 PG 27-31 ORB 4403 PG 1660	25201 BUTTONWOOD DR	ASTATULA	FL	34705
28 20 26 1300 000 16900	ASTATULA MEADOWS SUB LOT 169 PB 49 PG 27-31 ORB 4403 PG 1660	25149 ALAMANDA DR	ASTATULA	FL	34705
28 20 26 1300 000 17000	ASTATULA MEADOWS SUB LOT 170 PB 49 PG 27-31 ORB 4403 PG 1660	25145 ALAMANDA DR	ASTATULA	FL	34705
28 20 26 1300 000 17100	ASTATULA MEADOWS SUB LOT 171 PB 49 PG 27-31 ORB 4403 PG 1660	25141 ALAMANDA DR	ASTATULA	FL	34705
28 20 26 1300 000 17200	ASTATULA MEADOWS SUB LOT 172 PB 49 PG 27-31 ORB 4403 PG 1660	25135 ALAMANDA DR	ASTATULA	FL	34705
28 20 26 1300 000 17300	ASTATULA MEADOWS SUB LOT 173 PB 49 PG 27-31 ORB 4403 PG 1660	25131 ALAMANDA DR	ASTATULA	FL	34705
28 20 26 1300 000 17700	ASTATULA MEADOWS SUB LOT 177 PB 49 PG 27-31 ORB 4403 PG 1660	25109 ALAMANDA DR	ASTATULA	FL	34705

EXHIBIT "B"
BID PROCEDURES ORDER



ORDERED in the Southern District of Florida on January 11, 2024.

Peter D. Russin

Peter D. Russin, Judge
United States Bankruptcy Court

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF FLORIDA

In re:

CACTUS LAND HOLDINGS, INC.,

Debtor.

CASE NO.: 23-19135-PDR
Chapter 11
Subchapter V Election

**AMENDED¹ ORDER GRANTING DEBTOR'S
EXPEDITED MOTION TO AUTHORIZE SALE OF CERTAIN
REAL PROPERTY ASSETS FREE AND CLEAR OF ALL LIENS,
CLAIMS, AND ENCUMBRANCES, TO APPROVE OF AUCTION AND
BIDDING PROCEDURES, TO APPROVE THE FORM AND MANNER OF
NOTICE IN CONNECTION THEREWITH, AND FOR OTHER RELATED RELIEF**

THIS MATTER came before the Court on December 21, 2023, at 2:30 P.M., as continued to January 3, 2023, at 2:30 P.M. (collectively, the "Hearing") upon Debtor's *Expedited Motion to Authorize Sale of Certain Real Property Assets Free and Clear of All Liens, Claims, and Encumbrances, to Approve of Auction and Bidding Procedures, to Approve the Form and Manner of Notice in Connection Therewith, and for other Related Relief* (the "Sale Motion")

¹ Amended to include hearing location for Status Conference, as noted in Par. 25.

[ECF # 48], as supplemented [ECF # 56].

In the Sale Motion, the Debtor seeks on an expedited basis, among other things, authorization to sell certain Real Property Assets² free and clear of all liens, claims, encumbrances, and interests, the approval of certain bidding procedures, auction sales processes, the ability to offer certain stalking horse Bid Protections (as defined below) to a potential “Stalking Horse Bidder,” in conjunction therewith, and other related relief. The Court, having considered the Sale Motion, having found that good and sufficient cause exists in support of the expedited relief granted herein and that such relief is in the best interest of the Debtor, its creditors, estate, and all other parties in interest,

ORDERS as follows:

1. The findings and conclusions set forth herein constitute the Court’s findings of fact and conclusions of law pursuant to Rule 7052,³ made applicable herein pursuant to Rule 9014.
2. To the extent any findings of fact in this Order constitute conclusions of law, they are adopted as such. To the extent any of the conclusions of law in this Order constitute findings of fact, they are adopted as such.
3. The Sale Motion is GRANTED as set forth herein.
4. All objections to entry of this Order or to the relief provided herein that have not been withdrawn, waived, resolved or settled, and all reservations of rights included therein, are hereby overruled in all respects on the merits.

Bidding Procedures and Stalking Horse Bid Protections

5. The Bidding Procedures annexed hereto and incorporated herein by reference as

² Capitalized terms used but not defined herein have the meanings given to such terms in the Sale Motion.

³ All references to “Chapter” and “Section” refer to the Bankruptcy Code appearing in Title 11 of the United States Code; all references to a “Rule” refer to the Federal Rules of Bankruptcy Procedure; and all references to a “Local Rule” refer to the Local Rules of the U.S. Bankruptcy Court for the Southern District of Florida.

Exhibit “A” (the “Bidding Procedures”) are fair and reasonable and are hereby approved in connection with the proposed sale of the Real Property Assets. The Debtor is authorized and directed to act in accordance with the Bidding Procedures, which shall be binding upon all parties-in-interest in this Chapter 11 case.

6. Any Qualified Bidder desiring to qualify as a Bidder for the Sale, shall submit the items described within the Bidding Procedures **no later than 5:00 PM ET, on Tuesday, March 5, 2024** (the “Auction Qualification Deadline”).

7. The online-only Auction will be conducted on **Thursday, March 7, 2024, commencing at 11:00 AM ET and ending at 1:00PM ET, subject to any time extensions** (the “Auction”).

8. The Auction will be conducted by Fisher Auction Company, acting on behalf of the Debtor, and shall conduct an online-only Auction of the Real Property Assets via the Fisher Auction Company bidding platform. Only Qualified Bidders (including any Stalking Horse Bidder) will be entitled to participate in the Auction. The Auction shall be conducted in accordance with the Bidding Procedures attached to this Order as **Exhibit “A.”**

9. The Debtor shall file a Notice as to the outcome of the Auction before the close of business on the Auction Date, which shall include the Successful Bidder and the Back-Up Bidder.

10. In the event that this Court approves a Stalking Horse Bidder and such Stalking Horse Bidder is not the Successful Bidder for the Real Property Assets, the Debtor may contemplate payment to the Stalking Horse Bidder a Break-up Fee in the amount of 2% of the Stalking Horse Bid Price, subject to approval by the Court, provided that the Real Property Assets are sold to a Winning Bidder other than the Stalking Horse Bidder and provided further

that the Stalking Horse Bidder is not then in material default with its agreement with the Debtor (the “Stalking Horse Agreement”).

11. In the event that the Forman Trust (as defined below) is the Successful Bidder for any amount up to the full amount of its Allowed Credit Bid (as defined below), then no fees shall be due from the Forman Trust, the Debtor or its estate to the Realtor or the Broker/Auctioneer and the Debtor’s principal, Jack “Jay” Rust, Jr. (“Mr. Rust”), who has consented to the Court’s jurisdiction to the extent necessary to enforce this paragraph 11, will pay to the Broker/Auctioneer and Realtor, jointly, the total liquidated amount of \$12,000.00 to cover their marketing expenses.

12. The Debtor’s proposed payment of the Break-up Fee to the Stalking Horse Bidder set forth above and in accordance with the terms set forth in any Stalking Horse Agreement is: (A) of substantial benefit to the Debtor’s estate; (B) reasonable and appropriate in light of the size and nature of the sale and the efforts that have been and will be expended by the Stalking Horse Bidder notwithstanding that the proposed sale is subject to higher or better offers; and (C) necessary to ensure that the Stalking Horse Bidder will continue to pursue its proposed acquisition of the Real Property Assets.

13. The Successful Bidder (as defined in the Bidding Procedures) will not need to pay document stamp taxes to the extent they may not be exempted pursuant to Section 1146(a) in connection with the confirmation of Debtor’s Plan of Reorganization, in which case such taxes will constitute an expense of the bankruptcy estate.

Sale Hearing

14. The Sale Hearing shall be held on **March 8, 2024, at 1:30 P.M. ET** (the “Sale Hearing”), or as soon thereafter as counsel and interested parties may be heard before the

Honorable Judge Peter D. Russin, at the **U.S. Courthouse, 299 E Broward Blvd., Courtroom 301, Ft Lauderdale, FL 33301.** Although the Court will conduct the hearing in person, the Court has specific guidelines on the Court's webpage (<https://www.flsb.uscourts.gov/judges/judge-peter-d-russin>) regarding who may attend remotely.

15. All participants (whether attending in person or remotely) must observe the formalities of the courtroom, exercise civility, and otherwise conduct themselves in a manner consistent with the dignity of the Court. This includes appropriate courtroom attire for those participating in person or by video.

Objections

16. Objections, if any, to the Sale Motion and Notice as to the outcome of the Auction, including objections with respect to the proposed sale of any portion of the Real Estate Assets to the Successful Bidder in accordance therewith, and objections to any bids, bidders, Auction results, and any proposed sale price must: (A) be in writing; (B) set forth the nature of the objector's claims against or interest in the Debtor's estate, and the basis for the objection and the specific grounds therefore; (C) comply with the Rules, the Local Rules, and all Orders of this Court; and (D) be filed with the Court and served upon the Debtor, the Stalking Horse Bidder, the United States Trustee for the Southern District of Florida, the Sub-V Trustee, and the Notice Parties so as to be RECEIVED **no later three (3) business days prior to the Sale Hearing** (the "Objection Deadline").

17. Only timely filed and served responses, objections, or other pleadings will be considered by this Court at the Sale Hearing. The failure of any person or entity to timely file its objection shall be a bar to the assertion, at the Sale Hearing or thereafter, of any objection to the Sale Motion, the Sale or the consummation and performance of the Stalking Horse Agreement,

or any other Purchase and Sale Agreement (“PSA” as further defined in the Bidding Procedures) governing the sale of the Real Property Assets.

Notice

18. Interested party, Meadows of Astatula Homeowners Association, Inc. (the “HOA”) has – both through its counsel / registered agent, James L. Homich, Esq. (621 E. Fifth Avenue, Mount Dora, FL 32757), and at the mailing address currently listed with the Florida Division of Corporations for the HOA (P. O. Box 492228, Leesburg, FL 34749) – been properly served with: (A) the Sale Motion [ECF # 48], (B) the Notices of the Hearing on the Sale Motion [ECF ## 49, 62], (C) the Debtor’s Supplement In Support of the Sale Motion [ECF # 56], (D) the Forman Trust’s Motion for Judicial Notice, with respect to the Sale Motion [ECF # 58], and (E) the Notice of Hearing on the Forman Trust’s Motion for Judicial Notice [ECF # 59]. Notwithstanding, the HOA and its legal counsel have not appeared in these proceedings, nor have they lodged any objections to the Sales Motion or the Motion for Judicial Notice.

19. Accordingly, the Court finds that good and sufficient notice of the relief sought in the Sale Motion has been given in accordance with Bankruptcy Rule 2002, and any requirements for other or further notice shall be waived and dispensed with pursuant to Rules 2002, 6004, 6006 and 9007 and pursuant to this Court’s powers under Section 105. A reasonable opportunity to object or be heard regarding the relief requested in the Sale Motion (including, without limitation, with respect to the proposed Bidding Procedures, the Break-Up Fee and the other relief sought by the Sale Motion) has been afforded to all parties-in-interest. The proposed notice and procedures with respect to the Debtor’s proposed sale to the Successful Bidder of the Real Estate Assets, as described in the Sale Motion are appropriate and reasonably calculated to provide all interested parties with timely and proper notice and are hereby approved in all

respects.

20. Upon entry, the Debtor shall serve a copy of this Order as required by applicable rules of this Court, including service upon: (A) the Office of the United States Trustee for the Southern District of Florida; (B) the Sub V Trustee; (C) counsel to the Stalking Horse Bidder, if any; (D) all parties known to be asserting a lien in the Debtor's assets, including Miles Austin Forman and Hamilton Collins Forman, Jr., as Trustees of the Hamilton C. Forman Grandchildren's Trust dated January 11, 2010 (the "Forman Trust") and the Meadows Homeowners' Association, Inc. ("HOA"); (E) various federal and state tax authorities, including the Internal Revenue Service; (F) all parties listed on the Court's official mailing matrix, (G) any party that has expressed, in writing to the Debtor, an interest in acquiring the Real Property Assets.

Forman Trust First Priority Secured Claim

21. Debtor entered into a Balloon Promissory Note (the "Promissory Note") with the Hamilton C. Forman Grandchildren's Trust, dated January 11, 2010 (the "Forman Trust"). The Promissory Note is secured by a Mortgage and Security Agreement (the "Mortgage") dated January 3, 2020, which was duly recorded on January 14, 2020 in Lake County, Florida, Instrument Number 2020005476. The Mortgage granted the Forman Trust a security interest on substantially all the Debtor's assets, including , but not limited to, the Land and Improvements as defined in the Mortgage and described in detail in Exhibit A to the Mortgage.

22. On December 20, 2023, the Forman Trust filed its proof of claim in this bankruptcy case (Claim 1-1) in the amount of \$750,060.48 (the "Secured Claim"), which continues to accrue post-petition interest at 18% and reasonable post-petition attorneys' fees.

23. The Court finds that the Forman Trust's Secured Claim has a first priority secured

interest in the Debtor's property, including but not limited to any and all claims of the HOA as determined by the Order Granting Trustee's Motion for Summary Judgment as to Count III of Astatula's Counterclaim (the "Judgment"), entered on June 23, 2022, by the Circuit Court in and for the Fifth Judicial Circuit in and for Lake County, Florida, in that case captioned *Cactus Land Holdings, Inc. v. Meadows of Astatula Homeowners Association, Inc. v. Miles Austin Forman and Hamilton Collins Forman, Jr., as Co-Trustees of the Hamilton C. Forman Grandchildren's Trust*, dated January 11, 2010 [Case No. 2019-CA-001245], [ECF No. 58, Ex. C, pp. 93–97].

24. The Forman Trust will be permitted to credit bid up to the amount of its secured claim that is allowed by the Court pursuant to Section 363(k) (the "Allowed Credit Bid"), free and clear of any administrative fees or estate expenses of the estate. The Allowed Credit Bid will be in the amount of all the Forman Trust's outstanding indebtedness, including its Secured Claim and any accrued post-petition interest and attorneys' fees, subject to the Court's allowing for a motion by the Forman Trust to include reasonable post-petition attorneys' fees, costs, and post-petition interest in its Secured Claim.

25. The Forman Trust may file a motion for determination of its post-petition attorneys' fees, costs/expenses, and interest pursuant to 11 U.S.C. § 506(b) (the "506(b) Motion") no later than 28 days prior to the Auction Qualification Deadline. Should the U.S. Trustee or any other interested parties object to the 506(b) Motion, such objection must be filed with this Court no later than 14 days before the Auction Qualification Deadline. In the event of any such objection, the Forman Trust and the objecting party will meet and confer in a good faith attempt to resolve said objection without Court intervention. The Court will hold a Status Conference on the Sale on **February 29, 2024, at 2:30 P.M.**, at the US Courthouse, 299 E Broward Blvd, Courtroom 301, Fort Lauderdale, FL 33301, at which it shall consider any

unresolved objections to the 506(b) Motion. If no objections are filed, or if all objections are resolved, the parties may notify the Court that the Status Conference may be cancelled and the Court may determine, adjudicate, and enter order on the reasonableness of the 506(b) Motion on the papers without further hearing or notice.

26. The Allowed Credit Bid of the Forman Trust will be free and clear of any administrative fees or claims of the estate. For the avoidance of doubt, in the event of a successful sale of the Real Estate Assets, the full amount of the Allowed Credit Bid will be paid to the Forman Trust without any offsets or deductions of any kind. Should the Forman Trust bid the Allowed Credit Bid and become the Successful Bidder, the Forman Trust's bid will be given full credit for the Allowed Credit Bid and the Forman Trust shall not be responsible for any administrative fees or estate expenses, including the Stalking Horse Break-Up Fee or the Buyer's Premium; provided, however, should the Forman Trust becomes the Successful Bidder at a final bid price above the amount of its Approved Credit Bid, the Forman Trust shall be subject to the six (6%) Buyer's Premium as any other Qualified Bidder.

27. In the event that the Forman Trust is the Successful Bidder, it shall have the right to ensure that the terms of the PSA do not impose additional burdens on the Forman Trust other than those set forth in this Order.

28. In exchange for the Forman Trust's agreement not to seek relief from stay and to forego adequate protection payments, the Debtor agrees that the Successful Bid will provide the Forman Trust payment in full of its Allowed Credit Bid.

29. In the event that the Debtor fails to accomplish the sale of the Real Property Assets pursuant to the terms of this Order by May 15, 2024, effective as of June 1, 2024, the automatic stay imposed by Section 362 will be lifted as to the Forman Trust's Secured Claim without

further order of the Court and any subsequent foreclosure judgment and sale obtained by the Forman Trust will be free and clear of any administrative claims from the Debtor's bankruptcy estate.

Developer Rights and Central Water and Sewer Agreement

30. Among the Real Property Assets designated by the Debtor in its Sale Motion as to be sold are: (A) an *Assignment of Developer Rights*, recorded on March 7, 2019, at Book 5245, Page 2075 of the Official Records of Lake County, Florida (the "Developer Assignment"); and (B) a *Central Water and Sewer Agreement*, attached and incorporated by reference into the *First Amended to the Declaration of Covenants, Conditions and Restrictions of the Meadows*, as recorded on August 29, 2003, at O.R. Book 2370, Page 197 of the Official Records of Lake County, Florida (the "Water Agreement"). As stated in paragraph 25 *infra*, the Forman Trust's Secured Claim has priority over any and all claims under the Developer Assignment, Water Agreement, and any additional related claims or any claims brought or otherwise asserted by the HOA.

31. The Court finds that both the Developer Assignment and the Water Agreement are not executory contracts that are subject to assumption and assignment under Section 365(b) but are instead property interests that may be sold within the meaning of Section 363(f) because the rights thereunder arise from and/or constitute restrictive covenants set forth in the Declaration. *See Gouveia v. Tazbir*, 37 F.3d 295, 298 (7th Cir. 1994) (covenants on real estate cannot be treated as executory contracts under Section 365); *see also In re Wildwood Villages, LLC*, No. 3:20-BK-02569-RCT, 2022 WL 1599967, at *3 (Bankr. M.D. Fla. Jan. 21, 2022) (obligations under deed restrictions are "covenants that run with the land and are not subject to assumption or rejection under § 365(b)"); *In re TOUSA, Inc.*, 393 B.R. 920, 922 (Bankr. S.D. Fla. 2008) (citing

In re Willets, 262 B.R. 552, 555–56 (Bankr. N.D.Fla. 2001)) (restrictive covenants create non-monetary property interest and thus is not a “claim” under the Code); *In re Alexander*, 670 F.2d 885, 888 (9th Cir. 1982) (although interpretation of contract is governed by state law, determination as to whether contract is executory is a question of federal law).

Miscellaneous

32. The Debtor is hereby authorized and empowered to take such steps, expend such sums of money, and do such other things as may be necessary to implement and affect the terms and requirements established by this Order.

33. While there is no minimum bid, if the Forman Trust is the only Qualified Bidder and chooses to bid, for any amount up to its Allowed Credit Bid, the auction will still proceed and the Forman Trust will be deemed to be the Successful Bidder, subject to approval by the Court at the Sale Hearing.

34. This Order shall be binding upon, and inure to the benefit of the Debtor, any Stalking Horse Bidder, any Successful Bidder other than a Stalking Horse Bidder, and their respective successors and assigns, including any Chapter 7 or 11 trustee or other fiduciary appointed for the Debtor’s estate, whether in the above-captioned case, any subsequent bankruptcy case or upon dismissal of the Debtor’s bankruptcy case.

35. The determination in the State Court Order that the Creditor’s mortgage lien is first in priority on the Debtor’s property and is superior to any claim made by the HOA under the Declaration of Easements, Covenants, Conditions and Restrictions is hereby incorporated into this Order, as stated by this Court in its *Order Granting the Expedited Motion for Judicial Notice of State Court Order Granting Summary Judgment* [ECF No. 70].

36. Notwithstanding Rules 6004(h) and 6006(d), this Order shall be effective and

enforceable immediately upon its entry.

37. All time periods set forth in this Order shall be calculated in accordance with Rule 9006(a).

38. To the extent this Order is inconsistent with the Sale Motion, or with any prior order or pleading with respect to the Sale Motion in this case, the terms of this Order shall govern.

39. This Court shall retain jurisdiction over any matters relating to or arising from the implementation of this Order, including, but not limited to the right to amend this Order.

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Submitted by:

Matthew S. Kish, Esq.
Shapiro Blasi Wasserman Hermann P.A.
7777 Glades Road, Suite 400
Boca Raton, Florida 33434
Phone: 561-477-7800
Email: mkish@swbh.law
Attorneys for Debtor

Copies to: Matthew Kish, Esq.
(Attorney Kish is directed to serve this order upon all non-registered users who have yet to appear electronically in this case and file a conforming certificate of service.)

EXHIBIT “A”

BIDDING PROCEDURES AND STALKING HORSE BID PROTECTIONS

The Bidding Procedures are as follows:

(a) *Bidder Qualifications*. In order to qualify as a Bidder for the Auction (“**Qualified Bidder**”), every potential Bidder must comply with the following requirements (the “**Bidder Qualifications**”) no later than **Tuesday, March 5, 2024 at 5:00PM ET** (the “**Auction Qualification Deadline**”). The Bidder Qualifications are as follows:

- **Bidder Information - Register with the Broker/Auctioneer.** Every Potential Bidder must register with the Broker/Auctioneer. Bidders may contact the Broker/Auctioneer by email at Lamar Fisher (lamar@fisherauction.com) or Patricia McGrath, Esq. (patricia@fisherauction.com) to request the Bidder Pre-Registration Form, which form will also be made available in the data room maintained by the Broker/Auctioneer. Each bidder shall provide all his/her/its contact information on the Bidder Pre-Registration Form and the information and items listed in the Instructions for Bidder Qualification Package.
- **Good Faith Deposit:** Except very bidder must provide a deposit (the “**Bidder Deposit**”) in an amount of one hundred thousand dollars (\$100,000.00) which shall be transferred via a Federal Wire Transfer into a non-segregated, non-interest bearing trust account maintained by Debtor’s counsel, Shapiro Blasi Wasserman & Hermann, P.A. (the “**Escrow Agent**”), via a wire transfer no later than 5:00 PM ET by the Auction Qualification Deadline. All Bidder Deposits shall be held in trust by the Escrow Agent. The Successful Bidder will be required to supplement their Bidder Deposit to equal ten percent (10%) of the Total Purchase Price of its contract, as provided with the “Successful Bid” provision herein below.
- **Corporate Authority:** Each bidder must provide written evidence acceptable to the Debtor in its sole discretion demonstrating the appropriate corporate authorization of the proposed bidder to consummate the purchase of the Real Property Assets.
- **Proof of Funds:** Each bidder must provide written evidence that, in the discretion of the Broker/Auctioneer, establishes that the bidder has the financial ability to consummate the purchase of the Real Property Assets within fifteen (15) days after entry of the Sale Order (as defined below), should such bidder submit the highest bid (such information, “**Proof of Funds**”). Such financial disclosures and documentation include bank letters, recent financial statements, account statements, or tax returns. If so requested, the Debtor agrees to keep such information confidential, provided, however, that in the event of a dispute related to such financial wherewithal, the Debtor reserves the right to disclose such financial wherewithal to the Bankruptcy Court in connection with any such dispute.

- Determination of Qualified Bidders: The Debtor shall evaluate each Potential Bidder, and may then identify a person, persons, entity, or entities from among those who submitted a Bidder Deposit and who complied with all other Bidder Qualifications and may deem such person(s) **“Qualified Bidders.”** By participating in the Auction, each Qualified Bidder consents to its bid being designated as a Back-Up Bid in the event its bid is designated as the second highest offer to purchase the Real Property Assets, and the obligations set forth in these Bid Procedures. Bidders will be evaluated solely based upon their ability to close the sale transaction without delay. The Debtor reserves the right to make the final determination of who is a Qualified Bidder. The Debtor, acting by and through the Broker/Auctioneer, shall notify all Qualified Bidders no later than 5:00 PM ET one (1) business day before the Auction that they may participate in the Auction. All Qualified Bidders shall be bound by their bids until the conclusion of the Auction.
- Credit Bid: As a part of a Qualified Bid, *Miles Austin Forman and Hamilton Collins Forman, Jr., as Trustees of the Hamilton C. Forman Grandchildren’s Trust dated January 11, 2010* (the “Forman Trust”) shall have the right to assert a credit bid up to the full amount of its secured claim that is allowed by the Court pursuant to Section 363(k) (the “Approved Credit Bid”), free and clear of any administrative fees or estate expenses. The Forman Trust shall automatically be deemed a Qualified Bidder prior to the Auction without having to complete a Bidder Pre-Registration Form or to provide a Bidder Deposit; provided, however, the Forman Trust shall be subject to the six percent (6%) Buyer’s Premium as any other Qualified Bidder should the Forman Trust choose to bid beyond the amount of its Allowed Credit Bid. The Forman Trust’s bid shall be governed by the provisions in the above Order.
- No Conditions or Contingencies: The Purchase and Sale Agreement (**“PSA”**) (available to all bidders for review via the Data Room) and every bid shall be without any financing contingencies, due diligence contingencies or conditions, shall not be subject to any internal corporate or other approvals and shall not be subject to any other conditions or contingencies to the consummation of the transaction for the purchase of the Real Property Assets, other than being selected as the Successful Bidder or Back-Up Bidder (each as defined below) and the entry of the Sale Order.
- “As Is, Where Is”: The Real Property Assets are being sold in their “as is,” “where is” and “what is” condition and with all faults, with no guarantees or warranties, express of implied, but shall be free and clear of all liens, claims, encumbrances, and other interests pursuant to 11 U.S.C. § 363(f).
- Bidding Increments: The Broker/Auctioneer shall control and determine the bidding increments in consultation with the Debtor and Debtor’s Counsel.
- Irrevocable: A bid (including a stalking horse bid) must be irrevocable through the

completion of the Auction, provided that if such bid is accepted as the Successful Bid or, if applicable, the Back-Up Bid (as defined below), at the Auction, then each such bid shall remain irrevocable as set forth below.

- Notice Parties: shall mean: (i) Debtor’s counsel, Shapiro Blasi Wasserman & Hermann, P.A. 7777 Glades Road, Suite 400, Boca Raton, Florida 33434, Attn: Matthew S. Kish, Esq., mkish@sbwh.law; (ii) Fisher Auction Company, Attn: Lamar Fisher (Lamar@fisherauction.com) and Patricia McGrath, Esq. (Patricia@fisherauction.com); (iii) the Sub V Trustee, Soneet Kapila (skapila@kapilamukamal.com); and (iv) the Forman Trust (mberger@bergersingerman.com, ehoskins@bergersingerman.com) (collectively, the “Notice Parties”).

(b) Total Purchase Price of Successful Bid to Include Buyer’s Premium. All bids submitted (other than a credit bid) shall be subject to a Buyer’s Premium equal to six percent (6%) of the bid amount (such amount, the “**Buyer’s Premium**”). The total of the bid amount and the Buyer’s Premium shall constitute the (“**Total Purchase Price**”) to be paid at closing for the purchase of the Real Property Assets.

(c) The Auction; Time and Location. The Broker/Auctioneer, acting on behalf of the Debtor, will conduct an online-only auction of the Real Property Assets (the “**Auction**”) via the Fisher Auction Company bidding platform **on Thursday, March 7, 2024, at 11:00 AM ET and ending at 1:00 PM ET**, subject to any time extensions (the “**Auction Date**”), subject to extensions. Only Qualified Bidders (including any Stalking Horse Bidder and Credit Bidder) will be entitled to participate in the Auction.

(d) Bidding. The initial overbid at the Auction must exceed the sum of (i) the purchase price in any Stalking Horse Agreement, should one be obtained and approved by the Court, plus (ii) the amount of any Break-Up Fee approved by the Court (the “**Initial Overbid**”). After the Initial Overbid, bids by Qualified Bidders will be made in increments at the Broker/Auctioneer’s reasonable discretion. The Forman Trust shall be permitted to credit bid up to the full amount of its Allowed Secured Claim, pursuant to Section 363(k). In the event the Forman Trust is the Successful Bidder solely for the amount of its Allowed Credit Bid, the Debtor’s principal, Jack “Jay” Rust, Jr., shall reimburse the Broker/Auctioneer and Realtor for their marketing expenses in the amount of \$12,000.00.

(e) Successful Bid and Back-Up Bid/Obligations to Close. The Auction shall conclude when Debtor receives what is determined by the Broker/Auctioneer to be the highest offer for the Real Property Assets (the “**Successful Bid**,”) and the bidder submitting it, the (“**Successful Bidder**”), and subject only to the subsequent approval of the Bankruptcy Court. Debtor and Broker/Auctioneer shall (i) determine which bid of any Qualified Bids constitutes the highest bid submitted at the Auction, (ii) report their determination to the Bankruptcy Court, and (iii) Debtor shall request that the Bankruptcy Court approve the designated high bidder’s bid and authorize the sale of the Real Property Assets to such Successful Bidder. Debtor shall also designate the

bidders who submitted the next highest Qualified Bid (the “**Back-Up Bid**”) as the (“**Back-Up Bidder**”).

(f) *Additional Deposit.* Within 48 hours of becoming the Successful Bidder or the Back-Up Bidder the Successful Bidder and the Back-Up Bidder shall each (i) execute a binding PSA and (ii) with respect to the Successful Bidder, supplement its Bidder Deposit by an additional amount such that the total deposit (the “**Deposit**”) equals not less than ten percent (10%) of the Total Purchase Price pursuant to such bidder’s PSA. The supplemental amount shall be provided by Federal Wire Transfer to the trust account of the Escrow Agent.

(g) *Closing.* The Successful Bidder shall be required to close on the purchase of the Real Property Assets no later than fifteen (15) days after entry of the Sale Order (as defined below), subject to the terms and conditions of the PSA.

(h) *Default.* If the Successful Bidder fails to consummate its purchase of the Real Property Assets by the required closing date because of a breach or failure to perform on the part of such Successful Bidder, the Successful Bidder shall forfeit its Deposit to the Debtor (along with the other remedies described within the PSA), the Debtor shall notify the Back-Up Bidder of the Successful Bidder’s failure to close and the Back-Up Bidder’s obligation to close, and the Debtor will be authorized to consummate the sale with the Back-Up Bidder without further order of the Bankruptcy Court. The Back-Up Bidder shall be obligated to close within fifteen (15) days after its receipt of notice from the Debtor that the Successful Bidder failed to close, and subject to the terms and conditions of the PSA. If the Back-Up Bidder is unable or unwilling to close the sale in the time permitted as set forth herein and under the PSA, the Back-Up Bidder shall forfeit its Deposit to the Debtor.

(i) *The Sale Hearing.* The sale of the Real Property Assets pursuant to these Bid Procedures shall be subject to the approval of the Bankruptcy Court at a hearing scheduled **on March 8, 2024 at 1:30 PM** (the “**Sale Hearing**”). At that time, the Debtor will present the results of the Auction to the Bankruptcy Court, and the Debtor will request entry of the Sale Order (as defined below), including that the Bankruptcy Court make certain findings regarding the Auction, including, among other things, that (i) the Auction was conducted in a fair and reasonable manner, (ii) the Successful Bidder was selected in accordance with the Bid Procedures, and (iii) consummation of the sale contemplated by the Successful Bid will provide the highest and best value for the Real Property Assets and is in the best interests of the Debtor and its estate.

(j) *The Sale Order.* The “**Sale Order**” means an order of the Bankruptcy Court, in form and substance acceptable to the Successful Bidder in its reasonable discretion, that, among other things, (a) authorizes the sale of the Real Property Assets to the Successful Bidder free and clear of all Liens, claims, encumbrances and other interests pursuant to 11 U.S.C. §§ 363(b) and 363(f), and providing that any such Liens and claims shall attach to the sale proceeds of the Real Property Assets; and (b) finds and provides (based upon evidence presented to the Bankruptcy Court) that (i) the Successful Bidder has acted in “good faith” within the meaning of 11 U.S.C. §

363(m), and is entitled to the protections thereunder, (ii) the sale was negotiated, proposed and entered into by the parties without collusion, in good faith and from arm's length bargaining positions, (iii) the Bankruptcy Court shall retain jurisdiction to resolve any controversy or claim arising out of or relating to the sale of the Real Property Assets or the Successful Bidder's PSA, or any breach thereof, and (iv) the terms of the PSA and the transaction contemplated thereby may be specifically enforced against and are binding upon, and not subject to rejection or avoidance by, the Debtor. The Sale Order shall further provide that the Successful Bidder is not a successor to the business of the Debtor; that the Successful Bid represents a fair market value of the Real Property Assets; that the Successful Bidder shall have no liability for any obligations of the Debtor, other than the purchase price; and that the stay under Rule 6004(h) of the Federal Rules of Bankruptcy Procedures shall not apply to the Sale Order.

(k) Return of Deposits. Each Bidder Deposit and Deposit shall be maintained in a non-interest-bearing account and subject to the jurisdiction of the Bankruptcy Court. Within five (5) business days after the entry of the Sale Order, the Debtor shall return all Bidder Deposits to all Qualified Bidders except (a) the Bidder Deposit submitted by the Successful Bidder, supplemented to become the Deposit, shall be applied by the Debtor against the purchase price at the closing of the sale to the Successful Bidder (or forfeited to the Debtor if the Successful Bidder defaults under its PSA and fails to close its purchase), and (b) the Deposit submitted by the Back-Up Bidder. In the event that the Successful Bidder closes the sale, the Debtor shall return to the Back-Up Bidder its full Deposit within five (5) business days after the closing. In the event the Back-Up Bidder closes on the purchase of the Real Property Assets, its Deposit shall be applied by the Debtor against the Back-Up Bidder's purchase price at closing.

(l) Modifications to Bid Procedures. The Debtor shall have the right to impose, at or before the Auction, additional terms and conditions on the sale of the Real Property Assets, to extend or adjourn any deadlines set forth in these Bid Procedures, and to take any other actions with respect to the Auction, the Bid Procedures, or the sale of the Real Property Assets which in its business judgment are reasonably necessary to preserve the bankruptcy estate or maximize the value of the Real Property Assets, and which are not inconsistent with these Bid Procedures, the Successful Bidder's PSA, the Back-Up Bidder's PSA or any order of the Bankruptcy Court. In the event the Debtor takes any actions that are material in effect upon the sale, or modifies any material terms of these Bid Procedures, Debtor shall seek approval of such action(s) or modifications at the Sale Hearing.

(m) Miscellaneous. All Qualified Bidders shall be deemed to have waived any right to a jury trial in connection with any disputes relating to the Auction and/or the sale of the Real Property Assets. All purchase and sale agreements shall be governed by and construed in accordance with the laws of the State of Florida.

(n) Data Room. The Broker/Auctioneer will maintain an electronic data room with all due diligence materials pertinent to the sale of the Real Property Assets and the form of the PSA. Bidders may contact Lamar Fisher (lamar@fisherauction.com) or Patricia McGrath

(patricia@fisherauction.com) to request access to the data room.

(o) Escrow Agent and Deposits. Any and all deposits required to be provided pursuant to these Bid Procedures shall be sent via wire transfer to the Escrow Agent. “**Escrow Agent**” shall mean Debtor’s counsel, Shapiro Blasi Wasserman & Hermann, P.A.. The deposits shall be held in escrow, in a noninterest-bearing account. There shall be no interest earned on the money deposited with the Escrow Agent. All bidders agree to hold the Escrow Agent harmless for any action taken in accordance with these Bid Procedures and/or any Bankruptcy Court Order relating to the sale. The Escrow Agent is specifically authorized to transfer the Deposits of the Successful Bidder and the Back-Up Bidder to the Closing Agent at closing of a sale to the Successful Bidder or the Back-Up Bidder, which sum shall be applied toward the Total Contract Price at closing. Should the Successful Bidder or Back-Up Bidder fail to close, the Escrow Agent is specifically authorized to pay any forfeited monies to the Debtor.

(p) Bankruptcy Court Jurisdiction. Any and all disputes related or pertaining to or resulting or arising from the Bid Procedures, the Auction, the sale transaction and/or the conduct of the Debtor shall be adjudicated solely by the Bankruptcy Court. The submission of a Bid shall constitute an express consent by the Bidder to the exclusive jurisdiction of the Bankruptcy Court for all such matters in accordance therewith.