



TOWN OF CUTLER BAY

Mayor Paul S. Vrooman
Vice Mayor Edward P. MacDougall
Councilmember Timothy J. Meerbott
Councilmember Ernest N. Sochin
Councilmember Peggy R. Bell

Town Manager Steven Alexander
Town Attorney Mitchell Bierman
Town Attorney Chad Friedman
Town Clerk Erika Santamaria

This meeting is open to the public. In accordance with the Americans with Disabilities Act of 1990, persons needing special accommodation, a sign language interpreter or hearing impaired to participate in this proceeding should contact the Town Clerk at (305) 234-4262 for assistance no later than four days prior to the meeting.

TOWN COUNCIL SPECIAL MEETING

Thursday, April 15, 2010, 5:30 p.m.
South Dade Regional Library
10750 SW 211th Street,
Cutler Bay, Florida 33189

1. **CALL TO ORDER/ROLL CALL**
2. **ACTION ITEMS:**
 - A. A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA APPROVING AN AGREEMENT BETWEEN THE TOWN AND PINNACLE INVESTMENT PROPERTIES, INC. FOR THE PURCHASE OF THE PROPERTY LOCATED AT 10720 CARIBBEAN BOULEVARD, AND PROVIDING FOR AN EFFECTIVE DATE.
3. **ADJOURNMENT**

PURSUANT TO FLORIDA STATUTES 286.0105, THE TOWN HEREBY ADVISES THE PUBLIC THAT IF A PERSON DECIDES TO APPEAL ANY DECISION MADE BY THIS COUNCIL WITH RESPECT TO ANY MATTER CONSIDERED AT ITS MEETING OR HEARING, HE OR SHE WILL NEED A RECORD OF THE PROCEEDINGS, AND THAT FOR SUCH PURPOSE, THE AFFECTED PERSON MAY NEED TO ENSURE THAT VERBATIM RECORD OF THE PROCEEDING IS MADE, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED.

RESOLUTION NO. 10-__

A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA APPROVING AN AGREEMENT BETWEEN THE TOWN AND PINNACLE INVESTMENT PROPERTIES, INC. FOR THE PURCHASE OF THE PROPERTY LOCATED AT 10720 CARIBBEAN BOULEVARD, AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, over the last year, the Town Council has held several workshops to discuss the purchasing of property for a Town Hall; and

WHEREAS, on February 22, 2010, the Town Council held a workshop and directed the Town Manager to finalize negotiations and execute a Purchase and Sale Agreement (the "Agreement") with Pinnacle Investment Properties, Inc. for the purchase of the property located at 10720 Caribbean Boulevard (the "Property"); and

WHEREAS, after negotiations with Pinnacle Investment Properties, Inc., the Town Manager executed the Agreement, and Addendum thereto, a copy of which Agreement and Addendum are attached hereto as Exhibit "A;" and

WHEREAS, pursuant to the terms of the Agreement, the Town's obligation to purchase the Property is subject to and contingent upon the approval of the Agreement by the Town Council; and

WHEREAS, the Town Council desires to ratify and approve the Agreement and to direct the Town Manager to conduct the necessary due diligence and inspections prior to closing on the Property; and

WHEREAS, the Town Council finds that the purchase of this Property serves a valid public purpose and will promote the health, safety and welfare of the Town.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AS FOLLOWS:

Section 1. Recitals. The above recitals are true and correct and are incorporated herein by this reference.

Section 2. Town Council Approval of Purchase and Sale Agreement and Addendum. The Town Council hereby approves and ratifies the Agreement and Addendum thereto attached hereto as Exhibit "A" to this Resolution for the purchase of the Property, together with such non-material changes as may be acceptable to the Town Manager and approved as to form and legality by the Town Attorney.

Section 3. Town Manager Authorization; Execution of Documents. The Town Council hereby directs and authorizes the Town Manager to take any and all actions necessary to conduct the necessary due diligence and inspections of the Property prior to the Agreement's Termination Date, which is defined within the Agreement (the "Termination Date"). If necessary, the Town Manager shall have the authority to terminate the Agreement in accordance with the terms of the Agreement. However, in the event the necessary due diligence or inspections reveal costs of repair which exceed____% of the purchase price for the Property, the Town Manager shall terminate the Agreement prior to the Termination Date. The Town Manager and the Town Attorney are further authorized to take any and all actions necessary to implement the terms and conditions of the Agreement, and the Addendum thereto, and to prepare, execute and submit any documents necessary to accomplish the purchase and closing of the Property.

Section 4. Effective Date. This Resolution shall take effect immediately upon adoption.

PASSED and ADOPTED this _____ day of _____, 2010.

PAUL S. VROOMAN
Mayor

Attest:

ERIKA GONZALEZ-SANTAMARIA, CMC
Town Clerk

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY FOR THE
SOLE USE OF THE TOWN OF CUTLER BAY:

WEISS SEROTA HELFMAN PASTORIZA
COLE & BONISKE, P.L.
Town Attorney

Moved by:
Seconded by:

FINAL VOTE AT ADOPTION:

Mayor Paul S. Vrooman _____

Vice Mayor Edward P. MacDougall _____

Councilmember Peggy R. Bell _____

Councilmember Timothy J. Meerbott _____

Councilmember Ernest N. Sochin _____

Pinnacle Investment Properties, Inc.

10720 Caribbean Blvd. Suite 101, Cutler Bay, FL 33189

305-235-8881 Fax 305-251-5481

February 8, 2010

Steven Alexander
Town of Cutler Bay
10720 Caribbean Blvd., Suite 105
Cutler Bay, FL 33189

Re: Purchase and Sale Agreement

Dear Steve;

Attached please find a copy of the Purchase and Sale Agreement executed by the seller.

Sincerely,

Pinnacle Investment Properties, Inc.

A handwritten signature in black ink, appearing to read 'William A. Sport', written over the printed name.

William A. Sport
President

PURCHASE AND SALE AGREEMENT

THIS PURCHASE AND SALE AGREEMENT (this "Agreement") is made and entered into as of the ____ day of _____, 2010, by and between **PINNACLE INVESTMENT PROPERTIES, INC., a Florida corporation** (hereinafter referred to as "Seller"), and **TOWN OF CUTLER BAY, a Florida municipal corporation** (hereinafter referred to as "Purchaser").

WHEREAS, Seller is the owner of certain real property and improvements consisting of an office building located in Miami-Dade County, Florida, and more specifically described on Exhibit "A" attached hereto and made a part hereof; and

WHEREAS, Purchaser desires to purchase and Seller desires to sell the Property (hereinafter defined), upon the terms and conditions hereinafter set forth.

NOW, THEREFORE, for and in consideration of the mutual covenants and promises contained herein and of other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Purchaser and Seller agree as follows:

SECTION 1: DEFINITIONS

For purposes of this Agreement, each of the following terms, when used herein with an initial capital letter, shall have the following meaning:

1.1 Acceptance Date. _____, 2010.

1.2 Affiliate. A Person that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with the Person in question. For purposes of this definition, the term "control" means the ownership of 50% or more of the beneficial interest or the voting power of the controlled Person.

1.3 Attorneys' Fees. All reasonable fees charged by an attorney for his services and the services of any paralegals, legal assistants or law clerks, including (but not limited to) fees charged for representation at the trial level and in all appeals.

1.4 Business Day. Monday through Friday excluding bank holidays on which national banking associations are authorized to be closed.

1.5 Closing. The Closing and consummation of the purchase and sale of the Property as contemplated by this Agreement.

1.6 Closing Date (or Date of Closing). The date upon which Closing occurs.

1.7 Condemnation Proceeding. Any proceeding or threatened proceeding in condemnation, eminent domain or written request in lieu thereof.

1.8 Deed. The statutory warranty deed of conveyance of the Land from Seller to Purchaser.

1.9 Earnest Money. The funds to be paid by Purchaser to Escrow Agent pursuant to Section 3 hereof, plus any interest earned thereon.

1.10 Effective Date. The date when the last one of Seller or Purchaser has signed and initialed all changes to this Agreement.

1.11 Environmental Report. The environmental assessment audit to be conducted by Purchaser's environmental engineer, at Purchaser's expense, with respect to the Property, certified and delivered to Purchaser.

1.12 Environmental Requirement. All laws, statutes, ordinances, rules, regulations, orders, codes, licenses, permits, decrees, judgments, directives or the equivalent of or by any federal, state or local governmental authority and relating to or addressing the protection of the environment or human health.

1.13 Escrow Agent. Weiss Serota Helfman Pastoriza Cole & Boniske, P.L.

1.14 Evidence of Authority. Evidence of authority for the execution and performance of this Agreement by Seller including, without limitation, necessary resolutions, authorizations, consents, orders or directions.

1.15 Governmental Authority. Any federal, state, county, municipal or other entity, authority, commission, board, bureau, court, agency or any instrumentality of any of them.

1.16 Government Requirements. Any law, enactment, statute, code ordinance, rule, regulation, judgment, decree, writ, injunction, franchise, permit, certificate, license, authorization, agreement, or other direction or requirement of any Governmental Authority now existing or hereafter enacted, adopted, promulgated, entered, or issued.

1.17 Hazardous Substances. Any material or substance that, whether by its nature or use, is now or hereafter defined as hazardous waste, hazardous substance, pollutant or contaminant under any Environmental Requirement, or which is toxic, explosive, corrosive, flammable, infectious, radioactive, carcinogenic, mutagenic or otherwise hazardous and which is regulated under any Environmental Requirement, or which is or contains petroleum, gasoline, diesel fuel or another petroleum hydrocarbon product.

1.18 Improvements. The office building known as the South Dade 2 Office Building, together with all buildings, structures, fixtures, including, without limitation, all utility systems

and drainage facilities, if any, and other improvements and facilities located on or under the Land.

1.19 Intangible Property. All intangible property owned by Seller and used in connection with or relating to the ownership, use, development, operation, management, occupancy or maintenance of the Land including, but not limited to, the Permits and all public and private contract rights and development or usage rights of Seller with respect to the Land.

1.20 Land. The improved real property located in Miami-Dade County, Florida located at 10720 Caribbean Boulevard, Cutler Bay, Florida, consisting of approximately 2.69 acres more or less, as more particularly described on Exhibit "A" attached hereto and incorporated herein by reference, and appurtenant easements thereto, together with all of Seller's right, title and interest in and to all easements, rights of way, strips and gores of land, leases, tenements, hereditaments and appurtenances, reversions, remainders, privileges, licenses and other rights and benefits belonging to, running with or in any way relating thereto; together with all right, title and interest of Seller (if any) in and to any land lying in the bed of any street, road or highway, open or proposed, in front of, abutting or adjoining the Land.

1.21 Leases. All leases of space located within the Improvements and upon the Land, which shall include all exhibits, amendments and modifications thereof. A schedule of the Leases is included in the Rent Roll attached hereto as Exhibit B.

1.22 Legal Requirement. All laws, statutes, codes, acts, ordinances, orders, judgments, decrees, injunctions, rules, regulations, permits, licenses, authorizations, directions and requirements of all Governmental Authorities and quasi-governmental authorities, officials, agencies, and officers, ordinary or extraordinary, which now may be applicable to the Property or any use, operation or condition thereof.

1.23 Monetary Lien. Any mortgage, deed of trust, security deed, lien, monetary judgment, security interest, past due tax or assessment or other similar encumbrance of a monetary nature against the Property or any portion of the Property.

1.24 Owner's Title Policy. An Owner's marketability policy of title insurance on the most current ALTA Form for the Property in the amount of the Purchase Price, subject only to the Permitted Exceptions, and containing such additional endorsements permitted under Florida title insurance regulations as reasonably requested by Purchaser.

1.25 Permits. All consents, notices of completion, environmental and utility permits and approvals authorizations, variances, waivers, licenses, permits, certificates and approvals from any Governmental Authority or quasi-governmental authority issued or granted with respect to the Property.

1.26 Permitted Exceptions. Those matters identified or referred to in Section 5.5 and such other title exceptions as may hereafter be approved in writing (or deemed to have been

approved by Purchaser) subject to and in accordance with the terms and provisions of Section 5 herein.

1.27 Person. Any individual, sole proprietorship, partnership, joint venture, trust, unincorporated organization, association, corporation, institution, entity, party or government (whether national, federal, state, county, city, municipal or otherwise, including, without limitation, any instrumentality, division, agency, body or department thereof).

1.28 Personal Property. All items of Personal Property owned by Seller located on the Land, and excluding therefrom the personal property that belongs to tenants. Such Personal Property shall include, but not be limited to: (i) all fixtures, furnishings, machinery, equipment, and other articles of Personal Property attached or appurtenant to the Land or used in connection with the use or operation therewith, including any drawings, as-built plans and specifications and all Permits in the possession of Seller' (ii) all attachments, appliances, fittings, lighting fixtures, doors, cabinets, elevators, flagpoles, sprinkler, plumbing, hearing, air conditioning, electrical, ventilating, lighting, incinerating, vacuum cleaning, refrigerating and cooling systems, vaults, safes, carpets, floor coverings, together with all parts and supplies pertaining thereto; (iii) copyrights, trademarks, service marks, trade logos and other marks and trade or business names, relating to the ownership, use, operation, management, and marketing of the Property, including without limitation the right to use the name "South Dade 2 Office Building"; and (iv) the Property Records. An inventory of the Personal Property is attached hereto as Exhibit "C".

1.29 Property. The Land, the Personal Property, Leases, Improvements and the Intangible Property.

1.30 Property Records. Copies of all the following documents in the Seller's possession or control relating to the Property to be delivered to Purchaser: Any and all Leases, Permits, Service Contracts, Warranties, appraisals, paid tax bill for the year 2009, copies of unaudited financial statements for the Property itemizing income and expenses for the years 2006, 2007, and 2008, utility bills relating to the Property for the past twelve (12) calendar months, tax assessment notices, title insurance policies, surveys, site plans, as-built plans and specifications, construction drawings, engineering reports, plats, soil reports and compaction tests, environmental audits, engineering reports and similar technical data and information, and material correspondence (which shall mean correspondence, other than attorney/client privileged correspondence, which discloses claims, allegations or adverse information regarding the Property or claims, allegations or adverse information that the Property violates any Governmental Requirements, that there is Hazardous Substances on or about the Property, or that there are defects, deficiencies or hazardous conditions in or on the Property).

1.31 Purchaser's Attorney. Weiss Serota Helfman Pastoriza Cole & Boniske, P.L., Attention: Mitch Bierman Esq. Purchaser's Attorney's mailing address is 2525 Ponce de Leon Blvd., Suite 700, Coral Gables, Florida 33134. Telephone: (305) 854-0800; Telecopier: (305) 854-2323.

1.32 Rent. Rent shall include, but not be limited to, all base rent, minimum rent, additional rent, percentage rent, common area maintenance charges, taxes, insurance, operating

expenses, parking fees, late fees and any other payments for miscellaneous services performed by Seller under any Lease, as set forth in the Rent Roll.

1.33 Rent Roll. A complete and correct list of all the Leases, certified as true and correct by the Seller, setting forth, with respect to each of the Leases, the following information: (a) the name of the tenant and the names of any assignees and subtenants; (b) the date of the Lease; (c) any modifications, amendments, or assignments to or of the Lease and any subtenancies thereunder; (d) the term of the Lease and any subleases thereunder; (e) renewal options, if any; (f) the Rent payable under the Lease, including reference to any delinquent amounts due; (g) the amount of the security deposit, if any; (h) the square footage of the leased premises; and (i) reference to any leasing commissions due, free rent or concessions thereunder; and any tenant improvements to be paid for by the landlord. The current Rent Roll for the Property is attached hereto as Exhibit "B".

1.34 Seller's Attorney. _____, Esq. Seller's Attorney's mailing address is _____. Telephone: (305) _____.

1.35 Seller's Records. All books, records and documents maintained by Seller or compiled by or at the request of Seller and in the possession or control of Seller specifically relating to the ownership, use, development, operation, management, occupancy or maintenance of the Property.

1.36 Service Contracts. All service contracts, maintenance agreements, employment agreements, management agreements, and any other agreements affecting the Property. A schedule of the Service Contracts is attached hereto as Exhibit "D".

1.37 Survey. A survey of the Property satisfactory in all respects to Purchaser prepared by a licensed professional surveyor and mapper in the State of Florida, certified as meeting the minimum standards for survey in the State of Florida. The Survey shall (i) show the square footage and acreage of the Land, (ii) show the location of the Improvements and all improvements, structures, utility and other lines and easements, either visible or recorded, and the recording references of all the recorded easements shown on the Title Commitment, (iii) show the elevation and flood zone information, and (iv) contain such other items as may be reasonably required by Purchaser.

1.38 Termination Date. The date which is one hundred twenty (120) days after the Effective Date, by which date Purchaser must complete its due diligence and inspections of the Property and notify Seller of its election to terminate this Agreement, as further set forth in Section 9 of this Agreement.

1.39 Title Commitment. The commitment for title insurance to be obtained by Purchaser pursuant to Section 5 below.

1.40 Title Company. First American Title Insurance Company or such other nationally recognized title insurance company licensed to write title insurance in the State of Florida which is approved by Purchaser.

1.41 U.C.C. Report. A report detailing the results of a search of all records in which a security interest, lien or encumbrance affecting any portion of the Property may be located.

1.42 Warranties. All warranties and guarantees relating to the Property, including all warranties and guarantees of the Improvements and Personal Property by general contractors, subcontractors, suppliers and manufacturers. A schedule of the warranties is attached hereto as Exhibit "E".

SECTION 2: PURCHASE AND SALE

Purchaser shall purchase the Property from Seller, and Seller shall sell, convey, transfer and assign the Property to Purchaser, subject to and in accordance with the terms and conditions of this Agreement.

SECTION 3: EARNEST MONEY

Within five Business Days after the Effective Date, Purchaser shall deposit in escrow with the Escrow Agent an initial deposit of \$10,000.00 (the "Initial Deposit") as Earnest Money, to be delivered to Seller and applied as a credit against the Purchase Price (as defined below) at Closing. Provided that Purchaser does not terminate this Agreement by the Termination Date pursuant to the terms of Section 9 of this Agreement, Purchaser shall make an additional deposit in the amount of \$90,000.00 (the "Additional Deposit") on or before the Termination Date. The Initial Deposit and the Additional Deposit, together with any and all interest earned thereon, are collectively referred to herein as the "Earnest Money." Interest on the Earnest Money shall accrue to the benefit of the Purchaser unless the Earnest Money Deposit is delivered to the Seller as liquidated damages pursuant to Section 18 below, in which event such interest shall accrue to the benefit of the Seller and be delivered to Seller as part of the Earnest Money. Escrow Agent shall hold and disburse the Earnest Money in accordance with the terms of this Agreement. If requested by Purchaser, Escrow Agent shall invest the Earnest Money in an interest-bearing account of a financial institution. Purchaser and Seller agree to sign all forms and reports reasonably required in connection with the holding and investing by Escrow Agent of the Earnest Money. For purposes of reporting earned interest with respect to the Earnest Money, Purchaser and Seller shall provide Escrow Agent with their respective Federal Tax Identification Numbers.

SECTION 4: PURCHASE PRICE

The purchase price for the Property shall be Eight Million Eight Hundred Thousand And No/100 Dollars (\$8,800,000.00) (herein referred to as the "Purchase Price"). The entire Purchase Price, less the amount of the Earnest Money and subject to adjustments and prorations as herein provided, shall be due and payable by cashier's check or in immediately available funds, by wire transfer, at Closing.

SECTION 5: TITLE/SURVEY

Title to the Property shall be good and marketable and insurable fee simple title in an amount of the Purchase Price at no more than the Title Company's ordinary or promulgated rates for the Owner's Title Policy. Seller shall deliver such affidavits and agreements as may be

reasonably required by the Title Company in order to issue the Owner's Title Policy in accordance with this Agreement.

5.1 Examination of Title. Within five (5) Business Days of the Effective Date, Seller shall deliver to Purchaser's attorney copies of Seller's existing title insurance policy covering the Property and all other title documents in Seller's possession and/or control. Purchaser may obtain, at Purchaser's expense, an ALTA marketability title insurance commitment (the "Title Commitment") issued by the Title Company covering the Land pursuant to which the Title Company agrees to issue the Owner's Title Policy to Purchaser. The cost of the Title Commitment and the Owner's Title Policy shall be paid by Purchaser.

5.2 Survey. Within five (5) Business Days of the Effective Date, Seller shall provide Purchaser with a copy of any existing survey of the Property in Seller's possession and/or control. At Purchaser's option, Purchaser may obtain an update of the existing survey or order a new survey. The cost of the survey shall be paid by Purchaser.

5.3 U.C.C. Report. Purchaser shall obtain at Purchaser's sole cost and expense copies of the U.C.C. Report, within fifteen (15) days of the Effective Date.

5.4 Permitted Exceptions. The sale of the Property shall be subject to the following:

- 5.4.1.** The lien of all ad valorem real estate taxes for the fiscal year in which Closing occurs, subject to proration as herein provided;
- 5.4.2.** Any items shown on the Title Commitment and approved by Purchaser in accordance with Section 5.5 below;
- 5.4.3** All laws, ordinances, and governmental regulations, including, but not limited to, all applicable building, zoning, land use and environmental ordinances and regulations; and
- 5.4.4** All matters which would be disclosed by an accurate survey of the Property provided that the foregoing exception shall not be deemed to limit the rights and obligations of the Purchaser and Seller set forth in Sections 5.4 and 5.7 below.
- 5.4.5** All Leases, as included in the Rent Roll attached hereto as Exhibit "B".

The above items described in this Section 5.4 are herein collectively referred to as the "Permitted Exceptions".

5.5 Objections to Title/Survey. Purchaser shall be entitled to object, in its reasonable discretion, to any exceptions to title disclosed in the Title Commitment and/or matters

shown on the Survey until the Termination Date, by written notice to Seller of any objections to the Title Commitment and the Survey. In the event that Purchaser shall so object to the Title Commitment and/or the Survey, Seller shall have fifteen (15) Business Days after receipt of such notice to cure Purchaser's objections to Purchaser's satisfaction. In the event Seller is unable to so cure such objections, Purchaser may (i) waive such objections, (ii) give Seller additional time in writing to cure such objections (in which event, the Closing shall be delayed for an equivalent period of time) or (iii) terminate this Agreement by written notice to Seller, in which event the Earnest Money shall be immediately returned to Purchaser and neither Purchaser nor Seller shall have any further obligations hereunder, except obligations that expressly survive the termination of this Agreement.

5.6 Cure of Monetary Liens. Notwithstanding Section 5.5 above, if the Title Commitment reveals the existence of a Monetary Lien, then Seller shall pay any amount due in satisfaction of each such Monetary Lien as to the Property only (or, subject to Purchaser's reasonable approval, otherwise cause the same to be removed as an exception in the Title Commitment) which amount, at the option of Seller, may be paid from the proceeds of the Purchase Price at Closing. If one or more Monetary Liens have not been satisfied before the Closing Date, then Purchaser and Escrow Agent are hereby authorized to satisfy such Monetary Liens from the proceeds of the Purchase Price at Closing.

5.7 Purchaser's Right to Terminate. If any title matter other than a matter disclosed in the Title Commitment or the Survey arises or becomes known to Purchaser subsequent to the date of the Title Commitment (a "New Title Matter") and such New Title Matter (a) is a Monetary Lien or (b) was created or consented to by Seller, then Seller shall cure the New Title Matter, at Seller's expense, on or before Closing. If the New Title Matter is not a Monetary Lien or was not created or consented to by Seller, then Seller shall have until the earlier of (i) five (5) Business Days of Seller's receipt of written notice thereof or (ii) the Closing Date, within which to cure the same, and if such New Title Matter is not cured within such period, then Purchaser may, at its sole option, exercised by written notice to Seller within five (5) Business Days following the expiration of the five (5) Business Day cure period, either (i) terminate this Agreement and receive a refund of the Earnest Money or (ii) elect to close subject to such New Title Matter. In the event of termination, neither party hereto shall have any further rights, obligations or liabilities hereunder except to the extent that any right, obligation or liability set forth herein expressly survives termination of this Agreement.

5.8 Extension of Closing Date. The Closing Date shall be automatically extended to allow all time periods specified in this Section 5 to expire.

SECTION 6: SELLER'S OPERATIONS AND REPRESENTATIONS AND WARRANTIES

6.1 Seller's Operations. Between the Effective Date of this Agreement and the Closing Date, Seller covenants and agrees as follows:

6.1.1 Seller shall maintain and operate the Property in the ordinary course of business and in a manner substantially consistent with Seller's maintenance and

operation thereof during the twelve (12) month period preceding the Effective Date and in accordance with all applicable federal, state and local laws, ordinances and requirements.

6.1.2 Seller shall not knowingly do any act or omit to do any act, or knowingly permit any act or omission, which will cause a breach or default of this Agreement.

6.1.3 Except for (a) honoring the currently existing renewal, extension, expansion or refusal rights of tenants under the Lease, and (b) entering into new Leases, extensions, modifications, renewals or expansions with Purchaser's prior written consent (not to be unreasonably withheld or delayed and to be deemed given if Purchaser fails to respond within five (5) business days after written notice from Seller accompanied by the proposed new Lease, extension, modification, renewal or expansion), Seller shall not modify or enter into any new Leases, extensions, modifications, renewals or expansions. Any of same entered into by Seller in accordance with subsections (a) or (b) above are sometimes hereinafter referred to as the "Permitted Leases", and shall thereafter be included within the term "Leases" as used in this Agreement. Nothing in the foregoing or elsewhere in the Agreement shall preclude Seller (or constitute a default by Seller under this Agreement) from filing notices of commencement in connection with tenant improvements under existing Leases provided that in no event shall any notice of commencement be a Permitted Exception.

6.1.4 Except with respect to the Leases, Seller shall not (a) incur any new leasing commissions, or (b) undertake or commence any material or substantial renovations of or alterations to the Property or any part thereof unless necessary or advisable to remedy violations or preserve or protect the Property or comply with any obligation of Seller under this Agreement.

6.1.5 Subject to express provisions of this Agreement to the contrary, and except to the extent such maintenance is the obligation of tenants under the Leases, Seller shall maintain the physical condition of the Property in substantially the same condition existing at the Effective Date, reasonable wear and tear excepted, but Seller shall have no obligation to make capital improvements.

6.1.6 Except for (a) renewals or modifications of existing Service Contracts (or new Service Contracts in lieu thereof) on terms consistent with their existing terms but which shall be cancelable without penalty on not more than thirty (30) days' notice, and/or (b) agreements necessary to preserve or protect the Property from imminent damage or persons thereon from imminent injury or loss of life, Seller shall not modify or enter into any new Service Contracts without Purchaser's prior written consent (not to be unreasonably withheld or delayed and to be deemed given if Purchaser fails to respond within five (5) business days after written notice from Seller).

6.1.7 Seller shall maintain the books, accounts and records related to the business operated on the Property in Seller's usual and customary manner and substantially consistent with its prior practice.

6.1.8 Seller shall not remove any item of Personal Property described in Exhibit "C" hereto from the Property unless the same is replaced by Seller with an article of equal suitability and value, free and clear of any lien or security interest.

6.1.9 Seller shall maintain any and all insurance coverage presently in effect with respect to the Property, including policies of public liability, property damage and fire insurance.

6.1.10 Seller shall comply with all Leases, Service Contracts, and with all instruments of record and shall timely pay all taxes, assessments, and utility charges.

6.1.11 Except for business invitees occupying or using the Property in accordance with past practice, Seller shall not permit anyone to occupy or use the Property, or any portion thereof, for any reason whatsoever, except pursuant to the leases.

6.1.12 Seller shall observe and keep in force and effect all permits necessary or required to carry on the present business being conducted upon the Property.

6.2 Seller's Representations and Warranties. Seller represents and warrants to Purchaser and covenants and agrees with Purchaser, on and as of the date hereof, to be certified to Purchaser on or as of the Closing, as follows:

6.2.1 **Title.** Seller is the fee simple owner of the Land and Improvements free and clear of all encumbrances except for the Permitted Exceptions (without modification arising with regard to Purchaser's rejection or disapproval of any of the items pursuant to this Agreement).

6.2.2 **Organization, Power and Authority.** Seller is a corporation duly formed, validly existing and in good standing under the laws of the jurisdiction where incorporated and is duly registered and authorized to transact business in the State of Florida. Seller is, to the extent required by law, duly qualified to do business in the State in which the Property is located and has all necessary corporate power to execute and deliver this Agreement and perform all its obligations hereunder. The execution, delivery and performance of this Agreement by Seller (i) has been duly and validly authorized by all necessary action on the part of Seller, and (ii) does not conflict with or constitute a breach of, or constitute a default under, any contract, agreement or other instrument by which Seller or the Property is bound or to which Seller is a party.

6.2.3 **No Legal Bar.** The execution by Seller of this Agreement and the consummation by Seller of the transaction hereby contemplated does not, and on the Closing Date will not (a) result in a breach of or default under any indenture agreement, instrument or obligation to which Seller is a party and which affects all or any portion of the Property, or (b) to Seller's knowledge, constitute a violation of any Governmental Requirement. The Property and the current use, occupation and condition thereof do not violate any of the Permitted Exceptions, site plan approvals, zoning or subdivision regulation or other Governmental Requirement application to the Property.

6.2.4 **No Bankruptcy.** Seller is not a party to any voluntary or involuntary proceedings under any applicable laws relating to the insolvency, bankruptcy, moratorium or other laws affecting creditors rights to the extent that such laws may be applicable to Seller or the Property.

6.2.5 **No Litigation.** Seller is not a party to or affected by any litigation, administrative action, investigation or other governmental or quasi-governmental proceeding which would or could have an adverse effect upon the Property or upon the ability of Seller to fulfill its obligations under this Agreement. There are no lawsuits, administrative actions, governmental investigations or similar proceedings pending or threatened against or adversely affecting the Property or any portion thereof or any interest therein.

6.2.6 **No Notices of Deficiency.** Seller has not received any notice nor does Seller have any actual knowledge that the holder of any mortgage or deed of trust encumbering any of the Property, or any portion thereof or interest therein, claims, or intends to claim, any defect or deficiency in the Property

6.2.7 **Permits.** All Permits and approvals required for the lawful operation, use and development of the Property have been issued and paid for and are in full force and effect.

6.2.8 **Legal Requirements.** The Property is in compliance with the zoning, subdivision or building codes and all other Legal Requirements.

6.2.9 **No Violations.** There are no presently outstanding and uncured notices of any violations of any Legal Requirements, and to Seller's actual knowledge, no Person capable of issuing such notice of violation has threatened to issue a notice of violations.

6.2.10 **Tax Parcels.** If the Land consists of more than one parcel assessed as a separate tax lot or tax parcel, each of the parcels constituting the Land has been validly, finally and unappealably subdivided from all other property for conveyance purposes. There are no pending contests or appeals with respect to (i) the assessed value of the Property for ad valorem taxation purposes or (ii) the amount of any ad valorem taxes levied against or paid with respect to the Property.

6.2.11 **Utilities.** All public utilities (including, without limitation, sanitary sewer, storm sewer, electricity, gas, water and telephone) which have been installed in connection with the Property or any part thereof, if any, are installed and operating and have been accepted by such utility company or governmental authority. All installation and connection fees, "tie-in" charges, impact fees, tap-on, permit and other fees with respect to the utilities or facilities now serving the Property, including, but not limited, to water, sewer, electric, telephone and gas, have been fully paid, except for monthly utility service bills which will be paid prior to delinquency. Seller has not received any complaint or claim with respect to storm water flow from any owner of adjacent property or otherwise. All such public utilities either enter the Land through adjoining public streets or, if they pass through adjoining private land, do so in accordance with

valid and recorded public easements or private easements which inure to the benefit of Purchaser.

6.2.12 **Condemnation.** To Seller's actual knowledge, there are no proceedings pending or threatened against or affecting the Property or any portion thereof or interest therein in the nature of or in lieu of condemnation or eminent domain proceeding.

6.2.13 **Assessments.** Seller has no actual knowledge and Seller has not received written notice of any assessments by a public body, whether municipal, county or state imposed, contemplated or confirmed and ratified against any of the Property for public or private improvements which are now or hereafter payable.

6.2.14 **Contractors.** All contractors, subcontractors, architects, materialmen, laborers, suppliers and other parties who have performed or furnished work, labor, materials, equipment or supplies or have labored on the Property to make improvements thereon or otherwise to improve the Property are paid in full, and there are no unpaid claims related to work that has been completed or is in progress.

6.2.15 **No Hazardous Substances on Property.** Seller has not caused Hazardous Substances to be discharged, disbursed, released, stored, treated, generated, disposed of, or allowed to escape on, in, or under the Property in a manner which violates any Legal Requirements regulating such substances and, other than as specifically set forth herein, to the best of Seller's knowledge, no other Person has caused Hazardous Substances to be discharged, disbursed, stored, treated, generated or allowed to escape on, in or under the Property. No asbestos or asbestos containing materials have been installed, used, incorporated into, or disposed of on the Property by Seller, or, to the best of Seller's knowledge, by any other Person. No PCBs have been located on or in the Property, whether in electrical transformers, fluorescent light fixtures with ballasts, cooling oils, or otherwise, by Seller or, to the best of Seller's knowledge, by any other Person. No underground storage tanks are currently located on, at or under the Property. To best of Seller's knowledge, no investigation, administrative order, consent order or agreement, litigation, or settlement with respect to Hazardous Substances is proposed, threatened, anticipated or in existence with respect to the Property. The Property has not previously been used as a landfill, a cemetery, or a dump for garbage or refuse by Seller or any of its Affiliates or, to the best of Seller's knowledge, by any other Person. Seller hereby agrees to indemnify, protect, defend (through attorneys reasonably acceptable to Purchaser) and hold harmless Purchaser and its council members, administrative officials, agents, employees, successors and assigns from and against any and all claims, damages, losses, liabilities, costs and expenses (including reasonable attorneys' fees) arising from or relating to the presence of any Hazardous Substances or underground storage tanks at, on or under the Property prior to the Closing Date and for any violation or breach of the foregoing representation and warranty. The indemnities contained in this subsection 6.2.15 shall survive the Closing hereunder and any termination of this Agreement.

6.2.16 **No Rights to Purchase.** Except for this Agreement, Seller has not entered into, and has no actual knowledge of any agreement, commitment, option, right of first refusal or

any other agreement, whether oral or written, with respect to the purchase, assignment or transfer of all or any portion of the Property which is currently in effect.

6.2.17 **No Latent Defects.** To Seller's actual knowledge, the Property has no hidden or latent defects.

6.2.18 **Zoning.** The Land is currently zoned in accordance with the zoning classifications of the Town of Cutler Bay, Florida to permit the legal use of the Improvements for office building purposes. Seller has no knowledge of any fact, action or proceeding, whether actual, pending or threatened, which could result in a modification or termination of such zoning. Seller shall not take any action prior to Closing which would affect the current zoning classification of the Land.

6.2.18 **Parties in Possession.** Except for tenants under the Leases, there are no parties other than Seller in possession of any portion of the Land or Improvements as lessees, tenants at sufferance or trespassers. There is no association in existence affecting the Property.

6.2.19 **Leases.** The Leases described on the Rent Roll attached hereto as Exhibit "B" comprise all of the Leases presently existing and each is in full force and effect as of the date hereof. None of the Leases have been modified, altered, or amended in any respect, and no tenant has the right to cancel or terminate its Lease, except as set forth in the Rent Roll. No tenant has any right to renew or extend its Lease, nor any interest in the Property other than a leasehold possessory interest. Except as specified on the Rent Roll, all of the Leases are the result of bona fide arms length negotiations between the parties. There are no leases, tenancies or other rights of occupancy or use for any portion of the property other than as set forth in the Rent Roll. The Leases embody all contracts between Seller and tenants, implied or otherwise, and there are no other contracts or obligations between Seller and tenants, either oral or written. Neither Seller nor any tenant are in default under any Lease, and no event has occurred that, with the giving of notice or passage of time, or both, would constitute a default thereunder. Except as specified on the Rent Roll, each of the tenants under the Leases are in possession of their respective premises. No tenant has any offsets, defenses, claims or causes of actions against Seller arising out of matters occurring prior to Closing. There is no tenant contesting any tax, operating costs or other escalation payments or occupancy charges or any other amounts payable under its specific Lease.

6.2.20 **Performance of Landlord's Obligations.** All painting, repairs, alterations, and other work expressly required to be performed by the Seller as landlord under the Leases, and all other obligations of the landlord required to be performed thereunder, have been fully performed and paid for in full, or will be fully performed and paid for on or before the Closing Date. All representations on the part of the landlord contained in the Leases are true and correct. The Seller, as landlord, has not waived any default under any Lease.

6.2.21 **Rents.** The Rents and other charges set forth in the Rent Roll are the actual Rents and other charges presently being collected by the Seller under the Leases for the calendar month immediately preceding the Effective Date. No tenant under any of the Leases is entitled to any free rent, concessions, rebates, or refunds, except as specified on the Rent Roll.

No tenant has prepaid any Rents or other charges for more than one month in advance except as specified on the Rent Roll. None of the Rents or other charges billed to or collected from any tenant violate any applicable Governmental Requirement. The information contained in the Rent Roll is true and complete in all material respects.

6.2.22 **Leases Unencumbered.** None of the Leases and none of the rents or other amounts payable thereunder have been assigned, pledged, or encumbered, except as set forth in the Permitted Exceptions.

6.2.23 **Leasing Commissions.** No brokerage or leasing commissions (including any renewals or residuals) or other compensation are due or payable to any person, firm, corporation, or other entity with respect to or on account of any of the Leases except as specified on the Rent Roll.

6.2.24 **Sales Tax.** All sales tax required to be paid or collected by Seller in the operation of the Property has been collected and paid to the appropriate Governmental Authority through a current date.

6.2.25 **Rights of Tenants.** No tenant or other occupant under any of the Leases and no other person, firm, corporation, or other entity has any right or option to acquire the Property or any portion thereof or lease any additional space.

6.2.26 **Service Contracts.** The schedule of Service Contracts attached to this Agreement constitutes a list of all of the Service Contracts affecting the Property, and there are no other Service Contracts with respect to the Property. All of the Service Contracts are in full force and effect, and there is no default by any party under any Service Contract, and no event has occurred that, with the giving of notice or passage of time, or both, would constitute a default thereunder. Seller has received no notice that any party to any Service Contract intends to cancel or terminate its Service Contract. There are no other agreements (written or oral) other than the Leases or Service Contracts affecting the Property.

6.2.27 **The Improvements.** The Improvements have been completed and installed substantially in accordance with the plans and specifications approved by the applicable Governmental Authorities. All Permits required by all Governmental Authorities having jurisdiction and the requisite certificates of the local board of fire underwriters (or other body exercising similar functions) have been issued for the Improvements, have been paid for, and are in full force and effect. Certificates of occupancy have been issued for each of the premises which are subject to the Leases. No additional certificates of occupancy, licenses or other permits are required for the current use or operation of the Property. There are no structural defects in any of the Improvements. The heating, electrical, plumbing, air conditioning, building equipment, and other Personal Property are free from defects and in good condition and working order and adequate in quantity and quality for normal operations. The roofs of all of the Improvements are free of physical leaks and are watertight.

6.2.28 **Entrances and Exits.** All current curb cuts, entrances and exits to the Property are lawful and permitted.

6.2.29 Access. There is permanent vehicular and pedestrian egress from and egress to the Land over public roads that abut the Land.

6.2.30 No Commitments to Dedicate Property. No commitments or agreements have been or will be made to any governmental authority, utility company, school board, church or other religious body, any homeowners or homeowners' association, or any other organization, group or individual, relating to the Land which would impose an obligation upon Purchaser to make any contributions or dedications of money or land to construct, install or maintain any improvements of a public or private nature on or off the Land, or otherwise impose liability on Purchaser.

6.2.31 Adverse Conditions. Seller has no actual knowledge of any adverse fact relating to the physical condition of the Land which has not been specifically disclosed in writing to Purchaser, including, without limitation, adverse soil conditions.

6.2.32 Unrecorded Agreements Restricting Use of the Property. Seller has not, nor to Seller's actual knowledge has any predecessor in title, executed or caused to be executed any document with or for the benefit of any Governmental Authority restricting the development, use or occupancy of the Property that is not recorded in the land records of the county in which the Land is located or has not been specifically disclosed in writing to Purchaser.

6.2.33 Property Records. All Property Records delivered or made available, or to be delivered or made available to Purchaser pursuant to this Agreement, are or upon submission will be complete, accurate, true and correct in all material respects.

6.2.34 Disclosure. No statement, warranty or representations by the Seller contains an untrue statement of material fact or omits to state a material fact necessary in order to make the statements made in light of the circumstances under which such statements are made not misleading.

6.2.35 Survival. The foregoing representations, warranties, covenants and agreements of Seller in this Section 6 shall survive the Closing or termination of this Agreement.

6.2.36 Actual Knowledge. As used in this Agreement or in any Exhibit attached hereto, any reference to actual knowledge shall with respect to Seller mean the actual knowledge of Seller and its agents, officers and employees who have any association with the ownership of the Property.

SECTION 7: PURCHASER'S REPRESENTATIONS AND WARRANTIES

Purchaser represents and warrants to Seller that the following facts and conditions exist and are true as of the date hereof and shall exist and be true as of the date of the Closing.

7.1 Purchaser is validly formed municipal corporation in good standing organized and existing under the laws of the State of Florida and has all requisite power and authority to purchase the Land and to enter into and perform its obligations hereunder.

SECTION 8: SELLER'S COVENANTS

From and after the date hereof, through and including the Closing Date, Seller agrees as follows (each of which covenants is a condition to Purchaser's obligations to close under this Agreement and must be satisfied by Seller or waived by Purchaser in writing prior to Closing):

8.1 Inspection of Property. Seller will allow Purchaser and its agents and contractors to enter upon the Property for any purpose in connection with Purchaser's proposed purchase, use and operation of the Property.

8.2 Management and Operation Prior to Closing. Between the Effective Date of this Agreement and the Closing Date, Seller shall maintain the Property, committing or permitting no waste thereto, such that at the time of the Closing, the Property shall be in substantially the same physical condition as on the date of Seller's execution of this Agreement.

8.3 Notices. Seller shall, promptly upon Seller's obtaining knowledge thereof, provide Purchaser with a written notice of any event which has an adverse effect on the physical condition of the Property.

8.4 Notices of Violation. Promptly after Seller obtains actual knowledge or upon receipt of written notice thereof, Seller has provided or shall provide Purchaser with written notice of any violation of any Legal Requirements affecting the Property, any service of process relating to the Property or which affects Seller's ability to perform its obligations under this Agreement or any other correspondence or notice received by Seller which has or has the potential to have an adverse effect on the Property.

8.5 Notification of Change of Circumstances. Seller shall provide Purchaser with written notice of any transaction or occurrence prior to Closing which could make any of the warranties, representations, covenants and agreements of Seller under this Agreement not true with the same force and effect, as if made on or as of the date hereof.

8.6 Seller's Cooperation. If requested by Purchaser, Seller will promptly execute all petitions, applications, easements, plats, site plans, waivers of plats, and other documents which Purchaser may reasonably request and otherwise reasonably cooperate with Purchaser in connection with Purchaser obtaining or granting any permit, plat, waiver of plat, site plan approval, easement, right-of-way dedication, rezoning, right-of-way deed, variance or other administrative authorization required for Purchaser's proposed use and development of the Property.

8.7 Survival. Any claim for breach of the covenants contained in this Agreement including, without limitation, in this Section 8 shall survive the Closing.

SECTION 9: PURCHASER'S DUE DILIGENCE AND INSPECTION OF PROPERTY

9.1 Documents to be Delivered by Seller; Property Records. Commencing five (5) days after the Effective Date, Seller shall provide to Purchaser the Property Records, including copies of all documents, records, reports, studies, data and information relating to the Property in Seller's control or possession, including, without limitation, any existing tests, surveys, title policies, leases, occupancy agreements, licenses, permits, engineering and/or environmental analyses, soil test borings, Seller's Records, Permits and tax bills.

9.2 Purchaser's Due Diligence; Inspection of Property. Purchaser or its appointed agents or independent contractors shall have, at all reasonable times prior to the Closing, the privilege of going upon the Land, at Purchaser's sole cost and expense, to inspect, examine, test, investigate, appraise and survey the Property, including, without limitation, soil, groundwater, environmental tests and inspections, and habitat and vegetation analysis. In exercising the privileges granted pursuant to this subsection 9.2, Purchaser shall substantially restore the Property to the condition existing prior to such activities on the Property. In consideration of Purchaser's right to inspect the Property as described in this subsection 9.2, subject to the provisions and monetary limitations of Section 768.28, Florida Statutes, Purchaser agrees to indemnify, defend and hold Seller harmless from any actions, suits, liens, claims, damages, expenses, losses and liability for damage to personal property or personal injury arising from or attributable to any acts performed by Purchaser or its appointed agents or independent contractors in exercising Purchaser's rights under this subsection 9.2 (including, without limitation, any rights or claims of materialmen or mechanics to liens on the Property, but excluding any matter to the extent arising out of the negligence or misconduct of Seller). This agreement to indemnify Seller shall survive the Closing and any termination of this Agreement.

9.3 Conditions Precedent/Termination Right. In addition to any other termination right or other remedy specified herein and notwithstanding any provision of this Agreement which may be interpreted to the contrary, if Purchaser is dissatisfied, for any reason and in Purchaser's exclusive judgment, with the results of Purchaser's investigation and due diligence of the Property, or the condition of the Property is not acceptable to Purchaser for any reason whatsoever, then Purchaser may terminate this Agreement by notifying Seller or Seller's attorney of such termination on or before the 6:00 p.m. on the Termination Date, whereupon the Earnest Money shall be refunded to Purchaser by the Escrow Agent and thereafter neither party hereto shall have any further rights, obligations, or liabilities hereunder except to the extent that any right, obligation or liability set forth herein expressly survives termination of this Agreement.

SECTION 10: PURCHASER'S ADDITIONAL CLOSING CONTINGENCY

Purchaser's obligation to close the transaction contemplated by this Agreement and purchase the Property is expressly subject and contingent upon Purchaser obtaining on or before the Termination Date all final, non-appealable governmental approvals and exercises of authority of Governmental Authorities, including, without limitation, approval by the Council of the Town of Cutler Bay, to purchase the Property and finance the acquisition thereof, and approval of this Agreement (collectively the "Governmental Approvals").

Purchaser shall have up to and including the Termination Date to obtain any and all Governmental Approvals. If Purchaser does not obtain the Governmental Approvals on or before the Termination Date, then Purchaser shall have the right to (i) terminate this Agreement by notifying Seller or Seller's Attorney of such termination on or before the Termination Date or (ii) waive this contingency. If this Agreement is terminated by Purchaser, the Earnest Money shall be refunded to Purchaser by the Escrow Agent and thereafter neither party hereto shall have any further rights, obligations, or liabilities hereunder except to the extent that any right, obligation or liability set forth herein expressly survives termination of this Agreement.

The parties acknowledge and agree that Purchaser's right to terminate under this Section 10 may be exercised upon the denial or any non-approval of any one of the various Governmental Approvals necessary to purchase the Property and finance the acquisition thereof. By way of example, if the Council of the Town of Cutler Bay fails to approve the purchase of the Property and this Agreement, Purchaser may exercise its right to terminate hereunder without having to wait until the Termination Date to do so.

Seller consents to Purchaser processing the necessary Governmental Approvals and agrees at Purchaser's request to execute any reasonable documentation necessary or appropriate in connection with Purchaser obtaining the Governmental Approvals.

SECTION 11: CLOSING

Subject to the satisfaction of all conditions on or before Closing, the Closing Date shall occur on the date which is thirty (30) days after the Termination Date, unless the Closing Date is otherwise extended pursuant to the provisions of this Agreement or by written agreement of the parties. The Closing shall be held at the offices of Purchaser's Attorney, at a time mutually acceptable to both parties. If no such selection is timely made, the Closing shall be held at 10:30 a.m. local time on the Closing Date or at such other time or such other place as may be mutually agreed in writing by the parties hereto.

11.1 Delivery: Possession. At Closing, Seller shall deliver to Purchaser the items required of Seller under this Agreement, and Purchaser shall deliver to Seller the balance of the Purchase Price (after crediting the Earnest Money and making other adjustments and prorations as provided herein) and the other items required of Purchaser under this Agreement. Seller shall deliver possession of the Property to Purchaser, subject only to the Permitted Exceptions at the time of Closing. Risk of loss shall remain with Seller until Closing.

11.2 Closing Costs.

11.2.1 Seller's Costs. Seller shall pay (i) property transfer, conveyance, sales and other taxes due on the transfer of the Property, (ii) the fees and expenses of Seller's attorneys, (iii) the documentary stamps and surtaxes due on the Deed, and (iv) the cost of recording any corrective instruments.

11.2.2 **Purchaser's Costs.** Purchaser shall pay (i) any costs incurred by Purchaser in preparing and performing its due diligence investigations, (ii) the cost of the Title Commitment, (iii) the premium for the Owner's Title Policy, (iv) the cost of recording the Deed, (v) the cost of the Survey, and (vi) the fees and expenses of Purchaser's Attorney.

11.2.3 **Other Costs.** Any other costs not specifically provided for in subsection 11.2.1, subsection 11.2.2 or otherwise pursuant to the terms of this Agreement shall be paid by the party who incurred those costs, or if neither party is charged with incurring any such costs, then by the party customarily assessed for such costs in the place where the Property is located. Any escrow fees, document preparation charges of the Title Company and other escrow related charges of the Escrow Agent in its capacity as escrow agent only shall be paid equally by Seller and Purchaser.

11.2.4 **Survival.** The provisions of this subsection 11.2 shall survive the Closing and the delivery of the Deed.

11.3 **Purchaser's Conditions to Closing.** Purchaser's obligation to purchase the Property or otherwise to perform any obligation provided in this Agreement is expressly conditioned upon the fulfillment or satisfaction of each of the following conditions precedent on or before the Closing Date (any of which may be waived only in writing by Purchaser in its discretion):

11.3.1 Purchaser shall have obtained all Governmental Approvals necessary to purchase the Property and finance the acquisition thereof;

11.3.2 Seller shall have fully performed each undertaking and covenant and agreement to be performed by Seller under this Agreement including, but not limited to, delivery of all items and documents required under Section 13 below;

11.3.3 Each representation and warranty made in this Agreement by Seller shall be complete, true and accurate;

11.3.4 The Owner's Title Policy shall be issued, or in lieu of issuance of the foregoing at Closing, the Title Company shall have delivered a "marked up" Title Commitment, subject only to the Permitted Exceptions, with gap coverage, deleting all requirements and deleting the standard exceptions;

- 11.3.5** Without additional cost or charge to Purchaser, the Intangible Property and service contracts shall be assigned to Purchaser;
- 11.3.6** Except as cured by Seller or otherwise approved or waived in writing by Purchaser, no event shall have occurred which may have an adverse effect on the physical condition of the Property;
- 11.3.7** No amendments, restatement, adoption or repeal of any laws, statutes, codes, acts, ordinances, orders, judgments, decrees, injunctions, rules, regulations, permits, licenses, authorizations, directions and requirements of all governmental authorities, officials, agencies and officers, ordinary or extraordinary, shall have occurred which is applicable to the Property and has or could have an adverse effect upon the value, use, operation, zoning, development or condition thereof.
- 11.3.8** The Land shall have been subdivided from all other property in accordance with all applicable governmental requirements and shall be assessed as a separate tax lot or tax parcel, independent of all other parcels of land not being conveyed hereunder.
- 11.3.9** Seller shall have delivered to Purchaser estoppel certificates dated no earlier than thirty (30) days before the Closing Date, in a form prescribed by Purchaser ("Estoppel Certificates") from all of the tenants under the Leases, and Purchaser shall have approved any material modifications made by such tenants to such form (other than modifications made to conform such Estoppel Certificates to the forms, if any required to be delivered by the tenant under the Lease in question) and any information inserted by such tenants which is a variance with the information contained in the Rent Roll (as updated by Seller pursuant to the provisions of this Agreement), which approval shall not be unreasonable withheld or delayed and shall in any event be deemed to have been given if Purchaser proceeds to Closing. Seller shall use all reasonable, good faith efforts to obtain Estoppel Certificates from all tenants under the Leases. If Seller is unable, after all reasonable good faith efforts, to obtain Estoppel Certificates from all of the tenants, Seller shall provide an affidavit for tenants from who Seller has been unable to obtain Estoppel Certificates. Said affidavit shall include all information that would have been included in the applicable Estoppel Certificates. Seller shall deliver to Purchaser not less than thirty (30) days prior to Closing, all Estoppel Certificates then received by Seller, and any other written statements or notices from tenants received by Seller after the Effective Date. Thereafter Seller shall deliver to Purchaser prior to Closing any Estoppel Certificates subsequently received by Seller

prior to Closing, and any other written statements or notices from tenants subsequently received by Seller prior to Closing. If Seller provides Seller's Affidavit and Seller thereafter (within ninety (90) days of the Closing Date) obtains an Estoppel Certificate complying with the provisions of this Contract from any tenant covered by a Seller's Affidavit, then the Estoppel Certificate shall be substituted for the Seller's Affidavit as to such tenant and Seller shall have no continuing liability on the Seller's Affidavit as to such tenant. In the event of any discrepancy between information set forth in the Rent Roll and the information contained in any Estoppel Certificate or Seller's Affidavit, Seller shall use all reasonable efforts proceeding in good faith to resolve the discrepancy so that the Estoppel Certificate or the Seller's Affidavit, as the case may be, will be consistent with the Rent Roll. If after making all reasonable efforts, the Estoppel Certificate or Seller's Affidavit is not revised to be consistent with the Rent Roll, Purchaser may terminate this Contract and receive a refund of the Earnest Money.

If any of the foregoing conditions are not satisfied at or before Closing, then in addition to any remedy available to Purchaser under this Agreement, Purchaser may terminate this Agreement by written notice to Seller, in which event the Earnest Money shall be returned to Purchaser and the parties shall be released from all obligations and liabilities under this Agreement except those that expressly survive termination of this Agreement.

SECTION 12: PRORATIONS AND CREDITS AT CLOSING

All prorations provided to be made "as of the Closing Date" shall each be made as of 11:59 p.m. local time on the date immediately preceding the Closing Date. In each proration set forth below, the portion thereof allocable to periods beginning with the Closing Date shall be credited to Purchaser, or charged to Purchaser, as applicable, at Closing or, in the case of allocations made after Closing, upon receipt of such payments or invoice as of the Closing Date. Except as may otherwise be specified herein, the following items shall, as applicable, be prorated between Purchaser and Seller or credited to Purchaser or Seller:

12.1 Property Taxes and Assessments.

12.1.1 Taxes. Seller acknowledges and agrees that the Property is being purchased by an exempt governmental entity and that the Seller must comply with Section 196.295, Florida Statutes, regarding real estate taxes.

12.1.2 Special Assessments. Certified, confirmed and ratified special assessment liens as of Date of Closing (and not as of the date of this Agreement) shall be paid by Seller or Purchaser shall receive a credit therefor. Pending liens as of Date of Closing shall be

assumed by Purchaser; provided, however, that where the improvement for which the special assessment was levied, had been substantially completed as of the date of this Agreement, such pending liens shall be considered as certified, confirmed or ratified and Seller shall, at Closing, be charged an amount equal to the estimated assessment for the improvement.

12.1.3 **Utilities.** Seller shall receive a credit for any deposits with utility companies to the extent such deposits are assignable and are assigned to Purchaser. Water, sewer, electricity, gas and other utility charges, if any, shall be prorated on the basis of the fiscal period for which assessed, except that if there are utility meters for the Property, apportionment at the Closing shall be based on the last available reading.

12.1.4 **Rents.** Seller shall be entitled to all Rents for the period prior to the Closing Date; Purchaser shall be entitled to all Rents accruing as of the Closing Date. Collected Rents shall be prorated as of the Closing Date. Purchaser shall not be required to give Seller any credits at Closing for Rent due Seller. However, if at the time of Closing there shall be any delinquent Rents owing from tenants covering any period of time, or any obligation incurred, prior to the Closing Date, Purchaser shall use reasonable efforts to collect such delinquent Rents and shall promptly remit the same to Seller upon receipt by Purchaser, but shall have no obligation to institute any proceedings. Any Rents collected by Purchaser shall be applied first to current Rent due, and thereafter to delinquent Rents. Purchaser agrees to pursue at Seller's expense, the collection of any accrued and unpaid Rents and Seller agrees to cooperate with Purchaser in its collection efforts. Purchaser may deduct its reasonable collection expenses from Rents collected prior to remitting such rents to Seller.

If at the time of Closing, any tenants owe Seller any money, Seller shall have the right, subsequent to the Closing, to collect such sums directly from the tenants including bringing lawsuits against the tenants (at Seller's sole expense) for such collection, provided, however, Seller agrees that it shall not bring any such action for a period of ninety (90) days from and after the Closing Date, and that any such legal action or collection shall not include any disturbance of the possession, use or occupancy of the tenants or any right to evict the tenants, whether pursuant to the specific Lease provisions or otherwise, and Purchaser shall not be obligated to join in any such proceeding. This provision shall expressly survive the Closing.

12.1.5 **Common Area Maintenance Expense.** Common area maintenance expenses, including taxes and insurance premiums, and charges shall be prorated. Seller shall be responsible for all common area expenses and charges incurred prior to Closing, and Purchaser shall be responsible for the same subsequent to Closing. All common area expense payments made by each tenant and such charges paid under its Lease for the entire lease year during which the Closing occurs, including end-of-year adjustments, if any, shall be prorated between Seller and Purchaser in the same proportion as the percentage of common area expenses respectively paid by Seller and Purchaser for such lease year bears to the total for the year. Purchaser shall, within ten (10) days of Purchaser's receipt of the foregoing, remit to Seller its proportionate share. Purchaser shall be responsible to prepare and send out year-end billings to each of the tenants for the common area maintenance expenses and Seller shall cooperate in connection with the preparation of such billings. Purchaser shall not be required to institute any action or proceeding to collect common area maintenance, but shall exercise due diligence in attempting to collect the same. This provision shall expressly survive the Closing.

12.1.6 **Security Deposits and Prepaid Rentals.** Purchaser shall be given a credit against the Purchase Price for all security deposits and prepaid rentals collected by Seller under the Leases.

12.2 **Reprorations.** At the Closing, the above referenced items shall be prorated and adjusted as indicated. If subsequent to the Closing taxes for the year of Closing are determined to be higher or lower than as prorated, a reproration and adjustment will be made at the request of Purchaser or Seller upon presentation of actual tax bills, and any payment required as a result of the reproration shall be made within ten (10) days following demand therefor. All other prorations and adjustment shall be final. If any refund of real property taxes is made after the Closing Date for a period prior to the Closing Date, the same shall be applied first to the cost incurred in obtaining same and second to the refunds due to tenants by reason of the provisions of their respective Leases; the balance, if any, shall be paid to Seller (for the period prior to the Closing Date) and to Buyer (for the period commencing with the Closing Date). The provisions of this Section shall expressly survive the Closing.

12.3 **Other Matters.** Seller and Purchaser shall make such other adjustments and apportionments as are expressly set forth in this Agreement.

12.4 **Survival.** The provisions of this Section 12 shall survive the Closing and the delivery of the Deed. In the event final figures have not been reached on any of the adjustments, prorations or costs which are to be adjusted at or prior to Closing pursuant to this Section 12, the parties shall close using adjustments and prorations reasonably estimated by Seller and Purchaser, subject to later readjustment when such final figures have been obtained. The parties hereto agree that they shall seek to determine the amounts of all prorations and adjustments

required hereunder on or before the Closing Date, if possible, and to the extent not then obtainable within one (1) year of Closing.

SECTION 13: CONVEYANCES AND DELIVERIES AT CLOSING

13.1 Warranty Deed. At Closing, Seller shall convey the Land to Purchaser by a duly executed and recordable statutory warranty deed in substantially the form attached hereto as Exhibit "F" (herein referred to as "Deed"), subject only to the Permitted Exceptions.

13.2 Bill of Sale. At Closing, Seller shall also convey the Improvements to Purchaser by a duly executed Bill of Sale in substantially the form attached hereto as Exhibit "G".

13.3 Seller's Records. At or simultaneously with the Closing, Seller shall deliver to Purchaser the originals (or if originals are unavailable, certified copies) of the Seller's Records, and the Permits. Seller may keep copies of such materials at Seller's sole cost and expense.

13.4 Section 1445 Certificate. At Closing, Seller shall execute and deliver to Purchaser and the Title Company a certificate substantially in the form as Exhibit "H" attached hereto stating that Seller is not a "foreign person" as defined in Section 1445 of the Internal Revenue Code and the regulations thereunder.

13.5 Affidavit of Title. At Closing, Seller shall execute and deliver to Purchaser and to the Title Company a no-lien, possession and gap title affidavit in the form required by the Title Company, together with such resolutions, affidavits, documents and certificates as the Title Company may reasonably require to issue the Owner's Title Policy in accordance with the terms of this Agreement.

13.6 Closing Statement. At Closing, Seller and Purchaser shall execute and deliver a Closing Statement which shall, among other items, set forth the Purchase Price, all credits against the Purchase Price, the amounts of all prorations and other adjustments to the Purchase Price and all disbursements made at Closing on behalf of Purchaser and Seller in accordance with the terms of this Agreement.

13.7 Evidence of Authority. At Closing, Seller shall update Evidence of Authority dated not more than five days before the Closing Date.

13.8 General Assignment. At Closing, Seller will deliver to Purchaser a general assignment, to the extent assignable, of the Seller's Records, Permits, the Service Contracts, the Intangible Property and all other property and rights included in the transaction contemplated by this Agreement, which assignment shall be substantially in the form attached hereto as Exhibit "I".

13.9 Assignment of Leases. An Assignment of Leases together with possession of the original Leases and any guarantees thereof and any tenant keys and security codes to the extent any of the foregoing are in the Seller's possession or control, and an update of the Rent Roll.

13.10 Tenant Letter. A letter to each tenant under the Leases advising such tenant of the sale to Purchaser of the Property and directing the tenant to pay all rentals accruing under its Lease from and after the Closing Date to Purchaser and to recognize Purchaser as landlord under its Lease.

13.11 Disclosure Affidavit. At least ten (10) days prior to Closing, Seller shall execute and deliver to Purchaser an affidavit in recordable form as required by the provisions of Section 286.23, Florida Statutes.

13.12 Physical Possession. At Closing, Seller shall deliver to Purchaser possession of the Property subject to the Leases.

13.13 Seller's Certificate. At Closing, Seller shall deliver to Purchaser a certificate of Seller dated as of the Closing Date certifying (i) that all representations and warranties of Seller under this Agreement are true and correct, in all respects as of the Closing Date (except as the same may have been changed as permitted in accordance with the terms of this Agreement and disclosed to Purchaser prior to Closing) and (ii) to Seller's actual knowledge, that there has occurred no default or breach, nor any event which with notice or with the passage of time, or both, would constitute such a default or breach by Seller under this Agreement.

13.14 Other Documents. At Closing, Seller and Purchaser shall deliver to each other any other documents expressly required to be delivered or furnished pursuant to any other provisions of this Agreement or reasonably required to carry out the purpose and intent of this Agreement.

SECTION 14: NOTICES

All notices, consent, approvals and other communications which may be or are required to be given by either Seller or Purchaser under this Agreement shall be properly given only if made in writing and sent by (a) hand delivery, (b) electronic facsimile or other transfer device with telephone or other confirmation of receipt, provided that a hard copy of such notice is mailed by US first class mail, postage prepaid, on or before the next Business Day following such telecopy delivery or (c) a nationally recognized overnight delivery service (such as Federal Express, UPS Next Day Air or DHL Express), with all delivery charges paid by the sender and addressed to the Purchaser or Seller, as applicable, as follows, or at such other address as each may request in writing. Such notices shall be deemed received, (1) if delivered by hand or overnight delivery service on the date of delivery and (2) if sent by electronic transfer on the date transmission is confirmed by telephone or return electronic transfer from the receiving party, provided that a hard copy of such notice is mailed by US first class mail, postage prepaid, on or before the next Business Day following such telecopy delivery. The refusal to accept delivery shall constitute acceptance and, in such event, the date of delivery shall be the date on which delivery was refused. Said addresses for notices are to be as follows:

IF TO SELLER:

Pinnacle Investment Properties, Inc.
c/o _____

Telephone: (____) _____
Telecopy No: (____) _____

with a copy to:

_____, Esq.

Telephone No.: (____) _____
Telecopy No.: (____) _____
Email: _____

IF TO PURCHASER:

Town of Cutler Bay
10720 Caribbean Boulevard
Suite 105
Cutler Bay, Florida
Attention: Steven Alexander, Town Manager
Telephone No.: (305) 234-4262
Telecopy No.: (305) _____

with a copy to:

Weiss Serota Helfman Pastoriza Cole & Boniske, P.L.
2525 Ponce de Leon Blvd., Suite 700
Coral Gables, Florida 33134
Attention: Mitch Bierman, Esq.
Telephone No.: (305) 854-0800
Telecopy No.: (305) 854-2323
mbierman@wsh-law.com

SECTION 15: CASUALTY AND CONDEMNATION

15.1 Casualty. Prior to the Closing Date, and notwithstanding the pendency of this Agreement, the entire risk of loss or damage by fire or other casualty shall be borne and assumed by Seller, except as otherwise provided in this subsection 15. Until the Closing has occurred, Seller shall keep all insurance policies in effect with respect to the Property. If, prior to the Closing Date, any part of the Property is damaged or destroyed by fire or other casualty, Seller shall immediately notify Purchaser of such fact. If such damage or destruction is material (as

defined below), Purchaser shall have the option to terminate this Agreement upon written notice to Seller given not later than thirty (30) days after receipt of Seller's notice. For purposes hereof "material" shall be deemed to be any uninsured damage or destruction to the Property (except that a casualty shall not be deemed uninsured solely because all, or a portion of, the cost of the casualty is subjected to a deductible) or any insured damage or destruction (i) where the cost of repair or replacement is estimated, in Purchaser's good faith judgment, to be Fifty Thousand and No/100 Dollars (\$50,000.00) or more for the Improvements, or (ii) where the repair or replacement is estimated, in Purchaser's good faith judgment, to require more than one hundred twenty (120) days to repair. If Purchaser does not exercise this option to terminate this Agreement, or if the casualty is not material, neither party shall have the right to terminate this Agreement, and the parties shall proceed to the Closing pursuant to the terms hereof without modification of the terms of this Agreement and without any reduction in the Purchase Price but, Seller, at Closing, shall assign to Purchaser, and Purchaser shall be entitled to receive and keep, all insurance proceeds payable with respect to such casualty, plus Seller shall pay over to Purchaser the sum of (a) all insurance proceeds previously paid to Seller with respect to such casualty (other than amounts expended by Seller for emergency repairs or for repairs which are approved in writing by Purchaser) and (b) an amount equal to the deductible amount with respect to the insurance. In such event, Seller shall not be obligated to repair or restore the Property. If Purchaser does not elect to terminate this Agreement by reason of any casualty, Purchaser shall have the right to participate in any adjustment of the insurance claim and, in such event, Purchaser and Seller shall cooperate each with the other in good faith.

15.2 Condemnation. At Closing, Seller shall assign to Purchaser all of Seller's right, title and interest in and to the beds of streets, roads, alleys, avenues and highways abutting the Property and all of Seller's right, title and interest in and to all awards in condemnation, or damages or any kind, to which Seller is entitled at the time of Closing, by reason of any exercise of power of eminent domain with respect thereto or for the taking of the Property or any part thereof or by reason of any other event affecting the Property which gives rise to a damage claim against a third Party after the date hereof. Prior to the Closing Date, if all or any portion of the Property is taken, or if access thereto is reduced or restricted by eminent domain or otherwise (or if such taking, reduction or restriction is pending, threatened or contemplated) (hereinafter a "Condemnation Proceeding"), Seller shall immediately notify Purchaser of such fact. In the event that such notice related to the taking of all or any portion of the Property, Purchaser shall have the option, in its sole and absolute discretion, to terminate this Agreement upon written notice to Seller given not later than thirty (30) days after receipt of Seller's notice; whereupon the Earnest Money shall be refunded to Purchaser and thereafter neither Party shall have any rights, obligations or liabilities hereunder except with respect to those rights, obligations or liabilities which expressly survive the termination of this Agreement. If Purchaser does not elect to terminate this Agreement as herein provided, Seller shall pay to Purchaser any award received by Seller prior to Closing and Purchaser shall have the right to participate with Seller in any Condemnation Proceeding affecting the Property; provided, that in doing so Purchaser shall cooperate with Seller in good faith.

SECTION 16: BROKERS

Each party represents to the other that such party has not incurred any obligation to any broker, finder or real estate agent with respect to the purchase or sale of the Property. Each of Seller and Purchaser warrants and represents to the other that such party has employed (expressly or impliedly) no other broker, agent or other such Person as to which a commission or other such fee is or would become due or owing as a result of the purchase and sale contemplated hereby and has made no agreement (express or implied) to pay any broker's commission or other such fees in connection with the purchase and sale contemplated by this Agreement. Seller shall be solely responsible for the payment of any broker, finder or real estate agent fee(s) and/or commission(s) due in connection with the purchase and sale of the Property. Each of Seller and Purchaser agrees to indemnify and defend the other against, and to hold the other harmless of and from all claims, demands and liabilities (including reasonable attorney's fees and expenses incurred in defense thereof) for any commission or fees payable to, or claimed by, any broker, agent or other such Person arising out of the employment or engagement of such Person employed (expressly or impliedly) by Seller or Purchaser, as applicable, or with whom Seller or Purchaser, as applicable, has or is claimed to have, made an agreement (express or implied) to pay a commission or other such fee; provided, however, Purchaser's indemnification obligations under this Section 16 are subject to the provisions and monetary limitations of Section 768.28, Florida Statutes. The representation, warranties, undertakings and indemnities of this Section 16 shall survive the Closing hereunder and any termination of this Agreement.

SECTION 17: INDEMNITIES

17.1 Seller's Indemnity. Seller hereby agrees to indemnify, protect, defend (through attorneys reasonably acceptable to Purchaser) and hold harmless Purchaser and its council members, administrative officials, agents, employees, successors and assigns from and against any and all claims, damages, losses, liabilities, costs and expenses (including reasonable attorneys' fees actually incurred) which may at any time following the Closing Date be asserted against or suffered by Purchaser arising out of or resulting from the following (whether asserted or accruing before or after Closing):

- 17.1.1 any personal injury or property damage occurring prior to the Closing Date unless caused by the negligence of Purchaser or its agents or contractors;
- 17.1.2 any taxes payable in connection with this transaction or with respect to the Property prior to Closing;
- 17.1.3 Seller's failure to comply with the provisions of this Agreement which require performance or payment on the part of Seller after Closing.

17.2 Survival. The provisions of Section 17 shall survive the Closing hereunder and the delivery of the Deed.

SECTION 18: DEFAULT/REMEDIES

18.1 Seller's Default/Purchaser's Remedies. Notwithstanding any other remedy provided for herein, if Seller defaults in the observance or performance of its covenants and obligations hereunder, Purchaser may, at its option, terminate this Agreement and receive a refund of the Earnest Money or seek specific performance of this Agreement, without in either case waiving any action for damages resulting from Seller's breach.

18.2 Purchaser's Default/Seller's Remedies. If Purchaser defaults in the observance or performance of its covenants and obligations hereunder, then Seller, as its sole and exclusive remedy, shall (as an election of remedies) receive the Earnest Money from Escrow Agent as liquidated damages. Purchaser and Seller acknowledge the difficulty of ascertaining the actual damages in the event of such default, that it is impossible to more precisely estimate the damages to be suffered by Seller upon such default, that the retention of the Earnest Money by Seller is intended not as a penalty but as full liquidated damages and that such amount constitutes a good faith estimate of the potential damages arising therefrom. Seller's right to so terminate this Agreement and to receive liquidated damages as aforesaid is Seller's sole and exclusive remedy. Seller hereby waives, relinquishes and releases any and all other rights and remedies, including but not limited to: (1) any right to sue Purchaser for damages or to prove that Seller's actual damages exceed the amount which is hereby provided Seller as fully liquidated damages or (2) any other right or remedy which Seller may otherwise have against Purchaser, either at law, or equity or otherwise.

SECTION 19: ESCROW AGENT

19.1 Performance of Duties. Escrow Agent undertakes to perform only such duties as are expressly set forth in this Agreement. Escrow Agent shall not be deemed to have any implied duties or obligations under or related to this Agreement.

19.2 Reliance. Escrow Agent may (i) act in reliance upon any writing or instrument or signature which it, in good faith, believes to be genuine; (ii) assume the validity and accuracy of any statement or assertion contained in such a writing or instrument; and (iii) assume that any person purporting to give any writing, notice, advice or instructions in connection with the provisions of this Agreement has been duly authorized to do so. Escrow Agent shall not be liable in any manner for the sufficiency or corrections as to form, manner of execution, or validity of any instrument deposited in escrow, nor as to the identity, authority, or right of any person executing any instrument; Escrow Agent's duties under this Agreement are and shall be limited to those duties specifically provided in this Agreement.

19.3 Right to Interplead. If the parties (including Escrow Agent) shall be in disagreement about the interpretation of this Agreement, or about their respective rights and obligations, or about the propriety of any action contemplated by Escrow Agent, Escrow Agent may, but shall not be required to, file an action in interpleader to resolve the disagreement; upon filing such action, Escrow Agent shall be released from all obligations under this Agreement.

19.4 Attorney's Fees and Costs. In any suit between Purchaser and Seller wherein Escrow Agent is made a party because of acting as Escrow Agent hereunder, or in any suit wherein Escrow Agent interpleads the subject matter of the Escrow, Escrow Agent shall recover reasonable attorney's fees and costs incurred with the fees and costs to be paid from and out of the escrowed funds or equivalent and charged and awarded as court costs in favor of the prevailing party. The parties hereby agree that Escrow Agent shall not be liable to any party or person for misdelivery to Purchaser or Seller of items subject to this escrow, unless such misdelivery is due to willful breach of this Agreement or gross negligence of Escrow Agent.

19.5 Escrow Agent as Counsel for Purchaser. It is acknowledged that Escrow Agent is counsel for Purchaser. It is agreed that Escrow Agent shall not be disabled or disqualified from representing Purchaser, its council members, parents, officers, directors or agents in connection with any dispute or litigation which may arise out of or in connection with this transaction or this Agreement as a result of Escrow Agent acting as the escrow agent under this Agreement and the Seller, waives any claim or right to assert a conflict arising out of or in connection with the foregoing.

SECTION 20: GENERAL PROVISIONS

20.1 Entire Agreement. This Agreement, and all the Exhibits referenced herein and annexed hereto, contain the final, complete and entire agreement of the parties hereto with respect to the matters contained herein, and no prior agreement or understanding pertaining to any of the matters connected with this transaction shall be effective for any purpose. Except as may be otherwise expressly provided herein, the agreements embodied herein may not be amended except by an agreement in writing signed by the parties hereto.

20.2 Governing Law. This Agreement shall be governed by and construed under the laws of the State of Florida.

20.3 Further Assurances. Seller and Purchaser each agrees to execute and deliver to the other such further documents or instruments as may be reasonable and necessary in furtherance of the performance of the terms, covenants and conditions of this Agreement. This covenant shall survive the Closing.

20.4 Interpretation. The titles, captions and paragraph headings are inserted for convenience only and are in no way intended to interpret, define, limit to expand the scope or content of this Agreement or any provision hereto. If any party to this Agreement is made up of more than one Person, then all such Persons shall be included jointly and severally, even though the defined term for such party is used in the singular in this Agreement. This Agreement shall be construed without regard to any presumption or other rule requiring construction against the party causing this Agreement to be drafted. If any words or phrases in this Agreement shall have been stricken out or otherwise eliminated, whether or not any other words or phrases have been added, this Agreement shall be construed as if the words or phrases so stricken out or otherwise eliminated were never included in this Agreement and no implication or inference shall be drawn from the fact that said words or phrases were so stricken out or otherwise eliminated.

20.5 Counterparts. This Agreement may be executed in separate counterparts. It shall be fully executed when each party whose signature is required has signed at least one counterpart even though no one counterpart contains the signatures of all of the parties of this Agreement. Facsimile and PDF copies shall be deemed originals.

20.6 Non-waiver. No waiver by Seller or Purchaser of any provision hereof shall be deemed to have been made unless expressed in writing and signed by such party. No delay or omission in the exercise of any right or remedy accruing to Seller or Purchaser upon any breach under this Agreement shall impair such right to remedy or be construed as a waiver of any such breach theretofore or thereafter occurring. The waiver by Seller or Purchaser of any breach of any term, covenant or condition herein stated shall not be deemed to be a waiver of any other breach, or of a subsequent breach of the same or any other term, covenant or condition herein contained.

20.7 Severability. This Agreement is intended to be performed in accordance with and only to the extent permitted by applicable law. If any provisions of this Agreement or the application thereof to any Person or circumstance shall, for any reason and to any extent, be invalid or unenforceable, but the extent of the invalidity or unenforceability does not destroy the basis of the bargain between the parties as contained herein, the remainder of this Agreement and the application of such provision to other Persons or circumstances shall not be affected thereby, but rather shall be enforced to the greatest extent permitted by law.

20.8 Exhibits. The Exhibits referred in and attached to this Agreement are incorporated herein in full by this reference.

20.9 Attorneys' Fees. In the event of any controversy, claim or dispute between the parties arising from or relating to this Agreement (including, but not limited to, the enforcement of any indemnity provisions), the prevailing party shall be entitled to recover reasonable costs, expenses and Attorneys' Fees including, but not limited to, court costs and other expenses through all appellate levels.

20.10 Business Days. If any date provided for in this Agreement shall fall on a day which is not a Business Day, the date provided for shall be deemed to refer to the next Business Day.

20.11 Time is of the Essence. Time is of the essence in this Agreement.

20.12 No Personal Liability of Council Members, Administrative Officials or Representatives of Purchaser. Seller acknowledges that this Agreement is entered into by a municipal corporation as Purchaser and Seller agrees no individual council member, administrative official or representative of Purchaser shall have any personal liability under this Agreement or any document executed in connection with the transactions contemplated by this Agreement.

20.13 Effective Date. For purposes of calculation of all time periods within which Seller or Purchaser must act or respond as herein described, all phrases such as "the date of this Agreement", "the date of execution of this Agreement" or any other like phrase referring to the date of the Agreement, shall mean and refer to the "Effective Date" of this Agreement.

20.14 Radon Disclosure. Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of radon that exceed federal and state guidelines have been found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from your county public health unit. Pursuant to §404.056(8), Florida Statutes.

20.15 Waiver of Trial by Jury. SELLER AND PURCHASER HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVE ANY AND ALL RIGHTS TO TRIAL BY JURY IN ANY ACTION, SUIT OR COUNTERCLAIM ARISING IN CONNECTION WITH, OUT OF OR OTHERWISE RELATING TO THIS AGREEMENT AND ANY OTHER DOCUMENT OR INSTRUMENT NOW OR HEREAFTER EXECUTED AND DELIVERED IN CONNECTION THEREWITH.

20.16 No Contract With Other Persons. Seller agrees not to enter into a contract for the sale, lease, use or occupancy of the Property with any person or entity other than Purchaser for so long as this Agreement is in effect.

20.17 Assignment. Purchaser may assign its rights under this Agreement.

20.18 Police/Regulatory Powers. Purchaser cannot, and hereby specifically does not, waive or relinquish any of its regulatory approval or enforcement rights and obligations as it may relate to regulations of general applicability which may govern the Property, any improvements thereon, or any operations at the Property. Nothing in this Agreement shall be deemed to create an affirmative duty of Purchaser to abrogate its sovereign right to exercise its police powers and governmental powers by approving or disapproving or taking any other action in accordance with its zoning and land use codes, administrative codes, ordinances, rules and regulations, federal laws and regulations, state laws and regulations, and grant agreements. In addition, nothing herein shall be considered zoning by Agreement.

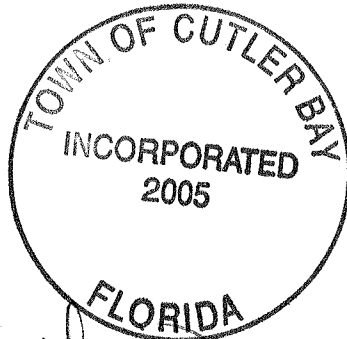
20.19 Negotiated Agreement. The parties have substantially contributed to the drafting and negotiation of this Agreement and this Agreement shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than any other. The parties hereto acknowledge that they have thoroughly read this Agreement, including all exhibits and attachments hereto, and have sought and received whatever competent advice and counsel was necessary for them to form a full and complete understanding of all rights and obligations herein.

20.20 No Recordation. Neither this Agreement nor any notice or memorandum of this Agreement shall be recorded in any public records.

20.21 Merger. Unless expressly set forth herein, the terms and provisions of this Agreement shall not survive the closing and such terms and provisions shall be deemed merged into the Deed and extinguished at Closing.

[SIGNATURES FOLLOW ON THE NEXT PAGE]

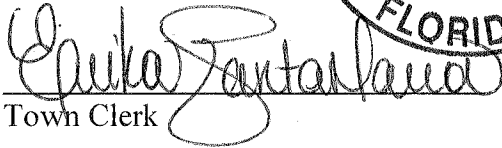
IN WITNESS WHEREOF, Seller and Purchaser have caused this Agreement to be executed, as of the day and year set forth below their signatures.

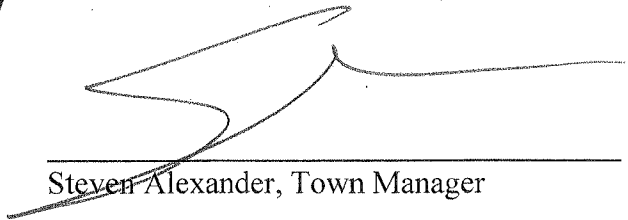


PURCHASER:

**TOWN OF CUTLER BAY, a Florida
municipal corporation**


ATTEST:


Town Clerk

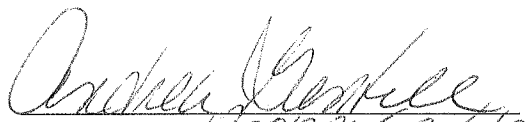
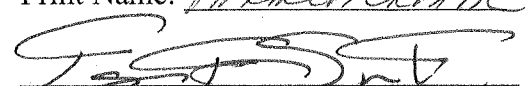

Steven Alexander, Town Manager

Date Executed: 3-9-10

Approved as to legal form
and sufficiency:


By: 
Town Attorney

WITNESSES:


Print Name: Andrew Gentile

Print Name: Tracy Spert

SELLER:

**PINNACLE INVESTMENT
PROPERTIES, INC., a Florida
corporation**


By: _____
Name: William A Spert
Title: President
Date Executed: February 8, 2010

* **Time for Acceptance of Offer.** If this offer is not accepted and executed by the Purchaser or all Parties on or before the Acceptance Date, March 15, 2010, this offer, as executed by the Seller, shall be withdrawn and of no further force and effect.

ESCROW AGENT:

Weiss Serota Helfman
Pastoriza Cole & Boniske, P.L.

By: _____
Name: _____
Title: _____

Date Executed: _____, 20__

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EXHIBIT "A"

LEGAL DESCRIPTION

A portion of Tract A, of Cutler Ridge Office Park, according to the Plat thereof, as recorded in Plat Book 128, Page 37, of the Public Records of Miami-Dade County, Florida, more particularly described as follows:

A parcel of land lying in Section 7, Township 56 South, Range 40 East, Miami-Dade County, Florida, being more particularly described as follows:

Commencing at the center of said Section 7 run South $01^{\circ}01'34''$ East along the West line of the Southeast $\frac{1}{4}$ of said Section 7 for a distance of 843.32 feet to a point of intersection with the Westerly projection of the Northerly right-of-way line of S.W. 211 Street (Government Center Access Road); thence run North $88^{\circ}58'26''$ East along the Westerly projection of the Northerly right-of-way line S.W. 211 Street for a distance of 979.68 feet to a point of curvature to the left having a radius of 1,854.86 feet; thence run Northeasterly along the arc of said curve through a central angle of $20^{\circ}22'07''$ along the said Northerly right-of-way line of S.W. 211 Street for an arc distance of 659.40 feet to a point of tangency; thence run North $68^{\circ}36'19''$ East along the Northerly right-of-way line of S.W. 211 Street for a distance of 1,154.54 feet to a point; thence run North $16^{\circ}27'05''$ West along the Southwesterly right-of-way line of the Florida Turnpike Extension Access Road (State Road No. 821) for a distance of 1,221.76 feet to a point of intersection with a circular curve concave to the Northwest having a radius of 25.00 feet and a radial bearing of South $73^{\circ}32'55''$ West to the center of said curve, said point being the Point of Beginning; thence run Southeasterly and Southwesterly along the arc of said curve through a central angle of $90^{\circ}00'00''$ for an arc distance of 39.27 feet to a point of tangency; thence run South $73^{\circ}32'55''$ West for a distance of 221.99 feet to a point of curvature of a circular curve to the right having a radius of 25.00 feet; thence run Southwesterly and Northwesterly along the arc of said curve through a central angle of $97^{\circ}46'54''$ for an arc distance of 42.67 feet to a point of tangency; thence run North $08^{\circ}40'11''$ West for a distance of 75.46 feet to a point of curvature of a circular curve to the left having a radius of 310.00 feet; thence run Northerly along the arc of said curve through a central angle of $63^{\circ}16'57''$ for an arc distance of 342.39 feet to a point of compound curvature of a circular curve to the left having a radius of 935.00 feet; thence run Northwesterly along the arc of said curve through a central angle of $07^{\circ}46'24''$ for an arc distance of 126.85 feet to a point; thence run North $18^{\circ}02'52''$ East for a distance of 28.59 feet to a point; thence run South $71^{\circ}57'08''$ East for a distance of 300.00 feet to a point; thence run North $18^{\circ}02'52''$ East for a distance of 136.66 feet to a point; thence run North $71^{\circ}57'08''$ West for a distance of 20.00 feet to a point; thence run North $18^{\circ}02'52''$ East for a distance of 28.86 feet to a point; thence run South $54^{\circ}24'47''$ East for a distance of 97.12 feet to a point; thence run North $18^{\circ}02'52''$ East for a distance of 70.00 feet to a point; thence run North $10^{\circ}29'23''$ East for a distance of 51.56 feet to a point of intersection with the Southwesterly right-of-way line of Caribbean Boulevard; thence run South $45^{\circ}14'54''$ East along the Southwesterly right-of-way line of Caribbean Boulevard for a distance of 50.00 feet to a point of intersection with a curve concave to the West and having for its elements a radius of 381.97 feet and a radial bearing of South $57^{\circ}37'24''$ West to the center of said curve; thence run Southerly along the arc of said curve through a central angle of $15^{\circ}55'31''$ for an arc distance of 106.17 feet to a point of tangency; thence run South $16^{\circ}27'05''$ East along the Southwesterly right-of-way line of State Road No. 821 access road for a distance of 320.00 feet to the point of beginning.

EXHIBIT "B"

TENANT RENT ROLL

EXHIBIT "C"

PERSONAL PROPERTY INVENTORY

EXHIBIT "D"

SERVICE CONTRACTS

EXHIBIT "E"
WARRANTIES

EXHIBIT "F"

FORM OF DEED

This instrument prepared by:
Record and return to:

Lillian M. Arango, Esq.
Weiss Serota Helfman Pastoriza Cole & Boniske, P.L.
2525 Ponce de Leon Blvd., Suite 700
Coral Gables, Florida 33134

Property Identification Number: _____

STATUTORY WARRANTY DEED

THIS STATUTORY WARRANTY DEED is made and executed this ____ day of _____, 20__, by _____ (the "Grantor"), whose mailing address is _____ to the **TOWN OF CUTLER BAY, a Florida municipal corporation** (the "Grantee"), whose mailing address is 10720 Caribbean Boulevard, Suite 105, Cutler Bay, Florida 33189.

WITNESSETH:

That Grantor, for and in consideration of the sum of Ten and No/100 Dollars (\$10.00) and other good and valuable consideration, the receipt whereof is hereby acknowledged, does hereby grant, bargain, sell, alien, remise, release, convey and confirm unto Grantee the real property (the "Property") located in Miami-Dade County, Florida, and more particularly described as:

SEE EXHIBIT "A" ATTACHED HERETO.

SUBJECT TO:

1. The lien of all ad valorem real estate taxes and assessments subsequent to the date hereof and subsequent years
2. All laws, ordinances, and governmental regulations, including, but not limited to, all applicable building, zoning, land use and environmental ordinances and regulations; and

TOGETHER with all the tenements, hereditaments and appurtenances belonging or in any way appertaining to the Property.

TO HAVE AND TO HOLD the same in fee simple forever.

AND GRANTOR hereby covenants with Grantee that Grantor is lawfully seized of the Property in fee simple; that Grantor has good right and lawful authority to sell and convey the Property; and that Grantor does hereby specially warrant the title to the Property and will defend the same against the lawful claims of all persons whomsoever.

IN WITNESS WHEREOF, Grantor has caused this Statutory Warranty Deed to be executed as of the day and year first written above.

Witnesses;

SELLER:

Print Name: _____

By: _____
Name: _____
Title: _____

Print Name: _____

STATE OF FLORIDA)
) SS:
COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me this ____ day of _____ 20__ by _____, as _____ of _____, on behalf of _____, who (check one) [] is personally known to me or [] has produced a _____ drivers license as identification.

My Commission Expires:

Notary Public
Print Name: _____

EXHIBIT "G"

BILL OF SALE

KNOW ALL MEN BY THESE PRESENTS, that _____
("Seller"), for and in consideration of the sum of Ten and No/100 Dollars (\$10.00) lawful money of the United States, to it paid by the **TOWN OF CUTLER BAY, a Florida municipal corporation** ("Purchaser"), the receipt whereof is hereby acknowledged, has granted, bargained, sold, transferred and delivered, and by these presents does grant, bargain, sell, transfer and deliver unto the Purchaser, its successors and assigns, the following goods and chattels:

All of the tangible personal property of Seller used in connection with and located in, on or at the real property legally described on Exhibit "A" attached hereto, if any, (the "Real Property"), and all replacements thereof, including, but not limited to, the property listed on Exhibit "B" attached hereto.

TO HAVE AND TO HOLD the same unto the Purchaser, its successors and assigns forever.

AND Seller does, for itself and its heirs, executors and administrators, covenant to and with the Purchaser, its successors and assigns, that Seller is the lawful owner of the Personal Property; that they are free from all encumbrances; that Seller has good right to sell the same aforesaid, and that Seller will warrant and defend the sale of the Personal Property hereby made, unto the Purchaser, its successors and assigns against the lawful claims and demands of all persons claiming by, through or under Grantor, but not otherwise.

IN WITNESS WHEREOF, Seller has executed this Bill of Sale as of the _____ day of _____, 20__.

Witnesses:

SELLER:

Print Name: _____

Print Name: _____

By: _____
Name: _____
Title: _____

STATE OF FLORIDA)
) SS:
COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me this ____ day of _____ 20____
by _____, as _____ of _____, on
behalf of _____, who (check one) [] is personally known to me or [] has
produced a _____ drivers license as identification.

My Commission Expires:

Notary Public
Print Name: _____

EXHIBIT "H"

FORM OF SECTION 1445 CERTIFICATE

STATE OF FLORIDA)
) SS:
COUNTY OF MIAMI-DADE)

BEFORE ME, the undersigned authority, personally appeared _____
("Affiant") who being first duly sworn upon oath, deposes and says:

1. That the Affiant is _____ of _____ ("the _____").

2. That the _____ is the owner of fee simple title to the real property located in Miami-Dade County, Florida, more particularly described on Exhibit "A" attached hereto and by this reference made a part hereof ("Property").

3. Section 1445 of the Internal Revenue Code provides that a transferee (Purchaser) of a U.S. real property interest must withhold tax if the transferor (seller) is a foreign person. To inform Islamorada, Village of Islands, a Florida municipal corporation, that withholding of tax is not required upon the disposition of a U.S. real property interest by the _____, Affiant hereby certifies the following:

3.1 The _____ is not a foreign person, foreign corporation, foreign company, foreign trust, or foreign estate for the purposes of U.S. income taxation (as those terms are defined in the Internal Revenue Code and Income Tax Regulations).

3.2 The _____'s taxpayer identification number is _____.

3.3 The _____'s address is _____.

3.4 Affiant understands that this certification may be disclosed to the Internal Revenue Service by the transferee and that any false statement contained herein could be punished by fine, imprisonment, or both.

FURTHER AFFIANT SAYETH NAUGHT.

Sworn to and subscribed before me this ___ day of _____, 20__ by _____, who (check one) [] is personally known to me or [] has produced _____ a drivers license as identification.

My Commission Expires:

Notary Public
Print Name: _____

EXHIBIT "I"

FORM OF GENERAL ASSIGNMENT

THIS GENERAL ASSIGNMENT (the "Assignment") is made and entered into this day ____ of ____, 20__, by and between _____ (the "Assignor") and **TOWN OF CUTLER BAY, a Florida municipal corporation** (the "Assignee").

RECITALS

1. On the date hereof, Assignor has sold and conveyed to Assignee that certain real property located in Miami-Dade County, Florida, and more particularly described in Exhibit "A" attached hereto and by this reference made a part hereof, pursuant to that certain Purchase and Sale Agreement dated _____, between Assignor and Assignee (the "Agreement").
2. The Property is subject to the Intangible Property (as defined below).
3. The Property is subject to the Service Contracts (as defined below).
4. The Agreement provides that Assignor shall transfer to Assignee all of Assignor's right, title and interest in and to the Intangible Property and the Service Contracts.
5. Assignor desires to assign and convey to Assignee, and Assignee desires to accept, all of Assignor's right, title and interest in and to the Intangible Property and Service Contracts pertaining to the Property pursuant to the terms and conditions of the Agreement

NOW, THEREFORE, for Ten Dollars (\$10.00) and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto hereby agree as follows:

1. Recitals. The foregoing Recitals are true and correct and are incorporated herein by this reference.
2. Assignment and Acceptance. Assignor hereby sells, assigns, conveys, grants and sets over unto Assignee all of Assignor's right, title and interest, if any, in and to any and all intangible property and Service Contracts owned by Assignor and used solely in connection with and relating solely to the ownership, use, development, operation, management, occupancy or maintenance of the Property including, but not limited to, all consents, notices of completion, environmental and utility permits and approvals authorizations, variances, waivers, licenses, permits, certificates and approvals from any governmental authority or quasi-governmental authority issued or granted with respect to the Property as well as all public and private Agreement rights and development or usage rights of Assignor relating directly and solely to the Property (collectively, the "Intangible Property"), if any. Assignor hereby warrants and represents to Assignee that the Intangible Property and Service Contracts are conveyed by Assignor to Assignee free and clear of all liens, encumbrances, and security interests whatsoever.
3. Successors and Assigns. This Assignment shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.

4. Applicable Law. This Assignment shall be governed by and construed under the laws of the State of Florida.

IN WITNESS WHEREOF, Assignor and Assignee have caused this instrument to be executed as of the day and year first above written.

Witnesses:

ASSIGNOR:

Print Name: _____

By: _____

Print Name: _____

Name: _____

Title: _____

ASSIGNEE:

**TOWN OF CUTLER BAY, FLORIDA, a
Florida municipal corporation**

Attest:

By: _____

Town Clerk

Town Manager

**Approved as to legal form
and sufficiency:**

By: _____
Town Attorney

STATE OF FLORIDA)
) SS:
COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me this ____ day of _____, 20__ by _____, as _____ of _____, on behalf of _____, who, check one) [] is personally known to me or [] has produced a _____ drivers license as identification.

My Commission Expires:

Notary Public
Print Name: _____

ADDENDUM TO PURCHASE AND SALE AGREEMENT

THIS ADDENDUM TO PURCHASE AND SALE AGREEMENT, hereinafter "Addendum" is made and entered by and between **PINNACLE INVESTMENT PROPERTIES, INC., a Florida corporation**, hereinafter "Seller", and **TOWN OF CUTLER BAY, a Florida municipal corporation**, hereinafter "Purchaser." Seller and Purchaser may be referred to individually as "Party" or jointly as "Parties" for convenience.

This Addendum shall constitute a part of that Purchase and Sale Agreement, hereinafter the "Agreement," between the Parties for the purchase of that Property described in the Agreement, known as the South Dade 2 Office Building and located at 10720 Caribbean Boulevard, Cutler Bay, Florida.

Notwithstanding anything contained in the Agreement to the contrary, the Parties agree that the following provisions shall prevail and govern their agreement:

1. Addendum Controls. In the event of any conflict between this Addendum and the Agreement, it is agreed that this Addendum shall control.
2. This Agreement. All references herein to "this Agreement" shall include this Addendum.
3. Section 1.34; Seller's Attorney. Section 1.34 of the Agreement is hereby amended to show Seller's Attorney as follows: Sanford Reinhard, Esq., with a mailing address of 2875 NE 191st Street, Suite 404, Aventura, Florida 33180, Telephone: (305) 932-7555
4. Rent Roll; Exhibit "B." As set forth in Section 1.33 of the Agreement, a current Rent Roll for all Leases on the Property is attached hereto and incorporated into the Agreement as Exhibit "B."
5. Personal Property; Exhibit "C." As set forth in Section 1.28 of the Agreement, a list or inventory of all Personal Property owned by Seller and located on the Property is attached hereto and incorporated into the Agreement as Exhibit "C."
6. Service Contracts; Exhibit "D." As set forth in Section 1.36 of the Agreement, a schedule of all Service Contracts for the Property will be provided by Seller to Purchaser within fifteen (15) days of this Addendum and shall be attached and incorporated into the Agreement as Exhibit "D."
7. Warranties; Exhibit "E." As set forth in Section 1.42 of the Agreement, a schedule of all Warranties for the Property will be provided by Seller to Purchaser within fifteen (15) days of this Addendum and shall be attached and incorporated into the Agreement as Exhibit "E."

8. Modification of Approved Site Plan and Covenant. The Parties acknowledge and agree that the Property is a part of and subject to an approved Site Plan for the Cutler Ridge Office Complex prepared by Baldwin Sackman & Associates, P.A. Architects dated January 16, 1985, issued June 24, 1985 (the "Approved Site Plan"). The Approved Site Plan includes the Property and the adjacent Cutler Ridge 1 Office Building owned by Seller and located at 10700 Caribbean Boulevard (the "Cutler Ridge 1 Office Building"). The Property and the Cutler Ridge 1 Office Building are also subject to a Declaration of Restrictive Covenants for Cutler Ridge Office Complex dated June 3, 1985, and recorded in Official Records Book 12581, Page 3553, of the Public Records of Miami-Dade County, Florida (the "Recorded Covenant"), which contains a site plan attached thereto. The Parties have agreed to Modifications to the Approved Site Plan and the Recorded Covenant as follows: (a) to permit the redevelopment of the Property and the Cutler Ridge 1 Office Building as two separate sites; (b) the cancellation or termination of the "Joint Parking Easement" as set forth in the Recorded Covenant; (c) the modification of the "Pump Generator Building Easement" as set forth in the Recorded Covenant, so that said is located wholly within the Property and services only the Property; and (d) a modification of the configuration and the legal descriptions for the Property and the Cutler Ridge 1 Office Building substantially as shown on the sketch attached to this Addendum as Exhibit "___." During the pendency of this Agreement, the Seller agrees to join in and cooperate with the Purchaser in the filing of and attainment of any and all approvals or Government Requirements from any Governmental Authority required for Modifications to the Approved Site Plan and Recorded Covenant as set forth herein.

9. Purchaser's Conditions to Closing. Section 11.3 of the Agreement is hereby amended to add the Modifications to the Approved Site Plan and the Recorded Covenant, as set forth in section 6 hereinabove, as a condition precedent to Purchaser's obligation to purchase the Property.

10. Notice. For notice purposes, the Seller's contact information pursuant to Section 14 of the Agreement shall be as follows:

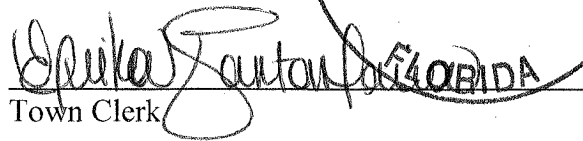
Seller: Pinnacle Investment Properties, Inc.
Attention: William Sport
10720 Caribbean Boulevard
Suite 101
Cutler Bay, Florida 33189
Telephone: (305) 218-1298

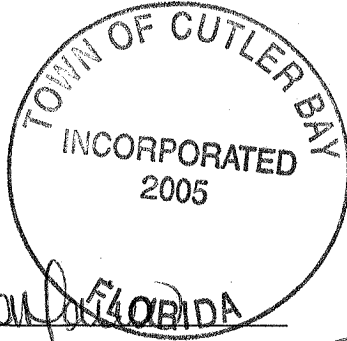
With a copy to: Sanford Reinhard, Esq.
2875 NE 191st Street,
Suite 404,
Aventura, Florida 33180
Telephone: (305) 932-7555

[SIGNATURE PAGES TO FOLLOW]

IN WITNESS WHEREOF, Seller and Purchaser have caused this Addendum to be executed, as of the day and year set forth below their signatures.


ATTEST:


Town Clerk



PURCHASER:

TOWN OF CUTLER BAY,
a Florida municipal corporation

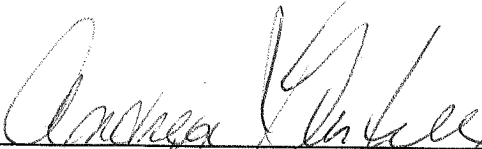

Steven Alexander, Town Manager

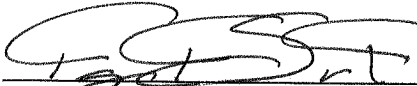
Date Executed: 3-9-10

Approved as to legal form
And sufficiency:

By: 
Town Attorney


WITNESSES:


Print Name: Arrianne Gentle


Print Name: Janyl T. Sport

SELLER:

PINNACLE INVESTMENT PROPERTIES,
INC., a Florida Corporation

By: 
Name: William A. Sport
Title: President

Date Executed: 6/10/10