**SETTLEMENT AGREEMENT AND RELEASE**

THIS SETTLEMENT AGREEMENT AND RELEASE ("Settlement Agreement'') is entered into this \_\_ day of \_\_\_\_\_\_\_\_\_, 2014, by and between Lender (hereinafter "Grantee''), and Borrower (hereinafter "Grantors'').

RECITALS

1. Grantors own the following described real property:

Property Legal

1. The Property is subject to a note and mortgage owned and held by Grantee. Grantors are in default of payments on the Note and Mortgage.
2. On or about 4/16/2020, Grantors offered to execute and deliver to Grantee a Deed in Lieu of Foreclosure in exchange for certain terms and conditions.
3. On or about 4/16/2020, Grantee agreed to accept a Deed in Lieu of Foreclosure from Grantors in exchange for certain terms and conditions.
4. The parties desire to enter into this Settlement Agreement in order to provide for certain payments in full settlement and discharge of all claims which are or might become the part of the Foreclosure of subject property, upon the terms and conditions set forth herein.

AGREEMENT

The parties hereto agree as follows:

1. Consideration
   1. Grantors will execute and deliver the Deed in Lieu of Foreclosure in the form attached hereto as Exhibit “A” at the same time as they execute and deliver this Settlement Agreement.
   2. Grantee agrees to pay to Grantors the total sum of Five Hundred Dollars ($500.00), with payment to be made as follows:
      1. The sum of Six Thousand Dollars ($500.00) will be paid to Grantors upon delivery of this Settlement Agreement and the Deed in Lieu of Foreclosure, each fully and properly executed and binding upon Grantors; and
      2. The Additional Sum of Six Thousand Dollars ($0) will be deposited at that same time and held in escrow by the law firm of Escrow Agent typically an attorney (“Escrow Agent”), to be released and paid over to Grantors on or before April 30, 2020, but only if Grantors have fully and completely vacated the Property by no later than 11:59 PM on 4/30/2013. Should Grantors fail to vacate the Property by said date and time, the Additional Sum of Six Thousand Dollars ($500.00) will be forfeited by Grantors and Escrow Agent shall be authorized to return said amount to Grantee, and the Release provided for herein shall be void and withdrawn.
      3. During the time of continued occupancy by Grantors, until they actually vacate the Property, Grantors will maintain the Property in good and reasonable condition, will not harm or destroy any portion of the Property as they move out, and will leave the Property broom clean and empty of all personal possessions, indoors and out. No permanently attached fixtures may be removed, including air conditioners, heating equipment, antennas, hot water heater, and plumbing fixtures and pipes. All appliances are to remain, except for any washer or clothes dryer. If the Property is damaged or items removed that are to remain, then Grantee shall be authorized to deduct the current value thereof, or the reasonable cost of repair, from the Additional Sum, and Escrow Agent will disburse that deducted amount to Grantee, and disburse only the balance, if any, to Grantors. If the damage exceeds the Additional Sum, then the release will be void and Grantee may pursue all legal remedies against Grantors.

1. Release and Discharge

Effective upon the date of completion of Grantors’ compliance with their obligations under this Agreement, including delivery of the Deed in Lieu of Foreclosure and the timely vacating of the Property and leaving it in good condition as specified herein, the Grantee shall fully and completely release and forever discharge the Grantors, of and from any and all past, present or future claims, demands, obligations, actions, causes of action, rights, damages, costs, loss of services, expenses and compensation which the Grantee now has, or which may hereafter accrue or otherwise be acquired by Grantee, on account of, or in any way growing out of the Note and Mortgage and this Settlement Agreement. Once the Property is vacated and its condition evaluated by Grantee, Grantee will instruct the Escrow Agent to disburse the Additional Sum as called for herein, and will provide Grantors with confirmation that the Note has been satisfied.

1. Access to Property

Grantors agree to allow Grantee or agents of Grantee, access to the Property during normal business hours and upon reasonable notice (at least three hours in advance), to conduct inspections, repairs, showings or previews of the Property. If Grantors unreasonably fail or refuse to allow access, even one time, then Grantors right to receive the Additional Sum will be forfeited by Grantors and Escrow Agent shall be authorized to return said amount to Grantee.

1. Utilities

Grantors will be responsible for the payment of all utilities used on the Property through the date they vacate the Property. Grantors will cooperate with Grantee to arrange for the transfer of utility service as part of their departure from the Property.

1. Escrow Agent Addendum

Attached hereto as Exhibit “B” is the Escrow Agent Addendum to this Agreement which covers the responsibilities of the Escrow Agent with regard to the handling of the Additional Sum. Grantors and Grantee agree to its terms.

1. Additional Documents

All parties agree to cooperate fully and execute any and all supplementary documents and to take all additional actions which may be necessary or appropriate to give full force and effect to the basic terms and intent of this Settlement Agreement.

1. Attorneys' Fees

Each party hereto shall bear its own attorneys' fees and costs arising from the actions of its own counsel in connection with this Settlement Agreement and incurred prior to the date of execution of the Agreement or during its period of performance. Should Grantors not vacate the Property as provided herein or otherwise be in default, Grantee will be entitled to all remedies available at law or in equity, including under the Note and Mortgage, and further including all rights to recover attorney’s fees and costs as may apply under law for any claims Grantee pursues after Grantors’ default.

1. Warranty of Capacity to Execute Agreement

Grantors represent and warrant that no other person or entity has or has had any interest in the claims, demands, obligations, or causes of action referred to in this Settlement Agreement, except as otherwise set forth herein, and that they have not sold, assigned, transferred, conveyed or otherwise disposed of any of the claims, demands, obligations, or causes of action referred to in this Settlement Agreement.

1. Entire Agreement and Successors in Interest

This Settlement Agreement contains the entire agreement between the Grantee and the Grantor with regard to the matters set forth herein and shall be binding upon and inure to the benefit of the executors, administrators, personal representatives, heirs, successors and assigns of each.

1. Representation and Comprehension of Agreement

In entering into this Settlement Agreement, Grantors represent that they have relied upon their own judgment, and that they have had full opportunity to seek the advice of independent legal counsel. If they have sought such legal advice, Grantors acknowledge that the terms of this Settlement Agreement have been completely read and explained to them by their attorneys, and that those terms are fully understood and voluntarily accepted by them.

1. Governing Law; Venue

This Settlement Agreement shall be construed and interpreted in accordance with the laws of the State of Florida. The venue for any legal action brought to enforce this Settlement Agreement shall be in the court of appropriate jurisdiction located in Orange County, Florida.

**IN WITNESS WHEREOF**, Grantors and Grantee have executed this Settlement Agreement as of the day and year first above written.

Grantors Grantee

Lender Name

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

**Borrower Names**

Lender Representative

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

**Borrower Names**

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

**Witness**

STATE OF FLORIDA

COUNTY OF \_\_\_\_\_\_\_\_\_\_\_\_\_

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 2021, by Borrowers, who  are personally known to me or  produced \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (type of identification) as identification.

(Notarial Seal) Notary Public - State of Florida

Printed Name:

Commission No.:

My Commission Expires:

Exhibit “A”

Form Deed in Lieu of Foreclosure

Robert D. Gatton, EsquireNovemberPrepared by and return to:

Name of Preparer

Address of Preparer

Address of preparer

**DEED IN LIEU OF FORECLOSURE**

THIS INDENTURE, made and executed as of the \_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_, 2013 by Jill Borrower and Bob Borrower, husband and wife, whose post of office address is \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ hereinafter referred to as (“Grantor”), to and in favor of Lender LLC, a Florida Limited Liability Company, whose post office address is 123 Smith Street, Orlando, FL 32801, hereinafter referred to as (“Grantee”). (All references to the parties herein shall include their successors, and assigns; and when applicable the singular shall include the plural, and the masculine shall include the feminine and neuter).

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

THAT Grantor, for and in consideration of the sum of Ten Dollars ($10.00) and other valuable consideration, the receipt and adequacy of which is hereby acknowledged, hereby grants, bargains, sells, aliens, remises, releases, conveys and confirms unto Grantee certain real property located in **ORANGE** County, Florida which is more particularly described as follows:

Enter the Legal Description here

(the “Property”).

TO HAVE AND TO HOLD the Property, with all improvements thereon, unto Grantee in fee simple forever.

AND Grantor does hereby covenant 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 fully warrant the title to the Property for any acts of Grantor and will defend the title against the lawful claims of all persons claiming by, through, or under Grantor.

AND, the Grantor(s) hereby covenant(s) with said Grantee(s) that the Grantor(s) is/are lawfully seized of said land in fee simple; that the Grantor(s) has good right and lawful authority to sell and convey said land, and hereby warrant(s) the title to said land and will defend the same against the lawful claims of all persons whomsoever; and that said land is free of all encumbrances, except taxes accruing subsequent to December 31, 2011.

# This Deed in Lieu of Foreclosure (“Deed”) is an absolute conveyance of title to Grantee of the title to the Property in effect as well as in form and is not intended to serve or operate as a mortgage, security agreement, trust conveyance, or security interest of any kind. It is not intended that this deed operate to effect any merger of the fee interest of Grantee in the Property with the still outstanding mortgage lien and security agreement on the property held by Grantee, it being specifically intended that the mortgage rights of Grantee in the Property shall survive the execution and delivery of the Deed and remain outstanding. In the event of a bankruptcy action by Grantor that involves the Property, Grantor consents to, and Grantee will be entitled to, immediate relief from the bankruptcy automatic stay to allow foreclosure of the mortgage lien.

# This Deed is being executed by the Grantor to the Grantee as a result of defaults committed by the Grantor under the Mortgage in favor of Crown Bank dated June 20, 2006 and recorded at OR Book 8534, Page 6752, Public Records of Orange County, Florida, and the Promissory Note in the original principal amount of $273,500.00 dated June 20, 2006 in favor of Crown Bank. Said Note and Mortgage having been assigned to Fifth Third Mortgage Company by Assignment recorded at OR Book 953, Page 3985, further assigned to Gracias Capital Corporation by Assignment recorded at OR Book 963, Page 3993, and further assigned to Grantee by Assignment recorded at OR Book 896 Page 182, all being among the Public Records of Orange County, Florida.

# The consideration for this Deed is Grantor’s payment of the sum of $\_\_\_\_\_\_\_\_\_\_\_ to Grantee, receipt of which is hereby acknowledged. The unpaid balance due on the Note and secured by the Mortgage is not forgiven or extinguished by the acceptance of this Deed. However, Grantee does hereby covenant and promise, for itself and its assigns, that no suit will be brought against Grantor for the unpaid balance on the Note, or any indebtedness arising thereunder.

IN WITNESS WHEREOF, Grantor has executed this Deed as of the day and year set forth above.

Commission No.:

My Commission Expires:

IN WITNESS WHEREOF, Grantor has executed this Deed as of the day and year set forth above.

|  |  |
| --- | --- |
| Signed, sealed and delivered  in the presence of:    Print Name:    Print Name:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | **Grantor**  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  **Jill Borrower**  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  **Bob Borrower** |

STATE OF FLORIDA

COUNTY OF \_\_\_\_\_\_\_\_\_\_\_\_\_

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 2021, by Jill Borrower and Bob Borrower, who  are personally known to me or  produced \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (type of identification) as identification.

(Notarial Seal) Notary Public - State of Florida

Printed Name:

Commission No.:

My Commission Expires:

Exhibit “B”

Escrow Agent Addendum

Grantors and Grantee hereby designate, constitute and appoint Escrow Attorney, Attorney at Law, and the Law firm of Law firm. as the "Escrow Agent" under this Agreement to receive, hold and disburse the deposited Additional Sum, and Escrow Agent accepts such designation and appointment and agrees to act in accordance with the terms of this Escrow Agreement. Grantors and Grantee agree (a) that Escrow Agent shall be a stakeholder only and not liable for any losses, costs or damages he may incur in performing its responsibilities hereunder unless such losses, costs or damages shall arise out of the willful default or negligence of Escrow Agent or his agents, (b) that no releases or disbursements shall be made hereunder except upon consistent written instructions from Grantee indicating compliance or non-compliance with the Settlement Agreement, (c) that in the event of a dispute hereunder between Grantors and Grantee (or their successors or assigns), Escrow Agent shall have the right, exercisable in his sole discretion, to be discharged by tendering unto the Clerk of Court, Orange, Florida the undisbursed portion of the Additional Sum, together with any such legal pleadings as he deems appropriate. Escrow Agent shall be indemnified, saved and held harmless by the Grantors and Grantee for all of his expenses, costs and reasonable attorney’s fees incurred in connection with such interpleader action, which amounts may be deducted from the Additional Sum prior to its deposit with the Court, (d) that nothing contained herein shall prevent the Escrow Agent from serving in a similar capacity on behalf of other parties, and (e) that nothing herein shall disqualify Escrow Agent from representing Grantee in any action or matter relating to the note, mortgage, possession of the Property, or this Settlement Agreement. The Escrow Agent agrees to execute and perform the services reasonably anticipated and agreed to by the parties in performance of his obligations on behalf of the parties under the terms of this Escrow Agreement. However, in the event the Escrow Agent shall be uncertain as to his duties or his rights hereunder, or shall receive instructions, claims, or demands from any party or from third persons in regard to any sums or things which may be held thereunder, which in his sole opinion are in conflict with any of the provisions of this Agreement, said Escrow Agent shall be entitled to refrain from taking any action until he shall be directed otherwise, in writing, by all parties to this Agreement, and said third persons, and, if any or by a final order or judgment of a court of competent jurisdiction; and (e) that Grantors and Grantee hereby agree to indemnify the Escrow Agent and hold him harmless against any and all claims, liabilities, damages, costs, penalties, losses, actions, suits, or proceedings at law or in equity, or any other expenses, fees, or charges of any character or any other nature which he may incur or with which he may be threatened directly or indirectly arising from or in any way connected with this Agreement except for acts of gross negligence or willful breach of his duties hereunder. For the purposes hereof, said indemnification includes any and all expenses, as well as attorney's fees and the costs of defending any action, suit or proceeding, whether or not litigation is instituted.

Countersigned and Agreed to by Escrow Agent:

Jim Smith, ABC LAW

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