

# Contract for Sale and Purchase

DATE: \_\_\_\_\_

**PARTIES:** Thomas H. and Lynn C. Buscaglia (“Seller”), agrees to sell and \_\_\_\_\_ (“Buyer”) agrees to buy the Real Property and Personal Property described below under the following terms and conditions, which shall include the standards for real estate transactions included within this Contract.

## 1. DESCRIPTION

Legal description of Real Property located in Miami, Miami-Dade County, Florida:

BAY HGTS 1ST ADD PB 53-30 LOT 15 BLK 5  
LOT SIZE 102.350 X 140 OR 12999-0986 0886 1

Street address: 162 Shore Drive South

City: Coconut Grove, Florida Zip code: 33133

Personal Property includes but is not limited to the following installed and built-in items: all appliances and equipment, heating and air-conditioning units, ceiling fans, light fixtures, dishwashers, ranges, refrigerators, mail boxes, security and fire detection equipment, satellite dish systems, garage door openers, window treatments and all other property owned by the Seller and attached to the above real property.

Other items of personal property included are: washer, dryer, free standing refrigerator, built-in refrigerator, electric oven-range, dish washer, microwave, disposal, steam generator, jetted spa

\_\_\_\_\_  
The above real property and personal property are collectively, the “Property.”

## 2. PURCHASE PRICE AND METHOD OF PAYMENT.

The purchase price to be paid by the Buyer (in U.S. Currency) at closing is: \$ \_\_\_\_\_

(a) Cash deposits are to be held in trust by Escrow Agent: **\$50,000.00**

- 1. Earnest money deposit in the amount of ..... **\$10,000.00**
- 2. Additional escrow deposit to be made within 10 days of Effective Date ..... **\$40,000.00**

(b) Buyer warrants that Buyer will at closing have additional cash or locally drawn bank or cashier’s check(s) in the amount of: .....\$ \_\_\_\_\_ to complete the purchase.

## 3. TIME FOR ACCEPTANCE OF OFFER AND COUNTEROFFERS

(a) This offer will be withdrawn, and at Buyer’s option, deposits will be returned if this offer is not accepted and signed by all parties; or fact of acceptance communicated in writing between the parties on or before \_\_\_\_\_.

(b) The “Effective Date” or date of Contract shall be the date when the last of either the Buyer or Seller signs or initials this offer or the final counteroffer. The above “Effective Date” shall be the date of acceptance of this offer or counteroffer unless specified otherwise in this Contract.

## 4. FINANCING

The portion of the Purchase Price not payable in cash will be paid as an all cash transaction with no contingency for mortgage loan financing.

## 5. TITLE EVIDENCE:

At least five days before Closing Date, Seller at Buyer’s expense shall secure a title insurance commitment.

**6. CLOSING DATE:**

The closing of this sale will be on or before \_\_\_\_\_, 2006 ("Closing"), unless changed by other parts of this Contract. Buyer may delay closing if Buyer is unable to secure Flood, Hazard, Wind, or Homeowner's insurance at a reasonable rate due to weather conditions. Buyer may delay closing no more than 5 days after such insurance becomes available

**7. RESTRICTIONS, EASEMENTS, LIMITATIONS:**

Seller shall provide marketable title subject only to: (1) Zoning, restrictions and requirements imposed by government authority, (2) Restrictions and controls appearing on the plat or common to the subdivision, (3) Public utility easements of record,, provided said easements are located no more than 10 feet in width from the front or rear lines of the Property, and not more than 7 1/2 feet in width from the sides of the Property. (4) Taxes for year of closing, assumed mortgages, and purchase money mortgages, if any (see riders).

**8. OCUPANCY:**

Seller warrants that at the time of Closing, or on granting of possession if at a time other than at Closing, the Property will be in substantially the same condition it was on the Effective Date of this Contract with the exception of ordinary wear and tear.

**9. RIDERS AND EXHIBITS, TYPEWRITTEN AND HANDWRITTEN PROVISIONS:**

Attached riders and exhibits, plus typewritten and handwritten provisions are made a part of this Contract. If any such rider, exhibit, typewritten or handwritten provisions conflict with printed provisions, the rider, exhibit or typed or handwritten provision shall control.

**10. ASSIGNABILITY:**

Buyer may not assign rights or liabilities under this Contract.

**11. DISCLOSURES:**

Seller warrants that to be best of Seller's knowledge and belief, information contained in disclosure statements are accurate and complete as of the Effective Date of this Contract.

(a) a Lead-Based Paint rider must be attached to this Contract.

(b) Seller is not a "Foreign Person" for the purposes of the Foreign Investment in Real Property Tax Act.

**12. "AS-IS" WITH INSPECTION CONTINGENCY**

Buyer agrees that the Property is being sold "AS-IS." Buyer will have 10 days from the effective date of this agreement within which to inspect the Property for any defects of any manner and if the cost of such defects exceed 2% of the Purchase Price set out above in Paragraph 2, then Buyer may terminate this Agreement and all Earnest money and any other deposits will be refunded.

**13. Buyer's deposits as described in Paragraph 2(a) have been received by Escrow Agent:**

(name)

(date)

**13.** The Seller agrees to pay a 2% commission to any Buyer's real estate agent who presents the Property to Buyer and accompanies Buyer on their initial inspection of the Property. This provision does not apply if the Buyer is the real estate agent seeking the commission. The Buyer real estate agent named below is the only agent entitled to compensation in connection with this Contract:

Cooperating Broker:

Phone Number:

FAX#:

Email:

\_\_\_\_\_

**14. ADDITIONAL CONDITIONS:**

The following Conditions, some of which are Standards, are attached and are a part of this Contract. The paragraphs are listed alphabetically for easy reference.

- 1. Attorney's Fees'; Costs
- 2. Closing Documents
- 3. Closing Procedure
- 4. Contract not recordable; etc
- 5. Conveyance
- 6. Escrow
- 7. Expenses
- 8. Failure of Performance
- 9. Ingress and Egress
- 10. Other Agreements
- 11. Place of Closing
- 12. Prorations; Credits
- 13. Risk of Loss
- 14. Survey
- 15. Time
- 16. Title Insurance
- 17. Wood Destroying Insects

Addresses of Buyer and Seller for the purpose of serving notices under this Contract.

BUYER: Street Address \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
Phone: \_\_\_\_\_ email: \_\_\_\_\_

SELLER: Street Address 162 Shore Drive South  
City: Miami State: FL Zip: 33133  
Phone: 305-856-6788 email: oasis@iries.com

**17. RIDERS AND SPECIAL CLAUSE(S):**

The following items are a part of this Contract.

\_\_\_\_\_  
(Insert or attach Addendum)

Please read carefully.  
This document is intended as a legally binding Contract so  
Please seek the advice of an attorney if there is any part not fully understood.

\_\_\_\_\_  
Buyer's Signature  
Print Name: \_\_\_\_\_

\_\_\_\_\_  
Seller's Signature  
Print Name: Thomas H. Buscaglia

\_\_\_\_\_  
Buyer's Signature  
Print Name: \_\_\_\_\_

\_\_\_\_\_  
Seller's Signature  
Print Name: Lynn C. Buscaglia

**EFFECTIVE DATE:**

As described in paragraph 3(b) this Offer or Counteroffer is hereby accepted at \_\_\_\_\_ o'clock AM/PM on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

## SADDITIONAL CONDITIONS FOR REAL ESTATE TRANSACTION

### 1. ATTORNEY'S FEES; COSTS:

In any action or proceeding between Buyer, Seller and or licensed broker acting in relationships authorized by state law, based, in whole or in part, on the performance or non-performance of the terms and conditions of this Contract, including but not limited to: breach, enforcement, or interpretation, the prevailing party in such proceeding, shall be entitled to recover reasonable attorney's fees, costs and expenses from the other party as determined by the court or arbitrator.

### 2. CLOSING DOCUMENTS:

Buyer and Seller shall execute and deliver certifications, affidavits, and statements as are required at Closing. For the Seller this shall include but is not limited to assignments of leases, the bill of sale, certificate of title, construction lien affidavit, and the deed. The Buyer shall deliver mortgage, mortgage note, security agreement, financing and financial statements.

### 3. CLOSING PROCEDURE:

The deed for the Property shall be recorded when all funds, including but not limited to Buyer's deposits, mortgage loans, Seller's expenses, escrow, title and attorney fees, have been cleared. If the title agent insures adverse matters as per state law, the following escrow and Closing procedures shall be waived. Unless waived the following procedures shall apply:

(a) Closing proceeds shall be held in escrow by the Closing Agent for no more than 3 days after Closing;

(b) If Seller's title is unmarketable, Buyer shall notify the Seller of the defect in the title within the 3 day period and Seller shall have 30 days from receipt of Buyer's notification to correct the defect.

(c) If Seller fails to cure the defect within the 30 days, all deposits and closing funds shall be returned to Buyer within 5 days of Buyers written demand. Simultaneous with such refund, Buyer shall return the Personal Property, vacate the Real Property and convey the Property back to Seller by warranty deed and bill of sale.

(d) If Buyer fails to demand refund in a timely manner, Buyer takes title "AS IS" and waives all rights against Seller except for warranties included in the bill of sale or deed..

### 4. CONTRACT NOT RECORDABLE; PERSONS BOUND; NOTICE; FACSIMILE & EMAIL:

(a) This Contract shall not be recorded in any public place nor any notice of it publicly displayed.

(b) The Agreement legally obligate and result to the benefit of Buyer, Seller and their successors.

(c) All references to gender shall include both male and female.

(d) Notices received or given by attorney or broker representing Buyer or Seller shall be the same as notices received or given by Buyer or Seller.

(d) All notices must be in writing and be delivered in person, by the U.S. Post Office, or by facsimile. Notices may be delivered by email if Buyer, Seller, and listing Broker place their initials below:

Accept email notice: \_\_\_\_\_ Buyer; \_\_\_\_\_ Seller; \_\_\_\_\_ Listing Broker

### 5. CONVEYANCE:

Seller warrants that, at time of Closing, Seller will convey good and marketable title to the Real Property by general warranty, trustee's, personal representative's or guardian's deed, as appropriate to the Seller's status, subject only to: (a) zoning; (b) general utility, sewer, and drainage easements of record on the Effective Date on which the improvements do not encroach; (c) subdivision and / or condominium declarations, covenants, restrictions, and easements of record on the Effective Date; (d) leases and other encumbrances specified in this Contract; and (e) those otherwise accepted by Buyer. Personal Property shall be transferred by a bill of sale with warranty of title and subject only to restrictions contained in this Contract.

### 6. ESCROW:

The Escrow Agent ("Agent") shall promptly deposit all funds received, hold them in escrow, and subject to clearance, disburse them as follows: (a) On failure of the parties to reach agreement by accepting and signing an offer or counteroffer; (b) At Closing; (c) On written agreement signed by all parties having an interest in the funds; (d) On order of a court or arbitrator having jurisdiction over disputes involving the funds. If parties are in dispute and Agent is in doubt as to Agent's duties under this Contract, Agent may deposit all funds with the clerk of the court having jurisdiction over the dispute. After notifying all parties to the dispute of such action, Agent's liabilities shall terminate except for accounting for funds previously disbursed from escrow. If Agent is made a party to suit between Buyer and Seller, or if Agent interpleads the funds in escrow, Agent is entitled to recover reasonable attorney's fees and court costs from funds held in escrow. Fees and costs so recovered shall be charged as court costs to the non-prevailing party. If Agent is a licensed real estate broker, Agent shall comply with all relevant state laws regarding brokers and escrow. Agent shall not be liable for improperly disbursing funds to Buyer or Seller unless due to willful breach of this Contract, or gross negligence.

### 7. EXPENSES:

The Buyer shall pay for documentary stamps and taxes on purchase money mortgages and/or any assumed mortgages. The Seller shall pay for recording corrective instruments as well as documentary stamps on the deed. Charges for title evidence, title examination, preparation of closing statement and related closing fees, shall be paid by the party responsible for furnishing the title evidence as agreed by Buyer and Seller and stated in this Contract.

### 8. FAILURE OF PERFORMANCE:

If Buyer fails to comply with the terms of this Contract, Buyer will be in breach, and Seller may (a) enforce specific performance, or (b) terminate this Contract and receive the earnest money and other deposits paid by Buyer as liquidated damages, thereby releasing both parties from this Contract. Seller's failure to make Seller's title marketable, after diligent effort, shall not be a breach of this Contract. If Seller fails to comply with any other part of this Contract, Seller will be in breach, and Buyer may (a)

seek specific performance, or elect to receive the return of all deposit made by Buyer, without any further rights to seek damages resulting from Seller's failure to perform the terms of this Contract.

**9. INGRESS AND EGRESS:**

Seller warrants that legal right to enter and exit the Real Property from a public road or waterway is sufficient for its intended use as described in this Contract. Seller also warrants that title to the Real Property is fully insurable without exception for lack of legal right to access.

**10. OTHER AGREEMENTS:**

This Contract and attached riders constitute the final and entire agreement between Buyer and Seller. No prior or present contract regarding the Property shall be binding on Buyer and Seller unless those contracts are made a part of this Contract. No binding changes shall be made to this Contract unless made in writing and signed by Buyer and Seller.

**11. PLACE OF CLOSING:**

Closing shall be held at the office of the Closing Attorney or other closing agent designated by the primary mortgage lender, by the Seller, or by the party paying for title insurance, and shall be in the county where the Real Property is located.

**12 PRORATIONS; CREDITS:**

Property taxes, insurance, interest, utility fees, and other expenses from the Property shall be prorated through the day before Closing and cash at Closing shall be increased or decreased as may be required by this proration. Escrow deposits held by mortgagee shall be credited to Seller. Taxes shall be prorated based on tax rates for the current year with allowance made for maximum allowable exemptions. If property taxes for the current year are not fixed and current year's assessment is available, taxes will be prorated based on property tax rates for the prior year and the current assessment. Taxes shall be prorated on prior year's tax if current year's assessment is not available.

**13. RISK OF LOSS**

If any part of the Property is damaged or destroyed by fire or other casualty after the Effective Date of this Contract, Seller shall restore the Property to its previous condition as soon as reasonably possible if the cost of restoration is not greater than 3% of the assessed value of the Property so damaged. If restoration is not completed prior to Closing day, the Closing shall proceed with the remaining cost of restoration placed in escrow. If the cost of restoration is greater than 3% of the assessed value of the Property so damaged, Buyer may (a) terminate this Contract and receive a refund of all deposited funds or (b) accept the Property as is, along with the Seller's payment of 3% of the assessed value of the Property so damaged, or insurance payments for such damage.

**14. SURVEY:**

Within the time allowed to examine title, Buyer, at Buyer's expense, may have the Real Property surveyed by a state certified surveyor. If such survey finds encroachments on the Real Property or that improvements encroach on easements, lands of others, setback lines, or violate legal restrictions, or applicable government regulations, these shall constitute a title defect.

**15. TIME:**

Time is of the essence in this Contract. Saturdays, Sundays and state or national legal holidays shall be excluded when computing time periods of less than six days. Time periods that end on a Saturday, Sunday, or legal holiday shall, for the purposes of this Contract, extend to 5 p.m. of the next business day.

**16. TITLE INSURANCE:**

As referenced in paragraph 5 of this Contract, the title insurance Commitment shall be issued by a title insurer, licensed by the state of Florida, which agrees to issue an owner's policy of title insurance to the Buyer in the amount of the purchase price, insuring Buyer's marketable title to the Real Property, subject only to restrictions, easements and limitations listed in paragraph 7 of this Contract and those to be removed by Seller before Closing. Buyer shall have 5 days from date of receiving the Title Commitment to examine it and notify the Seller in writing of any defect that makes the title unmarketable under state law and Title Standards adopted by the Florida Bar. If Seller fails to remove the defects within 30 days from receipt of notice, Buyer shall within 5 days after expiration of the 30 day period, deliver written notice to Seller to: (1) request a refund of all deposits paid by Buyer; or (2) extend the time for Seller to remove the defects. If Buyer fails to so notify Seller of defects, Buyer shall be deemed to have accepted the title as presented. If title is found to be unmarketable under state law, Seller shall make diligent effort to correct such defects within a reasonable time. If Seller fails to correct defects, Buyer may (a) waive the defects, or (b) get a refund of all deposits, thereby releasing Buyer and Seller from all obligations of this Contract. Buyer may postpone the Closing date to give Buyer up to five days to examine the title commitment if Seller delivers the title commitment less than five days prior to the planned Closing date.

**17. WOOD DESTROYING ORGANISMS:**

The term "Wood Destroying Organisms" shall include termites and similar pests required to be reported under the Florida Pest Control Act. Within ten days of the effective day of this Agreement, Buyer at Buyer's expense shall have the right to obtain a written report from a Florida certified Pest Control Operator that, based on careful visual inspection, there is no evidence of current infestation by wood-destroying organisms. If current infestation is found Buyer shall get an estimate of the cost of removing infestation, and if such removal costs in excess of 1% of the purchase price, Buyer may terminate this contract and receive a full refund of all deposits.