MEMORANDUM

TO: The Honorable Mayor and City Commission

FROM: VIA: Christopher Russo, City Manager
       FROM: Claudia Hasbun, City Planner

DATE: 12/20/2012

RE: Transfer and Assignment of Development Rights (TDRs)
    Jade Signature - Sunny Isles Beach Associates, LLC.
    16875 & 16901 Collins Avenue
    Appl. No. Z2012-16

RECOMMENDATION:

Staff has no objection to the TDRs assignment provided that all conditions for the Site Plan are satisfied.

REASONS:

The Applicant has acquired 22,764 square feet and 11 dwelling units of private TDRs from the private TDR bank owned by Abus, LLC. Consequently, the Applicant is requesting to approve the utilization of private TDRs in the amount of 22,764 square feet of development rights and 11 dwelling units in accordance to Zoning Resolution No._______, and this Resolution.

ATTACHMENTS:

• Purchase Agreement & Indemnification & Hold Harmless Agreement
• Resolution
RESOLUTION NO. 2012-

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF SUNNY ISLES BEACH, FLORIDA, AUTHORIZING THE TRANSFER OF DEVELOPMENT RIGHTS ("TDRS") IN THE AMOUNT OF TWENTY TWO THOUSAND SEVEN HUNDRED SIXTY FOUR (22,764) SQUARE FEET OF FLOOR AREA AND ELEVEN UNITS (11) TO SUNNY ISLES BEACH ASSOCIATES, LLC (A/K/A JADE SIGNATURE) FOR THE PROPERTY LOCATED AT 16875 AND 16901 COLLINS AVENUE FROM THE PRIVATE TDR BANK ACCOUNT; APPROVING ASSIGNMENT AGREEMENT BETWEEN ABUS, LLC AND SUNNY ISLES BEACH ASSOCIATES, LLC DIRECTING THE ZONING ADMINISTRATOR OR DESIGNEE TO TRANSFER THE TDRS FROM THE PRIVATE BANK ACCOUNT IN ACCORDANCE WITH ZONING RESOLUTION_____; AUTHORIZING THE ADJUSTMENT AND MODIFICATION OF THE PRIVATE TDR BANK; PROVIDING THE CITY MANAGER WITH THE AUTHORITY TO DO ALL THINGS NECESSARY TO EFFECTUATE THIS RESOLUTION; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, by Zoning Resolution No.______, adopted December 20, 2012 the City Commission approved the zoning application submitted by Sunny Isles Beach Associates, LLC ("Applicant") for the transfer of TDRs in the amount of 22,764 square feet of floor area and 11 dwelling units; and

WHEREAS, on November 2, 2012, Sunny Isles Beach Associates, LLC. entered into an agreement of assignment of TDRs with Abus, LLC, wherein Abus, LLC assigned and transferred 22,764 square feet of TDRs and 11 dwelling units to Sunny Isles Beach Associates, LLC.

WHEREAS, the Private’s TDR Bank accounts balance will be adjusted to reflect the utilization of TDRs to the Applicant and to reflect the reduction of Twenty Two Thousand Seven Hundred Sixty Four (22,764) square feet of floor area and Eleven (11) dwelling units; and

WHEREAS, the property receiving the TDRs is described as follows:

Location: 16875 & 16901 Collins Avenue
Parcel 1. All that part of the North 100 feet of the South 300 feet of Lot 1, of TATUM’S OCEAN PARK SUBDIVISION, according to the plat thereof, as recorded in Plat Book 10 at Page 64 of the Public Records of Miami-Dade County, Florida, extending from the Erosion Control Line of the Atlantic Ocean, said line recorded in Plat Book 134 at Page 47 of the Public Records of Miami-Dade County, Florida to the East right of way of State Road A-1-A (formerly State Road 140), as said road is shown on a Plat thereof, recorded in Plat Book 47 at Page 101, of the Public Records of Miami-Dade County, Florida.
Parcel 2. All that part of the North 100 feet of the South 200 feet of Lot 1, of TATUM’S OCEAN PARK SUBDIVISION, according to the plat thereof, as recorded in Plat Book
10 at Page 64 of the Public Records of Miami-Dade County, Florida, extending from the Erosion Control Line of the Atlantic Ocean, said line recorded in Plat Book 134 at Page 47 of the Public Records of Miami-Dade County, Florida to the East right of way of State Road A-1-A (formerly State Road 140), as said road is shown on a Plat thereof, recorded in Plat Book 47 at Page 101, of the Public Records of Miami-Dade County, Florida. Parcel 3. The Southerly 100 feet of Lot 1, TATUM'S OCEAN PARK SUBDIVISION, according to the plat thereof, as recorded in Plat Book 10 at Page 64 of the Public Records of Miami-Dade County, Florida, said property described as follows: Bounded on the West by the East right of way line of Ocean Boulevard (State Road A-1-A and State Road 140), said road recorded in Plat Book 47 at Page 101 of the Public Records of Miami-Dade County, Florida; bounded on the East by the Erosion Control Line of the Atlantic Ocean, said line recorded in Plat Book 134 at Page 47 of the Public Records of Miami-Dade County, Florida; bounded on the North by the Northerly line of the Southerly 100 feet of Lot 1; bounded on the South by the Southerly line of referenced Lot 1.

WHEREAS, the City Commission agrees to authorize the transfer of the TDRs contemplated herein in accordance with Section 265-23 of the Code of the City of Sunny Isles Beach.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF SUNNY ISLES BEACH, FLORIDA, AS FOLLOWS:

Section 1. Incorporation of Recitals. The foregoing recitals are true and correct and are incorporated herein by reference as if they are fully set forth herein.

Section 2. Authorizing the Utilization of Transfer of Development Rights. Pursuant to Section 265-23 of the City Code and in accordance with Zoning Resolution No._______, the City Commission hereby authorizes the utilization of transfer of the development rights in the amount of 22,764 square feet of floor area and 11 dwelling units to Sunny Isles Beach Associates, LLC. from the Private’s TDR account.

Section 3. Approval of Assignment of the TDRs. The City Commission hereby approves the assignment agreement attached as Exhibit “A” for the 22,764 square feet of TDRs and 11 units between Abus, LLC to Sunny Beach Associates, LLC.

Section 4. Directive to Zoning Administrator. The City’s Zoning Administrator or designee is hereby directed to transfer the development rights from TDR Bank to Sunny Isles Beach Associates, LLC., in accordance with Zoning Resolution No._______ . The City’s Zoning Administrator or designee is hereby directed to adjust the Private’s TDR Bank to reflect a deduction of 22,764 square feet of TDRs and 11 units from the Private’s TDR Bank account.

Section 5. Authority of the City Manager. The City Manager is hereby authorized to do all things necessary to effectuate this Resolution.
Section 6. Effective Date. This Resolution shall become effective upon adoption.

PASSED AND ADOPTED this 20th day of December, 2012.

________________________________________
Norman S. Edelcup, Mayor

ATTEST:

________________________________________
Jane A. Hines, City Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

[Signature]
Hans Gottinot, City Attorney

Moved by: _________________________________
Seconded by: ______________________________

Vote:

Mayor Edelcup (Yes) (No)
Vice Mayor Aelion (Yes) (No)
Commissioner Gatto (Yes) (No)
Commissioner Levin (Yes) (No)
Commissioner Scholl (Yes) (No)
PURCHASE AND SALE AGREEMENT

THIS PURCHASE AND SALE AGREEMENT ("Agreement") is made and entered into as of November 2, 2012 ("Effective Date") by and between Abus LLC, a Florida limited liability company ("Seller") and SUNNY ISLES BEACH ASSOCIATES, LLC, a Delaware limited liability company ("Purchaser", Purchaser and Seller each a "Party", collectively, the "Parties").

Recitals

Seller is the owner and holder of 22,764 square feet of transferable development rights, as defined in Section 265-23 of the Land Development Regulations of the City of Sunny Isles Beach, Florida (the "City"), which represents 11 residential Units (the "Transferred Development Rights"), and is ready, willing and able to sell the Transferred Development Rights to Purchaser, upon the terms set forth herein.

In consideration of the mutual covenants, conditions, and agreements set forth below, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. Recitals. The foregoing recitals are true and are incorporated by this reference as if set out in full in the body of this Agreement.

2. Purchase Transaction.

Purchaser shall purchase from Seller and Seller shall sell to Purchaser the Transferred Development Rights in exchange for the sum of One Million One Hundred Thirty Eight Thousand Two Hundred and No/100 Dollars ($1,388,000.00) (the "Purchase Price").

3. Deposit and Assignment

Within five (5) days of the Effective Date hereof, Purchaser shall place in escrow with Alex D. Siruhk, P.A. ("Escrow Agent") the sum of One Hundred Thirteen Thousand Eight Hundred Twenty and No/100 Dollars ($113,820.00) (the "Deposit"). The Deposit shall be applied to the Purchase Price at the time of closing. Notwithstanding the foregoing, the Deposit shall be non-refundable to Purchaser and automatically released to Seller upon issuance of the Resolution (hereinafter defined) and expiration of the applicable appeal period for adoption of the Resolution, subject to Purchaser remedies in the event of a Seller default pursuant to Section 7.

Together with the execution of this Agreement, Seller shall deliver to Purchaser a fully executed Assignment of the Transferred Development Rights in the form attached hereto as Exhibit "A" (the "Seller's Assignment"). The Seller's Assignment shall serve as a conditional Assignment of the Transferred Development Rights subject to Purchaser closing as set forth herein. In the event Purchaser fails to close on the purchase of the Transferred Development Rights, whether such failure represents an event of default or otherwise (excluding by reason of Seller's default), Purchaser shall reassign the Transferred Development Rights to the Seller pursuant to the Assignment of the Transferred Development Rights in the form attached hereto as Exhibit "B" (the "Purchaser's Reassignment"). Purchaser shall execute the Purchaser's Reassignment together with this Agreement which shall be held in escrow by the Escrow Agent. In the event Purchaser closes on the purchase of the Transferred Development Rights as set forth in this Agreement, Seller's Assignment shall be deemed unconditional, Purchaser shall be fully vested with ownership of the Transferred Development Rights, the Purchaser's Reassignment shall be voided, of no force and effect and returned to the Purchaser at closing. In the event
Purchaser does not close on the purchase of the Transferred Development Rights, other than by reason of Seller's default, Escrow Agent shall be authorized to release the Purchaser's Reassignment to the Seller whereupon the Seller shall have title to the Transferred Development Rights; thereafter, the Parties shall be released of any and all obligations to each other under this Agreement, subject to Seller's remedies in the event of a Seller's default pursuant to Section 7. Additionally, together with this Agreement, each Party shall execute (i) an Indemnity Agreement in favor of the City in the form attached hereto as Exhibit "C" and Exhibit "D", as applicable, or any other such form required by the City evidencing the assignment of the Transferred Development Rights and (ii) an instruction letter from Seller to the City of Sunny Isles Beach notifying the City as to the assignment of the Transferred Development Rights to Purchaser, and an instruction letter from Purchaser to the City of Sunny Isles Beach notifying the City as to the re-assignment of the Transferred Development Rights to Seller.

4. Closing Date

The closing of this transaction shall take place at the offices of Escrow Agent on April 5, 2013, provided that the City has adopted a resolution (the "Resolution") confirming that the sale of the Transferred Development Rights as contemplated in this Agreement has been approved and any appeal rights related to the adoption of the Resolution have expired. At the closing, Purchaser shall deposit the remaining balance of the Purchase Price with Escrow Agent and Escrow Agent shall automatically release the Seller's sale proceeds directly to Seller. Thereafter, the Seller's Assignment shall be unconditional and the Seller shall return the Purchaser's Reassignment to the Purchaser, which shall be void and of no force and effect. Notwithstanding anything contained herein to the contrary, in the event the Resolution has not been adopted on or before February 28, 2013, and/or any applicable appeals period related to the adoption of the Resolution have not expired on or before March 31, 2013, then unless otherwise extended by mutual agreement of the Parties, Purchaser may terminate this Agreement, Seller shall return the Deposit to Purchaser, and Escrow Agent shall be authorized to release the Purchaser's Reassignment to the Seller; thereafter, the Parties shall be released of any and all obligations to each other under this Agreement. If Purchaser elects to terminate this Agreement in accordance with this Section, Escrow Agent shall be authorized to return the Deposit to Purchaser within five (5) days of receiving notice of such termination.

5. Closing Costs

(a) At closing, Purchaser shall pay the costs of transfer tax and documentary stamps, if any, on the Seller's Assignment, its own attorney's fees, and any costs associated with notifying the City of the transfer of the Transferred Development Rights.

(b) Purchaser shall pay any expenses related to its due diligence and inspections performed therein.

(c) Seller shall pay its own attorney's fees and costs related to this Agreement.

6. Documents to be delivered at Closing

(a) Seller shall deliver at Closing to Purchaser:

(1) An Indemnity Agreement in such form required by the City (to the extent such Agreement has not already been delivered to the Purchaser);
(ii) A corporate resolution of Seller authorizing the individual executing the documents to do so on Seller’s behalf; and

(iii) Any and all such other reasonable and customary documents necessary to consummate the closing of this purchase and sale transaction or to confirm the assignment of the Transferred Development Rights.

(b) Purchaser shall deliver at Closing to Seller:

(i) The Balance of the Purchase Price by federal wire transfer;

(ii) A corporate resolution authorizing the individual executing the documents on Purchaser’s behalf to do so on Purchaser’s behalf; and

(iii) An Indemnity Agreement in such form required by the City (to the extent such Agreement has not already been delivered to Seller).

7. **Default.**

In the event of a failure by either Party to perform any obligation or covenant which either of them is obligated to perform under this Agreement, except for the failure to close in accordance with the terms of this Agreement, which failure shall constitute an immediate default hereunder, no default shall occur until notice thereof is given to the defaulting Party by the other Party hereto asserting an event of default has occurred, describing the nature of the default, and giving a period of five (5) days to cure the default, if readily curable by the payment of money, or a period of ten (10) days to cure the default, if not readily curable by the payment of money.

In the event of the failure or refusal of the Purchaser to close this transaction, without fault on Seller’s part and without failure of any conditions precedent to Purchaser’s obligations hereunder, Seller shall receive the Deposit together with all interest earned thereon (if any) as agreed and liquidated damages for said breach, and as Seller’s sole and exclusive remedy for default of Purchaser, whereupon the parties shall be relieved of all further obligations hereunder, except those obligations which specifically survive such Closing. Purchaser and Seller acknowledge and agree that actual damages are difficult or impossible to ascertain and the Deposit, is a fair and reasonable estimation of the damages of Seller.

If after notice and the expiration of the cure period provided herein, Seller fails to perform any of its covenants as set forth in this Agreement or fails to properly convey the Transferred Development Rights when obligated to do so in accordance with the terms hereof, Purchaser shall be entitled to receive the return of the Deposit, or seek specific performance against Seller without waiving any rights to recover any actual damages and out-of-pocket expenses incurred by Purchaser.

8. **Commission.**

Neither Seller nor Purchaser has had any contact or dealings regarding the Transferred Development Rights, or any communication in connection with the subject matter of this Agreement through any real estate broker or other person who can claim a right to a commission or finder’s fee in connection with the sale contemplated herein. Each Party shall indemnify and hold harmless the other from any claims for any commissions by any brokers, salesmen, or agents.
regarding the Transferred Development Rights. The provisions of this Section shall survive termination of this Agreement.

9. Escrow Agent.

(a) The duties of Escrow Agent are purely ministerial in nature and shall be expressly limited to the safekeeping of the Assignment, and for the disposition of sums in accordance with this Agreement. Each of the parties to this Agreement shall and do jointly and severally indemnify Escrow Agent and hold Escrow Agent harmless from and 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 nature, which Escrow Agent may incur in connection with this Agreement or which may result from Escrow Agent's following of instructions from the parties, whether or not litigation is instituted.

(b) Escrow Agent shall not be liable: (i) to any of the parties for any act or omission to act except for Escrow Agent's own gross negligence or willful misconduct; (ii) for any legal effect, insufficiency, or unenforceability of any instrument deposited with or delivered by Escrow Agent or exchanged by the parties under this Agreement; (iii) for the default, error, action, or omission of any party to this Agreement other than Escrow Agent; or (iv) for Escrow Agent's compliance with any legal process, subpoena, writs, orders, judgments, and decrees of any court, whether issued with or without jurisdiction, and whether or not subsequently vacated, modified, set aside, or reversed.

(c) Escrow Agent may: (i) act in reliance upon any writing or instrument or signature which it, in good faith, believes to be bona fide and genuine; (ii) assume the validity and accuracy of any statement 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 correctness as to form, manner, and execution, or validity, of any instrument deposited in escrow, or as to the identity, authority, or right of any person executing same. Nothing contained herein shall be deemed to prevent Escrow Agent from serving in a similar capacity on behalf of others.

10. Disputes.

(a) If any dispute arises among any of the parties to this Agreement and/or any third parties (whether concerning this Agreement, Escrow Agent's duties hereunder, the disposition of the Assignment, or any other matters), or if Escrow Agent shall be uncertain as to its duties or rights under this Agreement or shall receive instructions, claims, or demands from any of the other parties to this Agreement and/or any third parties with respect to the Assignment which, in Escrow Agent's opinion, are in conflict with each other or with any provision of this Agreement, or if Escrow Agent is joined as a party to a lawsuit by virtue of the fact that it is holding the Deposit Agent, upon giving written notice to Seller and Purchaser, shall: (i) continue to hold the Deposit in escrow until such time as such dispute, uncertainty or lawsuit shall have been resolved to Escrow Agent's satisfaction, or by a final order or judgment of a court of competent jurisdiction; or (ii) Interplead the Deposit by filing an interpleader action in the Circuit Court in and for Miami-Dade County, Florida (to the jurisdiction of which all parties do hereby consent) and depositing the Deposit into the registry of the court, whereupon Escrow Agent shall be relieved and released from any further liability as Escrow Agent under this Agreement.
(b) Seller acknowledges that Alex D. Sirulnik, P.A. is acting as Escrow Agent hereunder and is counsel to Seller. In the event of any dispute between Seller and Purchaser, Alex D. Sirulnik, P.A. shall be permitted to continue to represent Seller in such dispute, including, without limitation, any dispute over the delivery or release of the Deposit.

11. **Attorneys' Fees.** In any dispute among the parties related to this Agreement, the party or parties not substantially prevailing shall pay, and shall be jointly and severally liable for: (i) the reasonable attorneys' fees and costs of the other party or parties involved in the dispute, and (ii) the amount owed to Escrow Agent under this Agreement for any attorneys' fees, costs, damages, or losses incurred by Escrow Agent in connection with such dispute.

12. **Indemnification.** Seller and Purchaser, jointly and severally, agree to indemnify and hold Escrow Agent harmless from and against any and all liabilities incurred by it, and to indemnify and hold it harmless from and against any and all losses, costs, claims, damages, liabilities, and expenses, including reasonable attorneys' fees and other costs and expenses incurred, sustained by, or asserted against it, other than those arising out of the gross negligence or willful misconduct of Escrow Agent, including reasonable costs of investigation and attorneys' fees and disbursements which may be imposed upon Escrow Agent or incurred by Escrow Agent in connection with the acceptance of its appointment hereunder or in the performance of its duties hereunder, including any litigation arising from this Agreement or involving the Deposit.

13. **Notices.** All notices and other communications required or permitted to be given under this Agreement shall be in writing and shall be hand delivered or mailed by certified or registered mail, postage prepaid, or by Federal Express, or similar overnight delivery service, and shall also be delivered electronically, addressed as follows:

If to Seller: 1000 E. Hallandale Beach Blvd.
Suite B
Hallandale Beach, Florida 33009
Attention: Manuel Grosskopf
mg@chalauergrup.net

With a copy to: Alex D. Sirulnik, P.A.
2701 Ponce de Leon Blvd., Suite 202
Coral Gables, Florida 33134
Attention: Alex D. Sirulnik, Esq.
axs@sinulniklaw.com

If to Purchaser: Fortune Development Corporation
1300 Brickell Avenue
Miami, Florida 33131
Attention: Eduardo Intery
email@fortune-network.com

With a copy to: Weiss Serota Helfman, et al
2525 Ponce de Leon Blvd., Suite 700
Coral Gables, Florida 33134
Attention: Cliff Schulman, Esq.
eschulman@whl-law.com
If to Escrow  Alex D. Sirulnik, P.A.
Agent:  2701 Ponce de Leon Blvd., Suite 202
        Coral Gables, Florida 33134
        Attention: Alex D. Sirulnik, Esq.
        sds@sirulniklaw.com

Notice shall be deemed to have been given upon receipt or refusal.


This Agreement shall be binding upon the parties and their respective successors and
permitted assigns.

15. Calculation of Time Frames

All time frames herein shall be calculated based on calendar days.

16. Waiver; Modification.

The waiver of any term, provision or condition of this Agreement shall be effective only
if in writing and signed by all the parties to this Agreement, and then only in the specific instance and for
the particular purpose for which it was given. No failure to exercise and no delay in exercising any right
or power under this Agreement shall operate as a waiver thereof. No modification, amendment,
cancellation or rescission hereof shall be valid and binding, unless it is in writing and signed by all parties
to this Agreement.

17. Entire Agreement.

This Agreement constitutes the entire agreement and understanding among the parties as
to the subject matter hereof, and shall not be modified in any manner except by an instrument in writing
executed by the parties or their respective successors in interest.


The headings used in this Agreement are for convenience only, and shall not be used in
interpreting or construing any provision of this Agreement.

19. Counterparts; Facsimile Delivery.

This Agreement may be executed in any number of counterparts. Each such counterpart
shall be deemed to be an original instrument, but all such counterparts together shall constitute but one
Agreement. This Agreement may be executed via facsimile transmission, and facsimile counterparts shall
have the same force and effect as original signatures.

20. Back up Contract. During the term of this Agreement and continuing through Closing,
Seller shall have the right to negotiate for and enter into a “backup” contract to protect it against the
possibility that Purchaser may default under this Agreement, with any “backup” contract subject to this
21. **Time.** Time is of the essence.

22. **Waiver of Trial by Jury.** THE PARTIES HERETO WAIVE TRIAL BY JURY IN ALL MATTERS ARISING OUT OF THIS AGREEMENT.

**SIGNATURE PAGES FOLLOW**

**WITNESS OR ATTEST:**

[Signature]

Print Name: Diona Matos

[Signature]

Print Name: Sabrina Frenze

**PURCHASER:**

SUNNY ISLES BEACH ASSOCIATES, LLC, a Delaware limited liability company

By: SIBA MANAGER, LLC, a Florida limited liability company, as Administrative Member

By: FORTUNE INTERNATIONAL MANAGEMENT, INC., a Florida corporation, as Manager

By: [Signature]

Name: Eduardo Zemski
Title: Authorized Representative

**SELLER:**

ABUS, LLC, a Florida limited liability company

By: [Signature]

Name: [Signature]
Title: Manager
ASSIGNMENT OF TRANSFER OF DEVELOPMENT RIGHTS

KNOW ALL MEN BY THESE PRESENTS, that Absil, LLC, a Florida limited liability company ("Assignor"), for and in consideration of the sum of Ten and No/100 ($10.00) Dollars, and other good and valuable consideration, paid, received from, and on behalf of Sunny Isles Beach Associates, LLC, a Delaware limited liability company ("Assignee"), its heirs, successors, or agents, at or before enrolling and delivery of the presents, in Miami-Dade County, State of Florida, the receipt and sufficiency of which is hereby acknowledged and accepted, does hereby grant to Assignee 22,764 square feet of Transfer of Development Rights ("TDRs") and 11 corresponding units held in an account designated for and held for Assignor, with the City of Sunny Isles Beach, Florida.

WHEREFORE, Assignor has on deposit in a TDR Bank with City of Sunny Isles Beach, Florida, the amount of 22,764 square feet of TDRs and 11 corresponding units in an account for the benefit of Assignor as owner of same;

NOW, THEREFORE, in consideration of the mutual promise and exchange between the parties and other good and valuable consideration, the parties agree and stipulate as follows:

The above recitals are true and correct and are hereby incorporated by reference herein.

Assignor upon execution of this Assignment, hereby assigns and transfers 22,764 square feet of TDRs and 11 corresponding units to Assignee, its heirs, successors, or agents.

TO HAVE AND TO HOLD, the same unto the said Assignee, its heirs, legal representatives, successors, administrators and assigns forever.

IN WITNESS WHEREOF, the party hereto has caused this Assignment of Transfer Development Rights to be executed by its duly authorized representative freely and voluntarily on this 2nd day of 11, 2012.
(See Separate Signature Pages)
ASSIGNOR:

ABUS/LAC, A Florida limited liability company

By:

Name: 

Title: 

Witnessed:

Print Name: 

Print Name: 

STATE OF FLORIDA

COUNTY OF MIAMI-DADE

The foregoing instrument was acknowledged before me this ___ day of ___ , 2012 by 

as Manager of Abus, LLC, a Florida limited liability company,

who is personally known to me or has produced ___ as identification and who did 
take an oath.

Notary Public

DAVID M. S. CONDO 
MY COMMISSIONER #: 09-841578 
EXPIRES: Mar 26, 2016 
Registered This Notary Public Under Florida State Law
EXHIBIT "C"

SELLER'S ASSIGNMENT INDEMNITY

INDEMNIFICATION & HOLD HARMLESS AGREEMENT

This Indemnification and Hold Harmless Agreement dated this _ day of _ , 2012 is entered into by ABUS LLC, a Florida limited liability company ("Assignor") and SUNNY ISLES BEACH ASSOCIATES, LLC, a Delaware limited liability company ("Assignee") in favor of the City of Sunny Isles Beach, Florida (the "City").

WHEREAS, Assignor has assigned to Assignee 22,764 square feet of transferrable development rights, as defined in Section 265-23 of the Land Development Regulations of the City of Sunny Isles Beach, Florida (the "City"), which represents 11 residential Units (the "Transferred Development Rights"), in an account designated and held for the benefit of Assignor by Assignee.

WHEREAS, pursuant to that certain Purchase and Sale Agreement by and between Assignor and Assignee dated __, 2012, Assignor and Assignee have agreed to indemnify and hold harmless the City as hereinafter provided.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, and for other good and valuable consideration, the receipt of which is hereby acknowledged, Assignee and Assignor agree as follows:

1. The above recitals are true and correct and are incorporated herein.

2. Assignor has assigned to Assignee the Transferred Development Rights which are held in an account for the benefit of Assignor with the City.

3. Assignor waives any claims against the City arising as a result of the transfer of the Transferred Development Rights from Assignor to Assignee and Assignee agrees and does hereby indemnify and hold harmless the City from any liability as to any claims that may arise between Assignee and Assignor or any private parties as a result of the transfer of the Transferred Development Rights from Assignor to Assignee.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals the day and year first above written.

(See Separate Signature Pages)
Witnessed:

Signature

Print Name

ASSIGNOR:

ABUS LLC, a Florida limited liability company

By:

Name: M. O. A. SEIDU
Title: MANAGER

Signature

Print Name

STATE OF FLORIDA
COUNTY OF MIAMI-DADE

SWORN TO AND SUBSCRIBED before me this 2 day of December, 2012, by DULCALY LOPEZ as YOUNG, of ABUS LLC, a Florida limited liability company, who ( ) is personally known to me or ( ) has produced as identification.

My Commission Expires:
My Commission Number:
WITNESSES:

[Signature]

Print Name

[Signature]

Print Name

ASSIGNEE:

SUNNY ISLES BEACH ASSOCIATES, LLC,
a Delaware limited liability company

By: SIBA MANAGER, LLC, a Florida
limited liability company, as
Administrative Member

By: FORTUNE INTERNATIONAL
MANAGEMENT, INC., a Florida
corporation, as Manager

By: 
Name: Eduardo Jimenez
Title: Authorized Representative

STATE OF FLORIDA

COUNTY OF MIAMI-DADE

The foregoing instrument was acknowledged before me this 2 day of November, 2012 by SUNNY ISLES BEACH ASSOCIATES, LLC, a Delaware limited liability company by
its Administrative Member SIBA MANAGER, LLC, a Florida limited liability company by its
Manager of FORTUNE INTERNATIONAL MANAGEMENT, INC., a Florida corporation, who
is personally known to me or has produced personally known as identification and who did take
an oath.

Notary Public

(SEAL)

My Commission Expires: 9/19/13
My Commission Number: D2948159