

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
TAMPA DIVISION**

SECURITIES AND EXCHANGE  
COMMISSION,

Plaintiff,

v.

ARTHUR NADEL,  
SCOOP CAPITAL, LLC,  
SCOOP MANAGEMENT, INC.,

Defendants,

CASE NO.: 8:09-cv-0087-T-26TBM

SCOOP REAL ESTATE, L.P.,  
VALHALLA INVESTMENT PARTNERS, L.P.,  
VALHALLA MANAGEMENT, INC.,  
VICTORY FUND, LTD,  
VIKING IRA FUND, LLC,  
VIKING FUND, LLC, AND  
VIKING MANAGEMENT, LLC.

Relief Defendants.

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**RECEIVER'S MOTION FOR APPROVAL OF SALE OF  
ASSETS OF HOME FRONT HOMES, LLC  
AND AGREEMENT WITH M&I BANK**

Pursuant to 28 U.S.C. § 754, Fed. R. Civ. P. 66, and Rule 3.01 of the Local Rules of the Middle District of Florida, Burton W. Wiand, as Receiver (the "Receiver"), moves the Court for an order approving the sale of certain assets of Receivership Entity Home Front Homes, LLC ("HFH") in accordance with the terms of the Asset Purchase Agreement

(the “HFH Agreement”) attached hereto as Exhibit 1.<sup>1</sup> Simultaneously with the sale of these assets, the Receiver negotiated the disposition of HFH’s obligations to M&I Bank (“M&I”), as set forth in the Agreement Regarding Claims and Obligations (the “M&I Agreement”) attached hereto as Exhibit 2, and the Receiver also moves the Court for an order approving that agreement.

### **BACKGROUND**

On January 21, 2009, the Securities and Exchange Commission (“Commission”) initiated this action to prevent the Defendants from further defrauding investors of hedge funds operated by them. That same day, the Court entered an order appointing Mr. Wiand as Receiver for Defendants Scoop Capital, LLC (“Scoop Capital”) and Scoop Management, Inc. (“Scoop Management”) and Relief Defendants Scoop Real Estate, L.P.; Valhalla Investment Partners, L.P.; Valhalla Management, Inc.; Victory Fund, Ltd.; Victory IRA Fund, Ltd.; Viking IRA Fund, LLC; Viking Fund, LLC; and Viking Management, LLC (the “Order Appointing Receiver”). (*See generally* Order Appointing Receiver (Doc. 8).)

The Court subsequently granted six motions to expand the scope of the receivership and appointed the Receiver as receiver over additional entities including Home Front Homes, LLC (*See* Order, Aug. 10, 2009 (Doc. 172)).

Pursuant to the Order Appointing Receiver, the Receiver has the duty and authority to: “administer and manage the business affairs, funds, assets, choses in action and any other property of the Defendants and Relief Defendants; marshal and safeguard all of the assets of

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<sup>1</sup> Following the sale of the assets covered by the HFH Agreement, HFH will be left with several assets valued at less than \$5,000 each, including a pick-up truck, two small free standing storage structures, and a telephone system. The Receiver is close to finalizing the sale of those items but, in accordance with the March 24, 2009, Order (Doc. 97), he does not intend to seek approval for the sale of those items.

the Defendants and Relief Defendants; and take whatever actions are necessary for the protection of the investors.” (Order Appointing Receiver at 1-2.) In particular, the Receiver was directed to:

[t]ake immediate possession of all property, assets and estates of every kind of the [Receivership Entities], whatsoever and wheresoever located belonging to or in the possession of the [Receivership Entities], including but not limited to all offices maintained by the [Receivership Entities], rights of action, books, papers, data processing records, evidences of debt, bank accounts, savings accounts, certificates of deposit, stocks, bonds, debentures and other securities, mortgages, furniture, fixtures, office supplies and equipment, and all real property of the [Receivership Entities] wherever situated, and to administer such assets as is required in order to comply with the directions contained in this Order, and to hold all other assets pending further order of this Court . . . .

(*Id.* at 2.) In accordance with that Order, the Receiver has taken possession of the assets of HFH and seeks this Court’s permission to sell certain of those assets. Specifically, the Receiver seeks the Court’s approval of the sale of the assets identified in Exhibit A of the HFH Agreement in accordance with the terms of that agreement. *See* Exhibit 1.

#### **I. HFH**

HFH was engaged in the business of manufacturing, marketing, and selling energy-efficient panelized homes. (*See* Declaration of Burton W. Wiand, as Receiver, in Support of the Receiver’s Motion for Approval of Sale of Assets of Home Front Homes, LLC and Agreement with M&I Bank being filed along with this Motion (“Receiver’s Decl.”), ¶4). On August 10, 2009, the Court expanded the Receivership to include HFH (*see* Doc. 172).

#### **Receiver’s Marketing Efforts for the Sale of HFH’s Assets**

The Receiver’s marketing efforts to secure the sale of HFH, including advertising on the Receivership’s website, produced several interested buyers. On or about August 4, 2009,

the Receiver entered into an agreement with one of these potential buyers to sell HFH as a going concern in exchange for \$800,000. (Receiver's Decl. ¶9.) At that time, HFH was an operating business but was quickly deteriorating, and the potential buyer agreed to take over and fund the business operations almost immediately. (See Receiver's Decl. in Support of Resp. In Opp. To William F. Bishop's Mot. To Intervene ¶¶5-6 (Doc. 205).)

In September 2009, that potential buyer notified the Receiver that it refused to close the transaction. (*Id.* at ¶7.) Thus, that buyer walked away from the transaction, and the Receiver was left without sufficient personnel to operate the business or capital to meet the company's operational demands. As a result, the Receiver determined that it was in the best interest of the Receivership to close HFH and cease all business operations.

Since HFH is no longer a going concern, the entirety of its current value is derived from its assets, which are encumbered by a loan from M&I. The Receiver received offers from three potential buyers interested in purchasing HFH's assets, and the Receiver believes that it was in the best interest of the receivership estate to enter into the HFH Agreement to sell certain of HFH's assets to South American Development Corporation ("SADC"), contingent upon this Court's approval. The Receiver hereby requests this Court's approval to sell HFH's assets pursuant to the HFH Agreement.

#### The HFH Agreement

SADC has agreed to purchase certain of HFH's assets pursuant to the terms set forth in the HFH Agreement. See Exhibit 1. The salient parts of that agreement provide that SADC will pay the sum of \$250,000 in return for specified HFH assets: it will pay the Receiver \$150,000 in cash at closing and will deliver a zero interest promissory note to the

Receiver for the \$100,000 balance, secured by the assets themselves (*see* Promissory Note and Security Agreement, Exhibit B of the HFH Agreement), and due one year from the date of closing.

In return, the Receiver agrees to sell and transfer all rights to the assets listed in Exhibit A to the HFH Agreement on an “As Is” “Where Is” basis, without any warranties of any kind, and without any indemnification provisions of any kind. *See* Exhibit 1.

The Receiver believes that the terms of the HFH Agreement, along with the resolution of HFH’s obligations to M&I, described below, provide greater value to the Receivership than any other offer received for the purchase of HFH’s assets.

## **II. M&I AGREEMENT**

As part of the negotiations with SADC to sell HFH’s assets, it was necessary for the Receiver to negotiate regarding certain obligations owed by HFH to M&I. The Receiver has reached an agreement whereby M&I will execute a release of its lien on the assets SADC will purchase, and M&I will forego any deficiency claims against the receivership estate. *See* M&I Agreement, attached hereto as Exhibit 2. In return, the Receiver has agreed to disburse to M&I 65% of the cash and note proceeds (following receipt of payment by the Receiver) from the sale of the assets, after \$12,000 has first been disbursed from the cash proceeds to the Receiver for expenses incurred (i.e., the Receiver will disburse to M&I \$154,700 out of the \$250,000 sale price). The agreement reached with M&I Bank resolves the following obligations:

- M&I made a loan on April 15, 2008 to HFH (“HFH Loan”) in the amount of \$3,000,000, and bearing 5.2% interest, that matured on April 14, 2009.

- The HFH loan is secured by HFH's assets.

The Receiver has reviewed these obligations and the banking activities in order to bring the sale of HFH's assets to fruition. Following negotiations, the Receiver and M&I have reached the following agreement, as set forth more fully in Exhibit 2.

- M&I will release the Receiver from any claims or deficiency owed on the HFH Loan. In addition, M&I will release its lien on the assets covered by the HFH Agreement.
- The Receiver, upon closing the sale of assets to SADC, agrees to transfer \$89,700 of the cash due at closing to M&I within three business days of the closing. Further, the Receiver will transfer \$65,000 to M&I at the time when the note is paid in full by SADC.

As a result of this agreement, M&I is waiving over \$3,000,000 of debt obligations due on the HFH Loan, and the Receivership will gain over \$95,000 from the sale of HFH's assets. The Receiver believes that the proposed agreement with M&I is in the Receivership's best interests because it provides funds for the Receivership and alleviates significant obligations the Receivership would otherwise owe. Accordingly, the Receiver asks that this Court enter an order approving the transaction reflected in the M&I Agreement. *See* Exhibit 2.

### **III. MEMORANDUM OF LAW**

The Court's power to supervise an equity receivership and to determine the appropriate actions to be taken in the administration of the receivership is extremely broad. *Securities Exchange Comm'n v. Elliott*, 953 F.2d 1560, 1566 (11th Cir. 1992); *Securities*

*Exchange Comm'n v. Hardy*, 803 F.2d 1034, 1038 (9th Cir. 1986). The Court's wide discretion derives from the inherent powers of an equity court to fashion relief. *Elliott*, 953 F.2d at 1566; *Securities Exchange Comm'n v. Safety Finance Service, Inc.*, 674 F.2d 368, 372 (5th Cir. 1982). The relief sought by the Receiver falls squarely within those powers. This relief includes approval of the disposition of assets and settlement of claims.

WHEREFORE, Burton W. Wiand, as Receiver, respectfully requests this Court to enter an Order:

(1) Approving the sale of certain of HFH's assets to South American Development Corporation as provided in the Asset Purchase Agreement attached as Exhibit 1; and

(2) Approving the agreement between the Receiver and M&I Bank as reflected in the M&I Agreement attached as Exhibit 2.

**LOCAL RULE 3.01(G) CERTIFICATION OF COMPLIANCE**

Counsel for the Receiver has conferred with counsel for the SEC and is authorized to represent to the Court that this motion is unopposed.

**CERTIFICATE OF SERVICE**

I hereby certify that on January 5, 2010, I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system. I further certify that I mailed the foregoing document and the notice of electronic filing by first-class mail to the following non-CM/ECF participant:

Arthur G. Nadel  
Register No. 50690-018  
MCC New York  
Metropolitan Correctional Center  
150 Park Row  
New York, NY 10007

**s/ Gianluca Morello**

Gianluca Morello, FBN 034997

[gmorello@wiandlaw.com](mailto:gmorello@wiandlaw.com)

WIAND GUERRA KING P.L.

3000 Bayport Drive

Suite 600

Tampa, FL 33607

Tel.: (813) 347-5100

Fax: (813) 347-5155

ATTORNEY FOR THE RECEIVER, BURTON W.

WIAND



## **ASSET PURCHASE AGREEMENT**

**THIS AGREEMENT**, effective as of December 18, 2009 (the “Effective Date”), by and between **SOUTH AMERICAN DEVELOPMENT, CORP.**, a Florida corporation (the “Buyer”) and **BURTON W. WIAND** (“Seller”), as Receiver of HOME FRONT HOMES, LLC, a Florida limited liability company (the “Company”). Buyer, Seller and Company are collectively referred to herein as the “Parties” and each is a “Party.”

### **RECITAL**

**WHEREAS**, the United States District Court for the Middle District of Florida, Tampa Division (the “Court”), appointed Burton W. Wiand on January 21, 2009, and reappointed Mr. Wiand on June 3, 2009, as Receiver of several receivership entities (collectively, the “Receivership”), and the Company became part of the Receivership on August 10, 2009, in the action styled *Securities and Exchange Commission v. Arthur Nadel, et al.*, Case No: 8:09-cv-87-T-26TBM (the “Action”).

**WHEREAS**, the Company owns certain assets (collectively, the “Assets”). The Assets are more particularly described on **Exhibit A** and Section 1(a) below.

**WHEREAS**, Seller desires to sell and Buyer desires to purchase the Assets pursuant to the terms and conditions set forth herein.

**NOW, THEREFORE**, in consideration of the foregoing and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

### **OPERATIVE TERMS**

1. **Sale and Transfer of Assets.**

(a) Seller shall sell, transfer, and deliver to Buyer, pursuant to the Order (as defined herein) from the Court, and Buyer shall purchase from Seller:

(i) *Tangible Personal Property.* All of Seller’s rights, title, and interest in the Assets as further described on **Exhibit A**, free and clear of all liens, claims, encumbrances, and restrictions as specified in the Order; and

(ii) *Intellectual Property.* All of Seller’s rights, title, and interest at common law, if any and to the extent assignable, in the Intellectual Property used in the Company’s business operations immediately prior to its ceasing to do business. It is Seller’s understanding that the Company does not own, and has never owned, any federally registered trademark(s) or patent(s), whether issued or pending to be issued, or has any application outstanding with the United States Patent and Trademark Office for a federally registered trademark or patent, and Buyer expressly acknowledges and agrees that Seller makes no representations or warranties regarding its ownership of any Intellectual Property by the Company,

and that Seller will not defend, indemnify and hold Buyer harmless from any loss, damage, or injury arising out of or based upon any claims, demands or lawsuits alleging in whole or in part in violation of the Intellectual Property or conversion of the Intellectual Property or any part thereof.

(b) The Assets are sold on an “AS IS” “WHERE IS” BASIS, WITH ALL FAULTS AND WITHOUT REPRESENTATIONS, EXPRESS OR IMPLIED, OF ANY TYPE, KIND, CHARACTER OR NATURE, INCLUDING BUT NOT LIMITED TO, SUITABILITY OF THE ASSETS FOR ANY USE, AND WITHOUT WARRANTIES, EXPRESS OR IMPLIED, OF ANY TYPE, KIND, CHARACTER OR NATURE, INCLUDING BUT NOT LIMITED TO, SUITABILITY OF THE ASSETS FOR ANY USE, AND WITHOUT RECOURSE, EXPRESS OR IMPLIED, OF ANY TYPE, KIND, CHARACTER OR NATURE, SAVE AND EXCEPT THE EXPRESS REPRESENTATIONS AND WARRANTIES SET FORTH IN SECTION 8 HEREOF.

2. Contingencies. This Agreement is contingent only upon Seller obtaining approval of the Court (the “Order”) to sell Buyer Assets described on Exhibit A free and clear of all liens, claims, encumbrances, and restrictions.

3. Purchase Price.

(a) The purchase price to be paid by Buyer to Seller for the Assets shall be the sum of Two Hundred Fifty Thousand Dollars and No/100 (\$250,000) (the “Purchase Price”).

(b) The Purchase Price shall be paid at the Closing (hereinafter defined) as follows:

(iii) Cash or its equivalent in the amount of One Hundred Fifty Thousand Dollars and No/100 (\$150,000); and

(iv) Delivery of a duly signed Promissory Note (the “Note”) in the amount of One Hundred Thousand Dollars and No/100 (\$100,000) substantially in the form attached hereto as Exhibit B.

4. Closing. The closing of the transaction contemplated by this Agreement and delivery of the Bill of Sale (hereinafter defined) (the “Closing”) shall occur by the Closing Date (hereinafter defined). The Closing shall be conducted at such location as the Parties may mutually agree in writing.

5. Closing Date. Buyer and Seller agree that Closing shall occur on December \_\_\_\_, 2009.

6. Buyer’s Deliveries at Closing. At the Closing, Buyer shall deliver the following items to Seller:

(c) the Purchase Price for the Assets, payable in the manner described in

Section 3(b) above;

(d) a duly signed Note substantially in the form attached hereto as Exhibit B.

(e) a certified copy of the resolutions of the Board of Directors of Buyer authorizing the transactions contemplated by this Agreement; and

(f) such other documents and certificates as Seller may reasonably and timely request.

7. Seller's Deliveries at Closing. At the Closing, Seller shall deliver the following items to Buyer:

(g) a Bill of Sale in the form attached as Exhibit C hereto, duly signed by Seller;

(h) an Order from the Court approving the sale of the Assets; and

(i) such other documents and certificates as Buyer may reasonably and timely request.

8. Seller's Representations, Warranties and Covenants. Seller represents, warrants, and covenants to Buyer as follows:

(j) Valid and Enforceable Agreement. This Agreement constitutes a valid and binding agreement of the Seller enforceable in accordance with its terms.

(k) Title.

(i) Seller acquired title to the Assets in the Action as described in Exhibit A, pursuant to the terms and condition of this Agreement and with the approval of the Court, the Assets shall be sold, to the extent transferable, to Buyer as evidenced by the Bill of Sale, substantially in the form attached hereto as Exhibit C, free and clear of all liens, claims, encumbrances, and restrictions.

(ii) The Assets are sold on an "AS IS" "WHERE IS" BASIS, WITH ALL FAULTS AND WITHOUT REPRESENTATIONS, EXPRESS OR IMPLIED, OF ANY TYPE, KIND, CHARACTER OR NATURE, INCLUDING BUT NOT LIMITED TO, SUITABILITY OF THE ASSETS FOR ANY USE, AND WITHOUT WARRANTIES, EXPRESS OR IMPLIED, OF ANY TYPE, KIND, CHARACTER OR NATURE, INCLUDING BUT NOT LIMITED TO, SUITABILITY OF THE ASSETS FOR ANY USE, AND WITHOUT RECOURSE, EXPRESS OR IMPLIED, OF ANY TYPE, KIND, CHARACTER OR NATURE, SAVE AND EXCEPT THE EXPRESS REPRESENTATIONS AND WARRANTIES SET FORTH IN THIS SECTION 8.

(l) Authority. The execution, delivery, and performance of this Agreement

and any documents incidental thereto, and the consummation of the transactions contemplated hereby have been duly authorized and approved by the Court, and Seller has all requisite corporate powers and authority to consummate this transaction.

(m) General. None of the representations or warranties by Seller in this Agreement contains any untrue statement of a material fact, or omits to state any material fact necessary to make statements or facts contained therein not misleading.

9. Buyer's Representations and Warranties. Buyer represents and warrants to Seller as follows:

(n) Organization. Buyer is a limited liability company duly organized and validly existing and is in good standing under the laws of the State of Florida.

(o) Authority. The execution, delivery, and performance of this Agreement and any documents incidental thereto, and the consummation of the transactions contemplated hereby have been duly authorized and Buyer has all requisite corporate powers and authority to consummate this transaction.

(p) Valid and Enforceable Agreement. This Agreement constitutes a valid and binding agreement of Buyer enforceable in accordance with its terms. Neither the execution and delivery of this Agreement nor the consummation of the transactions contemplated hereby violates or conflicts with the Articles of Organization or Operating Agreement of Buyer or, subject to obtaining necessary consents, any agreement or other restriction of any kind or character to which Buyer is a party or by which Buyer is bound.

(q) Due Diligence. Buyer has conducted and completed any and all due diligence it deems or deemed necessary prior to completing the purchase contemplated herein.

(r) Absence of Warranties from Seller. Buyer acknowledges that Seller has made no warranties with respect to the Assets. Buyer is purchasing the Assets on an "AS IS" "WHERE IS" BASIS, WITH ALL FAULTS AND WITHOUT REPRESENTATIONS, EXPRESS OR IMPLIED, OF ANY TYPE, KIND, CHARACTER OR NATURE, INCLUDING BUT NOT LIMITED TO, SUITABILITY OF THE ASSETS FOR ANY USE, AND WITHOUT WARRANTIES, EXPRESS OR IMPLIED, OF ANY TYPE, KIND, CHARACTER OR NATURE, INCLUDING BUT NOT LIMITED TO, SUITABILITY OF THE ASSETS FOR ANY USE, AND WITHOUT RECOURSE, EXPRESS OR IMPLIED, OF ANY TYPE, KIND, CHARACTER OR NATURE, SAVE AND EXCEPT THE EXPRESS REPRESENTATIONS AND WARRANTIES SET FORTH IN SECTION 8 ABOVE.

(s) General. None of the representations or warranties by Buyer in this Agreement contains any untrue statement of a material fact, or omits to state any material fact necessary to make statements or facts contained therein not misleading.

10. Expenses and Taxes. Each party hereto shall pay its own expenses and costs

incident to the preparation of this Agreement and the consummation of the transactions contemplated hereby, including but are not limited to, attorney fees or broker commissions. If any portion of the transactions to be effected pursuant hereto shall be determined to be subject to sales or use or any other taxes, Buyer shall be liable therefore and shall promptly pay the same.

11. Amendments. This Agreement may only be amended or modified by written instrument executed by the parties hereto.

12. Notices. Any notice, request, information or other document to be given hereunder to any parties by any other party shall be in writing and shall have been deemed to have been given (i) when personally delivered, sent by facsimile (with hard copy to follow) or sent by reputable overnight express courier (charges prepaid), or (ii) five (5) days following mailing by certified or registered mail, postage prepaid and return receipt requested. Unless another is specified in writing, notices, demands and communications to Seller and Buyer shall be sent to the addresses indicated below:

(a) If as to Seller:

Burton W. Wiand, Receiver  
Home Front Homes, LLC  
3000 Bayport Drive, Suite 600  
Tampa, Florida 33607  
Attention: Burt Wiand

(b) If as to Buyer:

South American Development Corp.  
2721 Executive Park Drive, Suite 4  
Weston, Florida 33331  
Attention: Mr. Jerry Gillman

Any party may change the address to which notices hereunder are to be sent by giving written notice of such change of address as provided above.

13. Waiver. No waiver by either party hereto of any condition or any breach of any term, covenant, representation or warranty contained in this Agreement shall be deemed or construed as a further or continuing waiver of such condition or breach or waiver of any other or subsequent condition or the breach of any other term, covenant, representation or warranty contained in this Agreement.

14. Severability. If any provision of this Agreement is determined to be illegal or unenforceable, such provision will be deemed amended to the extent necessary to conform to applicable law or, if it cannot be so amended without materially altering the intention of the parties, it will be deemed stricken and the remainder of the Agreement will remain in full force and effect.

15. Counterparts. Any number of counterparts of this Agreement may be executed and each such executed counterpart shall be deemed to be an original.



16. Binding Agreement. This Agreement shall be binding upon and inure to the benefit of the parties hereto, their respective heirs, successors, and assigns.

17. Entire Agreement. This Agreement and the instruments delivered pursuant hereto constitute the entire agreement between the parties hereto and supersede all prior written agreements and understanding, oral or written, between the parties relating to the subject matter hereof.

18. Governing Law and Jurisdiction. This Agreement shall be governed by and construed in accordance with the substantive laws of the State of Florida. This Agreement shall be subject to the exclusive jurisdiction of the United States District Court, Middle District of Florida, Tampa Division, in Hillsborough County in the State of Florida, and all parties hereby irrevocably submit to the jurisdiction of such courts with respect to any claim arising out or in connection with this Agreement.

19. Venue. In the event litigation should arise to enforce or interpret this Agreement, Buyer and Seller agree that the proper venue shall be in the United States District Court, Middle District of Florida, Tampa Division, in Hillsborough County in the State of Florida.

20. Remedy. In the event that the Court does not approve of the sale of the Assets, i.e., if the Contingencies are not satisfied on or before the Closing Date, Buyer acknowledges and agrees that its sole and exclusive remedy is to terminate this Agreement. This Agreement, when duly executed by the Parties, constitute the express waiver in writing of any other remedy, whether legal or equitable, that may be available to the Buyer.

21. Indemnification. Buyer expressly acknowledges and agrees that Seller provides **NO** indemnification from and against any loss, claim and/or damage arising under any circumstance related to the Assets or this Agreement, and that Section 20 sets forth the Buyer's sole and exclusive remedy under this Agreement.

22. Broker's Commissions. Seller and Buyer represent and warrant each to the other that they have not dealt with any real estate broker, sales person or finder in connection with this transaction. In the event of any claim for broker's or finder's fees or commissions by any party, each party shall indemnify and hold harmless the other party from and against any such claim based upon any statement, representation or agreement of such party. This provision shall survive the consummation of the transactions contemplated hereby.

23. Survival of Representations and Warranties. All of the respective representations and warranties of the parties to this Agreement shall survive the consummation of the transactions contemplated hereby.

24. Further Assurances. Buyer and Seller shall execute and deliver such additional documents and take such additional action as may be necessary or desirable to effectuate the provisions and purposes of this Agreement.

25. Attorneys' Fees and Costs. In any action or dispute, at law or in equity, that may arise under or otherwise relate to this Agreement, the prevailing party will be entitled to, from the non-prevailing party, reimbursement of its attorneys' fees (including, but not limited to,

attorneys' fees, paralegals' fees and legal assistants' fees), costs and expenses incurred in the preparation for and in connection with any trial, appeal or bankruptcy proceeding.

[Signature Page Next]





EXECUTION VERSION

**Exhibit A**

**Assets**

(see attached)

**Home Front Homes  
Asset List  
As "Exhibit A" to the  
Asset Purchase Agreement**

**Equipment and Inventory**

- Union Roller Coater Glue Machine (1)
- 20' Roller Feeder Conveyor (1)
- Water Activation Misting Station and platform (1)
- Complete Vacuum station system including bags (6), frames (6), winches (6), vacuum tank pumps (2) and air compressors (1).
- Shop table (1)
- Floor platforms (6)
- Hot knives and transformers (1)
- Motorized cutting table (1), saw (1) and mounting beam including a dust collector system(1)
- Moveable table saw (1)
- Chop saws with tables (2)
- 2006 F-650 24' Flatbed truck (Vin# 3FRNF65E75V115594) (1)
- 24' dual axel trailer (Model Champion CH03710) (1)
- Yale 2004 forklift (Model GLP090LJNGBV085 with Serial No. E813V02025B) (1).
- Any other items related to the manufacturing of SIPS panels, including:
  - Any equipment manuals
  - Maintenance records
  - Vendor list
  - Customer list
  - Brochures
  - Cd disk and stored data about the product
  - Product awards and plaques
  - Product newspaper articles or any other marketing data
- All:
  - Computers (9)
  - Printers (4)
  - Programs and data files- both hard copy and digital including any accounting information concerning production cost

**EXCLUDED** from this Asset List:

- SIPS Panels specifically manufactured and intended for Habitat for Humanity.

**Intellectual Property**

- Names may have been utilized by the Company prior to its ceasing business operation:
  - Home Front Homes

- Home Front
- Green Building Systems
- Home Front Panelized Construction System
- All trade names or other names and other product names used by Home Front, and names applied for and pending
- All:
  - Home Front Product rights
  - Technology rights
  - Proprietary technology rights
  - Process and intellectual property rights pertaining to the manufacturing and installation and/or building system of the Home Front SIPS panels and home products
  - Installation details
  - Engineering data
  - Testing data and product approvals applied for and issued
  - Building department product approvals

EXECUTION VERSION

**Exhibit B**

**Promissory Note**

(see attached)

**PROMISSORY NOTE**  
**(SOUTH AMERICAN DEVELOPMENT, CORP.)**

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\$100,000

Tampa, Florida  
December 18, 2009

**FOR VALUE RECEIVED, the undersigned, SOUTH AMERICAN DEVELOPMENT, CORP.,** a Florida corporation ("Maker"), hereby promises to pay to the order of Burton W. Wiand, as Court-appointed Receiver of HOME FRONT HOMES, LLC, a Florida limited liability company ("Payee"), the principal sum of One Hundred Thousand Dollars and No/100 (\$100,000) (the "Principal Amount"). Subject to the provisions of this Note, the Principal Amount shall be due and payable in its entirety, at ZERO PERCENT (0%) interest rate, by Maker on December 18, 2010 (the "Maturity Date"). This Note has been issued by Maker pursuant to a Asset Purchase Agreement between Maker and Payee dated as of December 18, 2009. Maker and Payee are each a "Party," and are collectively referred to as "Parties."

1. **Terms of Payment.** Principal Amount shall be due and payable in its entirety without interest on the Maturity Date. For the avoidance of doubt, this Note is a balloon promissory note that requires that all indebtedness be paid in full on the Maturity Date. All payments shall be made in lawful money of the United States of America at the address provided by Payee, or at such other place as the holder hereof may from time to time designate in writing to Maker.

2. **Default Interest Rate.** Upon an Event of Default (as hereafter defined), Payee, in his sole discretion and without notice or demand, may raise the rate of interest accruing on this Note to a rate equal to the maximum rate allowed by law, compounded monthly, independent of whether Payee elects to accelerate the unpaid principal balance as a result of such default. Such default interest rate shall continue, in Payee's sole discretion, until all defaults are cured.

3. **Voluntary Prepayment.** This Note may be prepaid in whole or in part at any time without premium or penalty.

4. **Manner and Application of Payments.** All payments due hereunder shall be paid in lawful money of the United States of America which shall be legal tender in payment of all debts and dues, public and private, in immediately available funds. Any payment by check or draft shall be subject to the condition that any receipt issued therefore shall be ineffective unless the amount due is actually received by Payee. Each payment shall be applied first to the payment of any and all costs, fees and expenses incurred by or payable to Payee in connection with the collection or enforcement of this Note, and then to the payment of the unpaid Principal Amount.

5. **Security; Related Matters.** Maker acknowledges and agrees that the repayment of this Note shall be secured by a first priority security interest in certain Collateral as such term is defined in, and in accordance with, that certain Security Agreement by and between Maker and Payee, in the form attached hereto as Exhibit A.

6. **Events of Default.** The occurrence of any one or more of the following events shall constitute an "Event of Default" under this Note:

(a) the failure of Maker to pay any sum due under this Note when due, whether by demand or otherwise, which failure has not been cured within five (5) days after written notice thereof from the Payee to the Maker;

(b) the failure of Maker to perform, observe or comply in any material respect with its obligations under this Note or the Asset Purchase Agreement within thirty (30) days of receiving notice of such default; or

(c) there shall have been instituted proceedings, whether voluntary or involuntary, or the taking of any corporate action in furtherance of, or the entry of any order or decree of a court of competent jurisdiction over the Maker with respect to any of the following (any such proceeding, an "Insolvency Proceeding"):

(i) bankruptcy, insolvency or reorganization, readjustment, arrangement, composition or similar relief under federal or state bankruptcy or insolvency statutes or related laws in respect of the Maker;

(ii) appointment of receiver, liquidator, trustee or assignee in bankruptcy or insolvency as to the Maker or any guarantor of this Note or a substantial part of the Maker's property; or

(iii) any assignment by the Maker of any of its assets for the benefit of creditors, or the winding up or liquidation of the affairs of the Maker, or the admission of the Maker in writing of its inability to pay its debts as they become due;

provided, that in the case of any Involuntary Proceeding, such proceeding or case shall continue undismissed or unstayed and in effect for a period of forty five (45) days.

7. **Rights and Remedies Upon Default.** Upon the occurrence of an Event of Default hereunder, Payee or his successor(s) or assign(s), in the sole discretion of Payee or his successor(s) or assign(s), and without notice to Maker, may: (a) declare the entire outstanding Principal Amount to be immediately due and payable, and the same shall thereupon become immediately due and payable without presentment, demand or notice; and (b) exercise any or all rights, powers and remedies now or hereafter existing at law, in equity, by statute or otherwise.

8. **Remedies Cumulative.** Each right, power and remedy of Payee hereunder, under the Asset Purchase Agreement or now or hereafter existing at law, in equity, by statute or otherwise shall be cumulative and concurrent, and the exercise or beginning of the exercise of any one or more of them shall not preclude the simultaneous or later exercise by Payee of any or all such other rights, powers or remedies. No failure or delay by Payee to insist upon the strict performance of any one or more provisions of this Note or of the Asset Purchase Agreement or to exercise any right, power or remedy consequent upon a breach thereof or default hereunder shall constitute a waiver thereof or preclude Payee from exercising any such right, power or remedy. By accepting full or partial payment after the due date of any amount of principal of or

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interest on this Note, or other amounts payable on demand, Payee shall not be deemed to have waived the right either to require prompt payment when due and payable of all other amounts of principal of or interest on this Note or other amounts payable on demand, or to exercise any rights and remedies available to his in order to collect all such other amounts due and payable under this Note.

9. **Collection Expenses.** If this Note is placed in the hands of an attorney for collection following the occurrence of an Event of Default hereunder, Maker agrees to pay to Payee upon demand all out of pocket costs and expenses incurred by the Payee, including, without limitation, all attorneys' fees and court costs incurred by Payee in connection with the enforcement or collection of this Note (whether or not any action or other proceeding has been commenced by Payee to enforce or collect any amounts owing under this Note) or in successfully defending any counterclaim or other legal proceeding brought by Maker contesting Payee's right to collect the outstanding Principal Amount or interest hereunder. All of such costs and expenses shall bear interest at the higher of the rate of interest provided herein or any default rate of interest provided herein, from the date on which the Maker's obligation to make payment is determined until same is paid in full.

10. **Transfer; Successors and Assigns.** The terms and conditions of this Note shall inure to the benefit of and be binding upon the respective successors and assigns of the Parties. Notwithstanding the foregoing, the Maker may not assign, pledge, or otherwise transfer this Note without the prior written consent of Payee, whose consent shall not be unreasonably withheld; provided that, however, the transferee designated by Maker shall provide proof that it has the wherewithal and ability to perform the Maker's obligations set forth in this Note, and Maker agrees that Payee shall retain the sole and exclusive right to make such a determination.

11. **Subsequent Holders.** In the event that any holder of this Note transfers this Note for value or the settlement of a claim, all subsequent holder(s) of this Note shall be subject to any claims or defenses which Maker may have against a prior holder (which claims or defenses are not waived as to prior holders).

12. **Maximum Rate of Interest.** Notwithstanding any provision of this Note to the contrary, Maker shall not be obligated to pay interest pursuant to this Note in excess of the maximum rate of interest permitted by the laws of any state determined to govern this Note or the laws of the United States applicable to loans in such state. If any provisions of this Note shall ever be construed to require the payment of any amount of interest in excess of that permitted by applicable law, then the interest to be paid pursuant to this Note shall be held subject to reduction to the amount allowed under applicable law and any sums paid in excess of the interest rate allowed by law shall be applied in reduction of the principal balance outstanding pursuant to this Note. Maker acknowledges that it has been contemplated at all times by Maker that the laws of the State of Florida will govern the maximum rate of interest that it is permissible to charge Maker pursuant to this Note.

13. **Certain Waivers by Maker.** Maker waives demand, presentment, protest and notice of demand, of non-payment, of dishonor and of protest of this Note.

14. **Choice of Law; Forum Selection; Consent to Jurisdiction.** This Note shall be governed by, construed and interpreted in accordance with the laws of the State of Florida (excluding the choice of law rules thereof). Maker hereby (a) agrees that all disputes and matters whatsoever arising under, in connection with, or incident to this Note shall be litigated, if at all, in and before the United States District Court, Middle District of Florida, Tampa Division, in Hillsborough County in the State of Florida to the exclusion of the courts of any other state or country, and (b) irrevocably submits to the exclusive jurisdiction of the United States District Court, Middle District of Florida, Tampa Division in Hillsborough County in the State of Florida in any action or proceeding arising out of or relating to this Note, and hereby irrevocably waives any objection to the laying of venue of any such action or proceeding in any such court and any claim that any such action or proceeding has been brought in an inconvenient forum. A final judgment in any such action or proceeding shall be conclusive and may be enforced in any other jurisdiction by suit on the judgment or in any other manner provided by law.

15. **Invalidity of Any Part.** If any provision or part of any provision of this Note shall for any reason be held invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision (or any remaining part of any provision) of this Note, and this Note shall be construed as if such invalid, illegal or unenforceable provision (or part thereof) had never been contained in this Note, but only to the extent of its invalidity, illegality or unenforceability. In any event, if any such provision pertains to the repayment of the indebtedness evidenced by this Note, then and in such event, at Payee's option, the outstanding Principal Amount, together with all accrued and unpaid interest thereon, shall become immediately due and payable.

16. **Service of Process.** Maker hereby consents to process being served in any suit, action or proceeding instituted in connection with this Note by the mailing of a copy thereof to Maker, at the address for notice described in Section 17 immediately below, by certified mail, postage prepaid, return receipt requested. Maker hereby irrevocably agrees that such service shall be deemed to be service of process upon Maker in any such suit, action or proceeding. Nothing in this Note shall affect the right of Payee to serve process in any other manner otherwise permitted by law, and nothing in this Note will limit the right of Payee otherwise to bring proceedings against Maker in the courts of any other jurisdiction or jurisdictions.

17. **Notice.** Any notice, demand, request or other communication which Payee or Maker may be required to give hereunder shall be in writing, shall be effective and deemed received (i) on the next business day when sent by overnight mail or courier service with a nationally recognized courier (e.g., UPS or FedEx), or (ii) on the third business day after being deposited in first class United States mail, postage prepaid, and shall be addressed as follows, or to such other addresses as the parties may designate by like notice:



If to Maker: South American Development, Corp.  
2721 Executive Park Drive, Suite 4  
Weston, Florida 33331  
Attn: Mr. Jerry Gillman

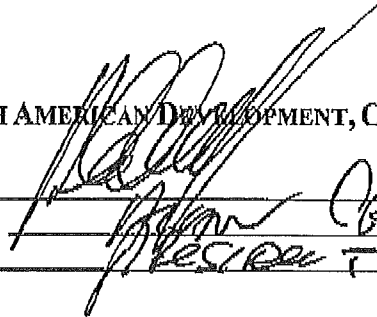
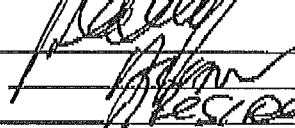
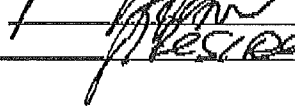
If to Payee: Burton W. Wiand, Receiver of Home Front Homes, LLC  
3000 Bayport Drive, Suite 600  
Tampa, Florida 33607  
Attn: Burt Wiand

Either Party may change their address for delivery of notice hereunder by giving the other Party written notice of such change in address in accordance with the foregoing notice provisions.

18. **Miscellaneous.** The paragraph headings of this Note are for convenience only, and shall not limit or otherwise affect any of the terms hereof. This Note constitutes the entire agreement between the parties with respect to their subject matter and supersede all prior letters, representations or agreements, oral or written, with respect thereto. No modification, release or waiver of this Note shall be deemed to be made by Payee unless in writing signed by Payee, and each such waiver, if any, shall apply only with respect to the specific instance involved. Whenever used herein, the singular number shall include the plural, the plural the singular, and the use of the masculine, feminine or neuter gender shall include all genders.

IN WITNESS WHEREOF, Maker has duly executed this Note as of the day and year first hereinabove set forth.

SOUTH AMERICAN DEVELOPMENT, CORP.

By:   
Name:   
Title: 

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EXECUTION VERSION

**Exhibit A**

**Security Agreement**

(see attached)

**SECURITY AGREEMENT**  
**(SOUTH AMERICAN DEVELOPMENT, CORP.)**

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THIS SECURITY AGREEMENT (the "Agreement"), effective as of December 18, 2009, is made and entered into by and between **SOUTH AMERICAN DEVELOPMENT, CORP.**, a Florida corporation ("Borrower"), and **BURTON W. WIAND**, as Court-appointed Receiver of Home Front Homes, LLC, a Florida limited liability company ("Secured Party").

WHEREAS, Borrower has executed and delivered a Promissory Note of even date herewith, in the original principal amount of One Hundred Thousand Dollars and No/100 (\$100,000), in favor of Secured Party; and

WHEREAS, Borrower has agreed to grant to Secured Party a security interest in certain items of collateral as set forth more fully herein.

NOW, THEREFORE, in consideration of the mutual covenants, representations, warranties and agreements contained herein, and other good and valuable consideration, the sufficiency and receipt of which is hereby acknowledged, the parties hereto, intending to be legally bound thereby, agree as follows:

1. Security Interest. Borrower hereby grants to Secured Party a security interest (the "Security Interest") in the items of collateral described on Exhibit A hereto and in all attachments, additions, replacements, substitutions, and accessions and in all proceeds thereof in any form now existing, after acquired and hereafter arising (hereafter called "Collateral").

2. Indebtedness Secured. This Agreement and the Security Interest created by it secures payment of the indebtedness owing by Borrower to Secured Party under the Note, whether the indebtedness is, from time to time, reduced and thereafter increased or entirely extinguished and thereafter reincurred (the "Indebtedness").

3. Default. Borrower shall be in default under this Agreement upon the failure or omission to pay when due the Indebtedness of Borrower to Secured Party pursuant and subject to the terms and conditions of the Note.

4. Secured Party's Rights and Remedies. Upon the occurrence of any default or at any time thereafter:

(a) Secured Party may, at its option, declare all of the Indebtedness secured by this Agreement immediately due and payable.

(b) Secured Party shall have and may exercise, from time to time, any and all rights and remedies of a secured party under the this Agreement and the Uniform Commercial Code of Florida and any and all rights and remedies available to a secured party under any other applicable law.

5. Miscellaneous.

(a) Borrower authorizes Secured Party at Secured Party's expense to file any financing statement or statements relating to the Collateral (without Borrower's signature thereon) which Secured Party deems reasonably appropriate.

(b) This Agreement and the rights hereunder shall not be assigned by either party without the prior written consent of the other party.

(c) This Agreement may not be modified or amended nor shall any provision of it be waived except by a written instrument signed by Borrower and Secured Party.

6. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of Florida, without reference to principles of choice or conflict of law thereunder.


7. Jurisdiction. The parties hereby agree that the United States District Court for the Middle District of Florida, Tampa Division, shall have exclusive jurisdiction to hear and determine any claims or disputes between the parties hereto pertaining directly or indirectly to this Agreement or to any matter arising therefrom. The parties hereto expressly submit and consent in advance to such jurisdiction and venue.

[Signature Page Next]

IN WITNESS WHEREOF, the parties hereto have signed this Agreement effective as of the date first written above.

"Borrower"

**SOUTH AMERICAN DEVELOPMENT CORP.**

By:   
Name: Robert Craig  
Title: PRESIDENT

"Secured Party"

**BURTON W. WIAND, RECEIVER OF  
HOME FRONT HOMES, LLC**

  
BURTON W. WIAND, as Receiver

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**Exhibit C**

**Bill of Sale**

(see attached)

**BILL OF SALE**

1. Sale and Transfer of Assets. For good and valuable consideration, the receipt, adequacy and legal sufficiency of which are hereby acknowledged, Burton W. Wiand, as Court-appointed Receiver for HOME FRONT HOMES, LLC, a Florida limited liability company ("Assignor"), hereby sells, transfers, assigns, conveys, grants and delivers to SOUTH AMERICAN DEVELOPMENT, CORP., a Florida corporation ("Assignee"), effective as the date hereof, all of Assignor's right, title and interest in and to all of the Assets (as defined in the Asset Purchase Agreement between Assignor and Assignee dated December 18, 2009).

2. Representations and Warranties. Assignor hereby covenants with Assignee that: (a) Assignor is the lawful owner of the Assets with the free and unrestricted right to sell the same; (b) the Assets are free and clear of all liens, claims and encumbrances of any nature whatsoever; (c) Assignor warrants and will defend title to the Assets hereby transferred against all claims and demands of all persons whomsoever; and (d) Assignor will execute and deliver such other documents and take such actions as Assignee may reasonably request from time to time to further evidence the transfer of the Purchased Assets as contemplated hereby.

3. Further Actions. Assignor agrees to take all steps reasonably necessary to establish the record of Assignee's title to the Assets and, at the request of Assignee, to execute and deliver further instruments of transfer and assignment and take such other action as Assignee may reasonably request to more effectively transfer and assign to and vest in Assignee each of the Assets.

Assignor has executed this Bill of Sale as of \_\_\_\_\_, 2009.

Burton W. Wiand, Receiver of  
Home Front Homes, LLC

\_\_\_\_\_  
Burton W. Wiand, as Receiver

**AGREEMENT REGARDING CLAIMS AND OBLIGATIONS**

**THIS AGREEMENT REGARDING CLAIMS AND OBLIGATIONS** (the "Agreement") is made and entered into as of December 31, 2009 (the "Effective Date"), by and between **MARSHALL & ILSLEY BANK**, (the "Bank") and **BURTON W. WIAND**, as Court-appointed Receiver (the "Receiver") in the action styled *Securities and Exchange Commission v. Arthur Nadel, et al.*, Case No: 8:09-cv-87-T-26TBM (the "Action") (the Bank and the Receiver are sometimes collectively referred to herein as the "Parties" and each is a "Party").

**WITNESSETH**

**WHEREAS**, the United States District Court for the Middle District of Florida, Tampa Division (the "Court"), appointed Burton W. Wiand as Receiver in the Action for a number of entities, including Home Front Homes, LLC, a Florida limited liability company (the "Company"). All of the receivership entities in the Action are collectively referred to as the "Receivership."

**WHEREAS**, through the Company, the Receivership has certain liabilities outstanding with the Bank subject to the Bank's liens, as generally described in Exhibit A.

**WHEREAS**, South American Development, Corp. ("SADC") desires to purchase certain assets owned by the Company, and the Receiver desires to sell those certain assets owned by the Company to SADC (the purchase of the Company's assets contemplated by SADC is referred to herein as the "Transaction"); and

**WHEREAS**, in consideration of the terms of the Transaction, and with the approval of the Court, the Bank and the Receiver desire to fully settle any and all claims on the outstanding liabilities, as they relate to the transaction, and claims involving the Receivership, pursuant to the terms and conditions set forth herein;

**NOW, THEREFORE**, for and in consideration of the mutual promises, covenants and agreements contained in this Agreement and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Bank and the Receiver agree as follows:

**OPERATIVE TERMS**

Section 1. Contingency. The Bank and the Receiver understand and agree that the obligations of the Parties to perform as set forth in this Agreement are contingent upon a final order of the Court approving the Transaction and this Agreement (the "Contingency"). The form of the motion and Order approving the Transaction and this Agreement shall be approved by the Bank and the title company being used in the Transaction.

Section 2. Settlement Proceeds. Upon execution and delivery of this Agreement and satisfaction of the Contingency, and in consideration for the Bank's



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execution and delivery of this Agreement, the Receiver agrees that, upon closing of the Transaction, the Bank shall be entitled to, and will receive from the Receiver within three (3) business days from the Closing Date (as defined in the Asset Purchase Agreement by and between the Receiver and SADC dated as of December 18, 2009 (the "Asset Purchase Agreement") of the Transaction), Eighty-Nine Thousand Seven Hundred Dollars and No/100 (\$89,700) from the cash portion of Purchase Price as set forth in Section 3(b)(i) of the Asset Purchase Agreement, and an additional sum in the amount of Sixty-Five Thousand Dollars and No/100 (\$65,000) at the time when the Note, as defined and set forth in Section 3(b)(ii) of the Asset Purchase Agreement, is paid in full, either on or before the Maturity Date (as defined in the Secured Promissory Note by and between SADC as the Maker and the Receiver as the Payee dated as of December 18, 2009). The amounts to be paid to the Bank as described above shall be referred to as the "Settlement Proceeds".

Section 3. Settlement Proceeds As Administrative Expense. The Bank and the Receiver agree that the Receiver's obligation to pay the Settlement Proceeds to the Bank shall be an administrative expense of the Receivership.

Section 4. Bank Release. Upon execution and delivery of this Agreement and in consideration of the Settlement Proceeds to be paid hereunder, as well as satisfaction of the Contingency, and except as otherwise provided in this Agreement, the Bank hereby releases, waives, and forever discharges the Receiver and the Company of any claims, including any deficiency claim, and debts related to the loan set forth on Exhibit A. Additionally, Bank shall release its lien on the Assets (as defined in the Asset Purchase Agreement) that are the subject of the Transaction. Notwithstanding such release, however, the Bank shall be deemed to be an additional secured party and beneficiary of the Security Agreement contemplated by the Asset Purchase Agreement and the Bank shall also be shown as an additional secured party on any UCC-1 Financing Statement provided in connection with the financing contemplated under the Asset Purchase Agreement.

Section 5. Costs and Fees. To the extent not described in this Agreement, each Party shall bear its or his own costs, attorney's fees, and other expenses.

Section 6. Notices. Any notice, request, information or other document to be given hereunder to any Parties by any other party shall be in writing and shall have been deemed to have been given (i) when personally delivered, sent by facsimile (with hard copy to follow) or sent by reputable overnight express courier (charges prepaid), or (ii) five (5) days following mailing by certified or registered mail, postage prepaid and return receipt requested. Unless another is specified in writing, notices, demands and communications to the Receiver and The Bank shall be sent to the addresses indicated below:

(a) If intended for the Receiver:

Burton W. Wiand, Receiver

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Home Front Homes  
3000 Bayport Drive, Suite 600  
Tampa, Florida 33607  
Attention: Burt Wiand

(b) If intended for The Bank:

Marshall & Ilsley Bank  
240 South Pineapple Avenue  
Sarasota, Florida 34236  
Attn: Joseph D. Gessner  
Senior Vice President

With copy to:

Shumaker, Loop & Kendrick, LLP  
240 South Pineapple Avenue, 10<sup>th</sup> Floor  
Sarasota, FL 34236  
Attn: Mark D. Hildreth, Esquire

Any party may change the address to which notices hereunder are to be sent by giving written notice of such change of address as provided above.

Section 7. Entire Agreement; Amendments. This Agreement and the instruments delivered pursuant hereto constitute the entire agreement between the Parties hereto and supersede all prior written agreements and understanding, oral or written, between the Parties relating to the subject matter hereof. Neither this Agreement nor any provision hereof may be waived, modified, amended, discharged or terminated except by an instrument in writing signed by the Party against whom the enforcement of such waiver, modification, amendment, discharge or termination is sought, and then only to the extent set forth in such instrument. This Agreement, although initially drawn by one of the Parties hereto, shall not be construed for or against either party as a result thereof in any dispute pertaining to this Agreement or the transaction contemplated hereby, but this Agreement shall be interpreted in accordance with language hereof in an effort to reach the result intended thereby.

Section 8. Governing Law and Jurisdiction. This Agreement shall be governed by and construed in accordance with the substantive laws of the State of Florida. This Agreement shall be subject to the exclusive jurisdiction of the United States District Court, Middle District of Florida, Tampa Division, in Hillsborough County in the State of Florida to the exclusion of the courts of any other state or country, and the Bank hereby irrevocably submit to the jurisdiction of the Court with respect to any claim arising out or in connection with this Agreement.

Section 9. Venue. In the event litigation should arise to enforce or interpret this Agreement, the Bank hereby agrees that the proper venue shall be in the United

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States District Court, Middle District of Florida, Tampa Division, in Hillsborough County in the State of Florida.

Section 10. Captions. The captions in this Agreement are inserted for convenience of reference only and in no way define, describe, or limit the scope or intent of this Agreement or any of the provisions hereof.

Section 11. Binding Effect. This Agreement shall be binding upon and shall inure to the benefit of the Parties hereto and their respective heirs, executors, administrators, legal representatives, successors, and assigns; provided, however the delivery of the Agreement by one party shall not be binding upon either until both Parties have fully executed same.

Section 12. Waiver. No waiver by either party hereto of any condition or any breach of any term, covenant, representation or warranty contained in this Agreement shall be deemed or construed as a further or continuing waiver of such condition or breach or waiver of any other or subsequent condition or the breach of any other term, covenant, representation or warranty contained in this Agreement.

Section 13. Severability. If any provision of this Agreement is determined to be illegal or unenforceable, such provision will be deemed amended to the extent necessary to conform to applicable law or, if it cannot be so amended without materially altering the intention of the Parties, it will be deemed stricken and the remainder of the Agreement will remain in full force and effect.

Section 14. Attorneys' Fees. In any action or dispute, at law or in equity, that may arise under or otherwise relate to this Agreement, the prevailing party will be entitled to, from the non-prevailing party, reimbursement of its attorneys' fees (including, but not limited to, attorneys' fees, paralegals' fees and legal assistants' fees), costs and expenses incurred in the preparation for and in connection with any trial, appeal or bankruptcy proceeding.

Section 15. Counterparts. Any number of counterparts of this Agreement may be executed and each such executed counterpart shall be deemed to be an original.

[Signature Page Next]

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be duly executed as of the date first above written.

MARSHALL & ILSLEY BANK

By: Joseph D. Gessner  
Name: JOSEPH D. GESSNER  
Its: SR. VICE PRESIDENT

BURTON W. WIAND, as Court-appointed  
Receiver in the action styled *Securities and  
Exchange Commission v. Arthur Nadel, et al.*,  
Case No: 8:09-cv-87-T-26TBM

Burton W. Wiand

**EXHIBIT A**  
**COMPANY LIABILITIES**  
**WITH**  
**MARSHALL & ILSLEY BANK**

Marshall & Ilsley Bank ("Bank") Loan No. 44973533-10000, pursuant to Promissory Note dated 04/15/2008 from Home Front Homes, LLC to Bank in an original principal amount of Three Million Dollars (\$3,000,000.00) together with (1) Commercial Guaranty from Scoop Capital LLC; (2) Commercial Guaranty from Arthur Nadel and Marguerite J. Nadel; and (3) Commercial Security Agreement in favor of Bank granting a security interest in all or substantially all of the personal property assets of Home Front Homes, LLC.

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