

IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT  
IN AND FOR PASCO COUNTY, FLORIDA  
CIVIL DIVISION

OFFICE OF THE ATTORNEY GENERAL,  
DEPARTMENT OF LEGAL AFFAIRS,  
STATE OF FLORIDA,  
Plaintiff,

Case No.: 51-2010-CA-2912-WS/G

v.

BOTFLY, LLC, DAVID R. LEWALSKI,  
JON J. HAMMILL, and JON J. HAMMILL, P.A.,  
Defendants.

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**NOTICE OF OPPORTUNITY TO OBJECT  
AND FOR HEARING**

The Court will consider this motion, objection, or other matter without further notice or hearing unless a party in interest files an objection within 14 days from the date this paper is entered on the docket. If you object to the relief requested in this paper, you must file your objection with the Clerk of Court at the West Pasco Judicial Center, 7530 Little Road, New Port Richey, Florida, 34654, and serve a copy on the movant's attorney, Karen Cox, Esq., Bush Ross, P.A., 1801 N. Highland Avenue, Tampa, FL 33602.

If you file and serve an objection within the time permitted, the Court may schedule a hearing and you will be notified. If you do not file an objection within the time permitted, the Court will consider that you do not oppose the granting of the relief requested in the paper, will proceed to consider the paper without further notice or hearing, and may grant the relief requested.

**RECEIVER'S MOTION TO APPROVE SETTLEMENT  
WITH DEFENDANTS THOMAS STEAD AND  
DIANE STEAD IN SUPPLEMENTAL PROCEEDING**

Michael E. Moecker, the Receiver for Botfly L.L.C. ("**Botfly**"), David R. Lewalski, and  
Jon J. Hammill and all other entities operated, controlled or otherwise associated with the

Defendants' activities, by and through undersigned counsel, moves for the entry of an order approving A Settlement Agreement reached with Thomas Stead and Diane Stead (the "Steads").

In support of this Motion, the Receiver states as follows:

**A. Background**

1. On April 1, 2010, the Office of the Attorney General, Department of Legal Affairs, State of Florida, initiated this action to halt the perpetration of an ongoing fraud perpetrated by Lewalski, Jon J. Hammill and others on investors and potential investors in Botfly, LLC.

2. That same day, the Court appointed Michael E. Moecker to be the Receiver.

3. Pursuant to the Order Appointing Receiver, the Receiver has the power and duty to marshal, preserve, protect, maintain, manage and safeguard the assets of the Receivership Entities in a reasonable, prudent, diligent, and efficient manner.

4. The Order Appointing Receiver requires the Receiver to collect and reduce to money the assets of the Receivership Entities either by suit, in any court of competent jurisdiction, or by public or private sale and specifically authorizes him to file suit to recover property of the Receivership Entities including, but not limited to, fraudulent conveyances and other claims and causes of actions of the Receivership Entities.

5. The Case Management Order further requires that all settlements in the Supplemental Proceedings are subject to Court approval and that the Receiver must file a Motion to Approve the Settlement on negative notice to the parties in the Main Case. Further, the Receiver must post a copy of the Motion to Approve the Settlement Agreement to the Receivership website at [www.botflyreceivership.com](http://www.botflyreceivership.com). The Settlement Agreement is only enforceable upon approval of the Court. The funds subject to this agreement must be held in trust until the Court enters an order approving the Settlement Agreement at issue.

**B. The Dispute**

6. Thomas Stead and David Lewalski are second cousins. Thomas Stead and Diane Stead have been married for more than twenty years.

7. Beginning in June 2006 through March 2010, Thomas and Diane Stead together received \$531,050.00 in payments directly from Botfly (the “Botfly Payments”). Both admit that the payments included commissions for the investment of others. By his own estimates, Mr. Stead referred “probably 40-ish so, maybe 50” new investors to Botfly.

8. Of the Botfly Payments, Thomas Stead claims that \$350,000.00 constituted a loan by Lewalski for the purchase of Fairway Golf Carts, LLC (“Fairway”). In December 2009 and February 2010, Mr. Stead made two payments to Fairway with money acquired through the Botfly Payments and thereby acquired 100% of Fairway’s assets, primarily its book of business including its customers, goodwill, relationships and contacts. Mr. Stead admits that he has not made any repayment of the \$350,000 that he used for the purchase of Fairway and asserts that there are no agreed terms for repayment or written loan agreement.

9. In addition, using a bank account opened by Thomas Stead for Fairway Golf Carts as a conduit, the Defendants received \$50,000.00 of funds that originated from the Botfly fraudulent securities scheme.

10. On or about February 24, 2012, the Receiver filed a Supplemental Proceeding against the Steads in the Pasco County Circuit Court, Case No.: 51-2012-CA-1373-WS/G (the “**Supplemental Proceeding**”) for the return of the payments received by the Steads directly from Botfly and of payments received by Steads from Fairway with funds paid by Botfly.

11. The Receiver has demanded that the Steads repay the money received by them from Botfly to the Receivership.

12. The Supplemental Proceeding is set for jury trial during the week of June 23, 2014. The disputed issues to be resolved at trial include the Stead's contention that a \$30,000 payment made to Botfly in December 2005 should be used to set off the Steads' liability to the Receiver for payments received from Botfly, and Mr. Stead's contention that he gave value for the \$50,000 paid to him by Fairway of funds and, therefore the payments are not subject to recovery by the Receivership.

**C. The Compromise**

13. A Settlement Agreement has been reached between the Receiver and the Steads resolving the dispute concerning the amount of their indebtedness to the Receivership. That settlement is embodied in a written agreement, a copy of which is attached hereto as Exhibit A (the "Settlement Agreement").

14. The payments made pursuant to the Settlement Agreement will be held in trust by the Stead's counsel until the Court enters an order approving the Settlement Agreement.

15. This Motion will be posted to the Receivership website [www.botflyreceivership.com](http://www.botflyreceivership.com). as required by this Court's Case Management Order.

16. The Settlement Agreement generally provides that, subject to the approval of the Court, upon receipt of payment in full of an agreed amount, the Receiver will dismiss the Supplemental Proceeding with prejudice.

17. By this motion, the Receiver seeks entry of an order approving the settlement and compromise and granting related relief, all in accordance with the terms of the Settlement Agreement.

**D. Interests of the Estate**

18. Resolution of the claim set forth in the Settlement Agreement is in the best interest of the Receivership, the Botfly investors, and the Steads, and will avoid litigation to resolve the dispute, and conserves the Receivership assets and judicial resources. Litigation of the claim would require an investment of time by the Receiver and his counsel, incurring additional legal fees, costs and other expenses.

WHEREFORE, the Receiver moves the Court to approve the settlement reflected by the attached Settlement Agreement and granting such other and further relief as the Court deems just and proper.

Dated: May 15, 2015

BUSH ROSS, P.A.  
P.O. Box 3913  
Tampa, FL 33601-3913  
Telephone: (813) 224-9255  
Facsimile: (813) 223-9620  
*Counsel for the Receiver*

By: /s/ Karen Cox  
Karen Cox, FBN: 456667  
Primary email: [kcox@bushross.com](mailto:kcox@bushross.com)  
Secondary email: [mmedley@bushross.com](mailto:mmedley@bushross.com)

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing Receiver's Motion to Approve Settlement with Defendants Thomas Stead and Diane Stead in Supplemental Proceeding has been delivered this 15<sup>th</sup> day of May, 2014 to the below named parties in the manner of service as indicated:

**Via E-Mail:**

Gregory S. Slemp, Esq.  
Greg.slemp@myfloridalegal.com

**Via E-Mail:**

Gabriel Mazzeo, Esq.  
Gmazzeo11@gmail.com

**Via E-Mail:**

Jeremy T. Simons, Esq.  
Rachel S. Green, Esq.  
service@simonslawfirm.com  
jo@simonslawfirm.com  
rsg@simonslawfirm.com

/s/ Karen Cox  
Karen Cox, Esq.

**EXHIBIT "A"**

**RECEIVER'S MOTION TO APPROVE SETTLEMENT WITH DEFENDANTS  
THOMAS STEAD AND DIANE STEAD IN SUPPLEMENTAL PROCEEDING**

IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT  
IN AND FOR PASCO COUNTY, FLORIDA  
CIVIL DIVISION

MICHAEL E. MOECKER, as Receiver for  
BOTFLY, LLC, DAVID R. LEWALSKI,  
and JON J. HAMMILL,

Plaintiff,

Case No.: 51-2012-CA-1373-WS/G

v.

THOMAS STEAD and DIANE STEAD,

Defendants.

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**SETTLEMENT AGREEMENT AND STIPULATION FOR  
ENTRY OF JUDGMENT UPON *EX PARTE* APPLICATION OF PLAINTIFF**

COMES NOW, the Plaintiff, Michael E. Moecker, Receiver for Botfly, LLC, David R. Lewalski, and Jon J. Hammill, by and through his undersigned counsel, and the Defendants, THOMAS STEAD and DIANE STEAD (the “**Defendants**”) (collectively, the “**Parties**”) and hereby freely and voluntarily enter into this Settlement Agreement and Stipulation for Entry of Judgment Upon *Ex Parte* Application of Plaintiff (the “**Agreement**”) and agree to settle the above-styled case as follows:

**RECITALS**

WHEREAS, Plaintiff Michael E. Moecker, as Receiver for Botfly LLC, David R. Lewalski, and Jon J. Hammill (the “**Receiver**”) commenced an action in the Circuit Court of the Sixth Judicial Circuit in and for Pasco County, Florida (the “**Court**”), against the Defendants Thomas Stead and Diane Stead in the case styled *Moecker v. Thomas Stead and Diane Stead*, case no. 51-2012-CA-1373-WS/G (the “**Action**”) demanding the return of the money that they received from Botfly, LLC (“**Botfly**”) both directly and by way of transfers made through Fairway Golf Carts, LLC (collectively, the “**Transfers**”) alleging that the Transfers were recoverable as fraudulent transfers under §726.105(1)(a) and ((1)(b), the Defendants were unjustly enriched by the receipt of the Transfers, and in addition, that Thomas Stead converted the property of Botfly to his own personal use and gain.

WHEREAS, every payment received by Defendants of Botfly funds arose from and were in furtherance of violations of Section 517.301(1) (a), Florida Statutes, in connection with the offer, sale or purchase of an investment or security because Botfly was not registered to conduct business in Florida pursuant to Chapter 17, Florida Statutes and was not registered with the U.S. Securities and Exchange Commission.

WHEREAS, Botfly paid Thomas Stead and Diane Stead commissions for the investment of more than forty (40) others in Botfly, LLC.

WHEREAS, the Receiver and the Defendants desire to settle the Action.

WHEREAS, Defendants each admit liability to the Receiver for the claims brought against each of them in the above-styled case and agree that \$581,050.00 (the “Amount Due”) is currently due and owing without deduction, defense, or set off.

WHEREAS, Defendants have requested that the Receiver forebear exercising his legal rights and remedies by prosecuting the legal action to recover the Transfers and to recover from Thomas Stead all rights, interests and property traceable to monies misappropriated from Botfly for a period ending on April 1, 2024 (the “**Forbearance Period**”) and agree to accept \$500,000 in payments made pursuant to an agreed payment schedule.

WHEREAS, as a material inducement for the Receiver’s agreement to forebear exercising his rights and remedies to pursue the matter to immediate judgment and to instead accept payments over ten years, Thomas Stead agreed to secure his obligations under the Agreement with a pledge of his ownership interest in Fairway Golf and E Cars, LLC in a manner acceptable to the Receiver and has done so by the Membership Interest Pledge Agreement dated May \_\_\_, 2014, and which is attached hereto and incorporated herein as **Exhibit “C”**.

WHEREAS, Defendants have each submitted to the Receiver sworn personal financial statements (the “**Financial Statements**”), which the Defendants have declared under penalty of perjury to be true and complete, have provide their joint income tax return for 2012 and have agreed to provide their 2013 income tax return upon filing. In addition, Thomas Stead submitted a statement of assets and liabilities for Fairway Golf and E Cars, LLC, which he has declared under the penalty of perjury to be true and complete.

WHEREAS, the Receiver has reviewed the Defendants’ Financial Statements and the statement of assets and liabilities for Fairway Golf and E Cars, LLC, and has expressly relied on the same to verify the Defendants’ representations with respect to their ability to repay the Amount Due.

WHEREAS, the parties acknowledge that this Agreement is entered into subject to court-approval pursuant to the Case Management Order entered in the case styled *Office of the Attorney General, Department of Legal Affairs, State of Florida vs. Botfly, LLC, David R. Lewalski, Jon J. Hammill, and Jon J. Hammill, P.A.*, Pasco County Circuit Case No.: 51-2010-CA-2912-WS/G.

WHEREAS, the Receiver and Defendants, through their respective counsel of record, reached this Agreement to settle the Action pursuant to the terms and conditions set forth herein.

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED by and between the Receiver and Thomas Stead and Diane Stead, that a judgment shall be entered in the Action

in the form of Exhibit "A" attached hereto and incorporated herein, in favor of the Receiver and against the Defendants in the **Default Amount** upon a **Default** as defined in this Agreement by the Defendants in paying the **Settlement Amount** as set forth below, upon *ex parte* application of the Receiver in substantially the form of Exhibit "B" attached hereto and incorporated herein, as follows:

1. **Acknowledgments.** Defendants hereby acknowledge and agree that: (a) each Recital set forth hereinabove is complete and accurate in all respects and not subject to dispute; (b) the Recitals set forth hereinabove are intended to be part of the terms of this Agreement; (c) Defendants have no ground for disputing the validity, existence, and/or enforceability of the Amount Due as defined in the Recitals; and (d) Defendants affirm their obligation to pay the Amount Due to the Receiver. Further, Defendants acknowledge that pursuant to 11 U.S.C. §§ 523(a)(2)(A) and (a)(19), the Amount Due shall be non-dischargeable in any case filed by the Defendants or either one of them under Title 11 of the United States Code and that in the event any such case is commenced, the Defendants stipulate to the entry of an order in the bankruptcy case that the debt is not subject to and is excepted from discharge pursuant to 11 U.S.C. §§ 523(a)(2)(A) and (a)(19).

2. **Settlement Amount.** The "**Settlement Amount**" shall be \$500,000 (the "**Principal**") plus accrued interest. Interest will begin to accrue on April 1, 2019, on the amount of the unpaid Principal then outstanding and will continue to accrue until the earlier of either April 1, 2024 or the Defendants' payment in full of Principal and all accrued interest. The interest rate applicable on April 1, 2019 to the unpaid Principal shall be 4.75% per annum.

3. **Settlement Payments.** The Defendants shall pay the Settlement Amount in 120 **Monthly Payments** of \$2,000.00 and one **Final Payment** equaling the remaining amount due according to the following Payment Schedule:

- a) One (1) payment of \$2,000.00 due on or before April 22, 2014;
- b) One hundred and nineteen (119) payments of \$2,000.00 due on the first of every month commencing on May 1, 2014 and continuing until March 1, 2024; and
- c) A Final Payment equal to the total amount of the unpaid Settlement Amount (Principal plus accrued interest) due on or before April 1, 2024.

Until Court enters an order approving the Agreement, Settlement Payments due under this paragraph shall be made to Defendants' counsel, J.T. Simons, PA, which will deposit them in a trust account pending the approval of the Agreement. No later than ten (10) calendar days after the Court approves the Agreement, Defendants' counsel shall deliver all settlement payments held in trust pursuant to this Agreement to Karen Cox, at Bush Ross, P.A., P.O. Box, 3913, Tampa, FL 33601-3913 in a check made payable to "Michael E. Moecker, as Receiver for Botfly, LLC." Upon the Court's approval of the Agreement, payments due under the Agreement shall be made to "Michael E. Moecker, as Receiver for Botfly, LLC" and delivered to Karen Cox, at Bush Ross, P.A., P.O. Box 3913, Tampa, FL 33601-3913. The Receiver may, upon at least fifteen (15) calendar days advance notice sent by U.S. Mail to Defendants, change the

designation of where Monthly Payments and the Final Payment due under this Agreement must be received.

4. **Prepayment.** Defendants shall have the right to prepay all or any part of the Settlement Amount, in which event such prepayment shall be applied to Monthly Payments in reverse chronological order.

5. **Forbearance; Preservation of Rights and Remedies.** Commencing upon execution of this Agreement and continuing through the earlier to occur of: (a) a Default (as defined below); (b) payment of the full amount of the Settlement Amount, or (c) July 1, 2024; Receiver shall refrain from prosecuting his claim against Defendants to recover the Amount Due. Except as expressly provided herein, neither the execution, delivery, and effectiveness of this Agreement, nor the forbearance of Receiver set forth in the preceding sentence, shall in any manner operate as a waiver of any right or remedy of Receiver under the Order Appointing Receiver or subsequently granted by the Court. Defendants acknowledge and agree that Receiver is allowed to accept payments during the Forbearance Period or otherwise without prejudice to any rights or remedies including prosecution of this legal action to recover the Amount Due and taxable costs incurred in the case. Receiver hereby expressly reserves all rights, powers and remedies specifically given to it thereunder, now or hereafter existing at law or in equity or by statute.

6. **Default.** The occurrence of any of the following shall constitute a “Default:”

- a) The failure to make full payment of any Settlement Payment when due, including but not limited to the return of a check or money order from the issuing financial institution for insufficient funds;
- b) The occurrence of any of the following events: (i) any bankruptcy petition be filed by or against Defendants or either one of them; (ii) Defendants or either one of them become insolvent or makes an assignment for the benefit of any creditor or creditors, and/or (iii) a receiver or trustee be appointed for any of the assets of Defendants; and/or
- c) The breach of any representation, warranty, covenant, condition or other term of this Agreement or the Membership Interest Pledge Agreement.

7. **Notice of Default.** Notice of Default may be provided to Defendants either by (1) delivering written notice to J.T. Simons, P.A., 8040 Old County Road 54, New Port Richey, Florida 34653 by mail, email, facsimile transmission, or hand delivery to Rachel Green, Esq. or another attorney or employee of J.T. Simons, P.A or by (2) delivering written notice to Defendants at 1913 Tilden Place, Trinity, Florida 34655 by mail email, facsimile transmission, or hand delivery. Defendants shall have fourteen (14) calendar days from the delivery of a Notice of Default to cure the Default.

8. **Default Amount.** The “Default Amount” shall be \$581,050.00 plus interest on the unpaid principal balance at a rate of 4.75% per annum from April 17, 2014, until the date of entry of judgment. The Receiver shall also be entitled to seek the imposition of legal costs and charges pursuant to Florida Statute § 57.041. The form of judgment to be entered upon Default is attached hereto as Exhibit “A.” The amount of the judgment to be entered upon a Default that is

not timely cured pursuant to paragraph 7 above, shall equal the Default Amount reduced only by the amount of the Monthly Payments delivered to the Receiver prior to the Default, which shall be applied first to the amount of interest accrued from April 17, 2014, until the date of entry of judgment, and, only after the accrued interest is paid in full, to principal.

9. **Consent to Entry of Judgment on *Ex Parte* Application.** Defendants hereby consent to the entry of judgment against them in the Action upon *ex parte* application of Plaintiff stating that a Default has occurred and the Default Amount and hereby voluntarily, knowingly, intelligently and upon the advice of independent counsel of their own choosing hereby waive any defenses in the Action, and waive any right to a hearing and any right to notice before judgment is entered except for the Notice of Default provided for in paragraph 5 above and service of the *Ex Parte* Application for Entry of Judgment upon filing with the Court that shall consist of an email to J.T. Simons, P.A., counsel for Defendants sent no later than 10:00 am the court day before the appearance on the *ex parte* application, setting out the date, time and location for the *ex parte* appearance for entry of judgment (the "*Ex Parte* Notice"). Email of the *Ex Parte* Notice to counsel for Defendants shall be sent to [rsq@simonslawfirm.com](mailto:rsq@simonslawfirm.com).

10. **Waiver of Stay of Execution and Appeal.** In the event of the entry of judgment, Defendants waive all right to stay of execution and appeal.

11. **Representations and Warranties.** The Parties represent and warrant to each other that: (a) they have the legal capacity and authority to enter into this Agreement; (b) each has freely, voluntarily, and without duress or coercion of any kind whatsoever, entered into this Agreement under the advice of counsel or with the opportunity to seek the advice of counsel; and (c) this Agreement constitutes the voluntary, legal, valid and binding obligation of said party. Defendants hereby represent and warrant that: (a) prior to the execution of this Agreement, each was fully apprised of sufficient relative data, in order to intelligently exercise a judgment in deciding whether or not to execute this instrument and in deciding on the contents of the same; (b) the decision to execute this Agreement was not predicated on or influenced by any declarations or representations made by Receiver; (c) this Agreement in all respects has been voluntarily and knowingly executed by Defendants with the express intention of effecting the legal consequences thereof, (d) that the Financial Statements, income tax returns, and statement of assets and liabilities for Fairway Golf and E Cars, LLC provided to the Receiver as noted herein are true, accurate and complete.

12. **Release.** Immediately upon the execution of this Agreement, except as to the rights, liabilities and obligations arising out of this Agreement, Defendants hereby fully and forever compromise, settle, release, acquit, and discharge the receivership estate, Receiver, Moecker & Associates, and their predecessors, successors, subsidiaries, assigns, affiliates, insurers and any and all present and former employees, attorneys, agents, officers, directors or persons, corporations, representatives and other entities connected therewith (the "**Releasees**"), from any and all past, present or future claims, causes of action, suits, demands, losses, liabilities, costs or obligations of any nature whatsoever, whether based on tort, contract, or other theories of recovery, between Defendants and the Releasees, whether now known, unknown, asserted, unasserted, foreseen, unforeseen, contingent, actual, liquidated or unliquidated. The provisions of this section shall survive even in the event of a Default.

13. **Choice of Law.** This Agreement shall be governed by the laws of the State of Florida.

14. **Entire Understanding.** This Agreement sets forth the entire understanding of the Parties with respect to the subject matter hereof and supersedes all prior negotiations, agreements, and understandings, oral or written, with respect to the subject matter hereof. Each party declares and represents that except for the Financial Statements, income tax returns, and statement of assets and liabilities provided by the Defendants to the Receiver, no other promise, inducement or agreement not herein expressed has been made to the other party and that this Agreement contains the entire terms of the settlement between the Parties, each party has had the opportunity to consult with an attorney of their choice and, further, each party has read the terms of this Agreement, understands them, and accepts them of such party's own free will.

15. **Severability.** If any term or other provision of this Agreement is invalid, illegal or incapable of being enforced by any rule of law, or public policy, all other conditions and provisions of this Agreement shall nevertheless remain in full force and effect so long as the economic or legal substance of the transactions contemplated hereby is not affected in any manner adverse to any of the Parties. Upon such determination that any term or other provision is invalid, illegal or incapable of being enforced, the Parties shall negotiate in good faith to modify this Agreement so as to effect the original intent of this Agreement as closely as possible in a mutually acceptable manner in order that the transactions contemplated hereby be consummated as originally contemplated to the greatest extent possible.

16. **Binding Effect.** This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective heirs, personal representative, legal representatives, successors and assigns and all of those holding title under either of them and the pronouns used herein shall include, where appropriate, either gender and both singular and plural.

17. **Attorneys' Fees and Costs.** Defendants agree to bear his or her own attorney's fees and costs in this action herein. In the event that legal or other action is required to enforce a Party's rights under this Agreement, the non-prevailing party agrees to reimburse the prevailing party upon demand for its reasonable attorneys' fees and other related costs and expenses incurred in connection with the enforcement thereof. The Receiver's entitlement to taxable costs upon a default by the Defendant set forth in paragraph 4 above, is unaffected by the terms of this paragraph.

18. **Modification.** This Agreement may not be amended, altered, modified or otherwise changed except in a writing signed by all Parties.

19. **No Waiver.** Failure to insist on compliance with any term, covenant or condition contained in this Agreement shall not be deemed a waiver of that term, covenant or condition, nor shall any waiver or relinquishment of any right or power contained in this Agreement at any one time or more times be deemed a waiver or relinquishment of any right or power at any other time or times.

20. **Execution in Counterparts.** This Agreement may be executed in several counterparts and through the exchange of facsimile or PDF signature papers and, as executed, shall constitute one Agreement.

21. **Tolling of Statutes of Limitation.** Defendants acknowledges and agrees that any and all applicable statutes of limitation shall be tolled during the Forbearance Period and for a period ("Tolling Period") and that Defendants shall not raise the running of any applicable statutes of limitation as a defense in any legal action related to the Amount Due, if an action is commenced during the Tolling Period.

22. **Dismissal of Action.** Upon full and complete payment of the Amount Due or Settlement Amount according to the terms of this Settlement Agreement and the entry of the Order Approving the Settlement Agreement with Defendant pursuant to the aforementioned Case Management Order, the Receiver will file a motion to voluntarily dismiss this action with prejudice.

23. **Jurisdiction.** The parties further stipulate and agree that this Court shall retain jurisdiction of the parties in this cause of action to enforce the Agreement, should the need arise.

1<sup>st</sup> IN WITNESS WHEREOF, the parties have executed this Agreement effective this day of May, 2014.

By:

\_\_\_\_\_  
Thomas Stead  
Defendant

  
\_\_\_\_\_  
Michael E. Moecker  
Plaintiff, Receiver for Botfly L.L.C., David R.  
Lewalski, Jon J. Hammill

\_\_\_\_\_  
Diane Stead  
Defendant

1668616.1

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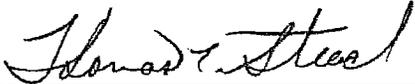
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IN WITNESS WHEREOF, the parties have executed this Agreement effective this \_\_\_\_\_ day of May, 2014.

By:

  
\_\_\_\_\_  
Thomas Stead  
Defendant

\_\_\_\_\_  
Michael E. Moecker  
Plaintiff, Receiver for Botfly L.L.C., David R.  
Lewalski, Jon J. Hammill

  
\_\_\_\_\_  
Diane Stead  
Defendant

**EXHIBIT "A"**

**SETTLEMENT AGREEMENT AND STIPULATION  
FOR ENTRY OF JUDGMENT UPON *EX PARTE* APPLICATION OF PLAINTIFF**

IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT  
IN AND FOR PASCO COUNTY, FLORIDA  
CIVIL DIVISION

MICHAEL E. MOECKER, as Receiver for  
BOTFLY, LLC, DAVID R. LEWALSKI,  
And JON J. HAMMILL,

Plaintiff,

Case No. 51-2012-CA-1373-WS/G

v.

THOMAS STEAD and DIANE STEAD,

Defendants.

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**STIPULATED FINAL JUDGMENT**

Upon *ex parte* application of Plaintiff, MICHAEL E. MOECKER, as Receiver for Botfly, LLC, David R. Lewalski and Jon J. Hammill (“**Plaintiff**”) pursuant to stipulation for entry of judgment upon *ex parte* application of Plaintiff, made and entered into by and between Plaintiff and Defendants, Thomas Stead and Diane Stead (“**Defendants**”), dated May \_\_\_\_, 2014, and good cause appearing:

**IT HIS HEREBY ORDERED, ADJUDGED, AND DECREED** that Plaintiff Michael E. Moecker, Receiver for Botfly, LLC, David R. Lewalski, and Jon J. Hammill, whose address is 3613 North 29th Avenue, Hollywood, FL 33020 does recover of and from Defendants, Thomas Stead and Diane Stead, whose address is \_\_\_\_\_, jointly and severally, the sum of \_\_\_\_\_ for which sums let execution issue. This judgment shall bear interest at the prevailing statutory rate. Until the judgment is paid in full or satisfied,

the interest rate will adjust in accordance with Section 55.03 of the Florida Statutes on January 1 of each succeeding year. It is further,

**ORDERED AND ADJUDGED** that every payment received by Defendants of Botfly funds arose from and were in furtherance of violations of Section 517.301(1) (a), Florida Statutes, in connection with the offer, sale or purchase of an investment or security because Botfly was not registered to conduct business in Florida pursuant to Chapter 17, Florida Statutes and was not registered with the U.S. Securities and Exchange Commission, and that this Stipulated Final Judgment shall be non-dischargeable in any case filed by the Defendant under Title 11 of the United States Code because the Defendants stipulated that this Stipulated Final Judgment is excepted from discharge pursuant to 11 U.S.C. §§ 523(a)(2)(A) and (a)(19). It is further,

**ORDERED AND ADJUDGED** that the Defendants shall complete under oath Florida Rule of Civil Procedure Form 1.977 (Fact Information Sheet) attached hereto, including all required attachments and serve it on the judgment creditor's attorney, BUSH ROSS, P.A., P.O. Box 3913, Tampa, FL 33601-3913, within forty-five (45) days from the date of this Stipulated Final Judgment, unless the Stipulated Final Judgment is satisfied or post-judgment discovery is stayed. It is further,

**ORDERED AND ADJUDGED** that jurisdiction of this case is retained to enter further orders that are proper to compel the Defendants to complete Form 1.977 of the Florida Rules of Civil Procedure, including all required attachments, and serve it on counsel for the Plaintiff, Michael E. Moecker, Receiver for Botfly, LLC, David R. Lewalski, and Jon J. Hammill. It is further,

**ORDERED AND ADJUDGED** that the Clerk will not close this case, enter final disposition of this case, or require Plaintiff, Michael E. Moecker, Receiver for Botfly, LLC, David R. Lewalski, and Jon J. Hammill, to pay a re-open fee for post judgment matters for one-hundred twenty (120) days after the date of entry of this judgment or until post judgment discovery is complete or the Final Judgment is paid in full.

**FOR ALL OF WHICH LET EXECUTION ISSUE.**

**DONE AND ORDERED** in Chambers, in New Port Richey, Pasco County, Florida on this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

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Circuit Court Judge

**EXHIBIT “B”**

**SETTLEMENT AGREEMENT AND STIPULATION  
FOR ENTRY OF JUDGMENT UPON *EX PARTE* APPLICATION OF PLAINTIFF**

IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT  
IN AND FOR PASCO COUNTY, FLORIDA  
CIVIL DIVISION

MICHAEL E. MOECKER, as Receiver for  
BOTFLY, LLC, DAVID R. LEWALSKI,  
And JON J. HAMMILL,

Plaintiff,

Case No. 51-2012-CA-1373-WS/G

v.

THOMAS STEAD and DIANE STEAD,

Defendants.

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**EX PARTE APPLICATION FOR ENTRY OF JUDGMENT  
PURSUANT TO SETTLEMENT AGREEMENT AND STIPULATION  
FOR ENTRY OF JUDGMENT UPON EX PARTE APPLICATION OF PLAINTIFF**

COMES NOW Plaintiff, MICHAEL E. MOECKER, as Receiver for Botfly, LLC, David R. Lewalski and Jon J. Hammill, and pursuant to the Settlement Agreement and Stipulation for Entry of Judgment upon *Ex Parte* Application (the "Agreement") of Plaintiff between Plaintiff and Defendants THOMAS STEAD and DIANE STEAD filed herewith, hereby makes this *ex parte* application for entry of judgment against Defendants as follows:

**EX PARTE REQUEST FOR ENTRY OF STIPULATED JUDGMENT**

The Settlement Agreement and Stipulation for Entry of Judgment upon *Ex Parte* Application of Plaintiff filed herewith provides that that judgment shall be entered in the Action in the form of Exhibit "A" attached thereto and incorporated therein, in favor of Plaintiff and against Defendants in the Default Amount as therein set forth, immediately upon a Default, upon *ex parte* application of Plaintiff in the form of Exhibit "B" attached thereto and incorporated therein, without any advance notice to Defendants or opportunity by Defendants to be heard other than a notice of service of the *ex parte* appearance that shall consist of an email to J.T.

Simons, P.A., counsel for Defendants, sent no later than 10:00 am the court day before the appearance on the *ex parte* application, setting out the date, time and location for the *ex parte* appearance for entry of judgment (the "*Ex Parte Notice*"). As set out in the Agreement, the email to counsel for Defendant shall be sent to [rsg@simonslawfirm.com](mailto:rsg@simonslawfirm.com). Attached hereto is a true and correct copy of the **Ex Parte Notice** sent to counsel for Defendants on \_\_\_\_\_ at \_\_\_\_\_.

In as much as a **Default** has occurred as set forth below and the **Default Amount** is \$\_\_\_\_, as set forth below, Plaintiff requests that judgment be entered immediately against Defendants in the **Action** in the amount and form submitted herewith.

Dated: \_\_\_\_\_

Dated: \_\_\_\_\_

BUSH ROSS, P.A.  
P.O. Box 3913  
Tampa, FL 33601-3913  
Telephone: (813) 224-9255  
Facsimile: (813) 223-9620  
*Counsel for the Receiver*

By: /s/ Karen Cox  
Karen Cox, FBN: 456667  
Primary email: [kcox@bushross.com](mailto:kcox@bushross.com)  
Secondary email: [mmedley@bushross.com](mailto:mmedley@bushross.com)

**DECLARATION OF DEFAULT AND STATEMENT OF DEFAULT AMOUNT**

I, \_\_\_\_\_, do hereby declare and state:

1. I have read the Settlement Agreement and Stipulation for Entry of Judgment upon Ex Parte Application of Plaintiff (the "**Agreement**") in this Action and make this application on behalf of Plaintiff for entry of judgment thereunder against Defendants. The terms in bold type herein have the same meaning as used in the Stipulation.

2. I am employed by Plaintiff as \_\_\_\_\_, and base this application on the business records of Plaintiff.

3. A **Default** has occurred in that [description of nature of default]\_\_\_\_\_.

4. Notice of Default was provided to the Defendant on \_\_\_\_\_, and the Defendants did not cure the Default within fourteen calendar days of delivery of the Notice of Default.

5. Under the Agreement, the amount of the judgment to be entered upon a Default shall equal the Default Amount reduced only by the amount of the Monthly Payments delivered to the Receiver prior to the Default, which shall be applied first to the amount of interest accrued from April 17, 2014, until the date of entry of judgment, and, only after the accrued interest is paid in full, to principle.

6. Prior to the Default, the total amount of Monthly Payments timely received from Defendants was: \$\_\_\_\_\_.

7. Accordingly, the Default Amount to be included in the judgment is \$\_\_\_\_\_.

I declare under penalty of perjury under the laws of the State of Florida that the foregoing is true and correct and this declaration is executed by me on this \_\_\_ day of \_\_\_\_\_, \_\_\_ at \_\_\_\_\_.

**EXHIBIT “C”**

**SETTLEMENT AGREEMENT AND STIPULATION  
FOR ENTRY OF JUDGMENT UPON *EX PARTE* APPLICATION OF PLAINTIFF**

## MEMBERSHIP INTEREST PLEDGE AGREEMENT

This MEMBERSHIP INTEREST PLEDGE AGREEMENT (the "Agreement"), dated as of May 1, 2014, is by and between THOMAS E. STEAD, an individual with a mailing address of 1913 East Tilden Place, Trinity, Florida 35655 (the "Pledgor") and MICHAEL E. MOECKER, as Receiver of Botfly, LLC, David R. Lewalski, and Jon Hammill, with a mailing address of 3613 North 29th Avenue, Hollywood, FL 33020 ("Pledgee").

### BACKGROUND INFORMATION

A. Pledgor is and the owner of 100% of the membership interest in Fairway Golf and E Cars, LLC, a Florida Limited Liability Company (the "Company").

B. Pledgor and Pledgee are parties to that certain Settlement Agreement dated of even date herewith (the "Settlement Agreement").

C. To provide Pledgee with better assurance that all amounts due under the Settlement Agreement will be timely satisfied by Pledgor, Pledgor has agreed to secure the Settlement Agreement and repayment of the Indebtedness (as defined in Section 2 below) by pledging and assigning to Pledgee the Pledged Securities (as defined in Section 1.2 below).

D. Pledgor has reviewed, understood and approved all of the terms and conditions of the Settlement Agreement and all other documents executed in connection therewith, including, but not limited to, this Agreement, and Pledgor has been afforded the full and fair opportunity to consult with independent legal counsel of Pledgor's own choice with respect to each and all of such matters and documents and has done so to the extent deemed appropriate by Pledgor.

E. The parties intend to secure all amounts due under the Settlement Agreement with the Pledged Securities.

NOW, THEREFORE, for good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the parties agree as follows:

### OPERATIVE PROVISIONS

#### SECTION 1

#### COLLATERAL; GRANT OF SECURITY INTEREST

1.1 Pledge. As security for the Indebtedness (as defined in Section 2 hereof), Pledgor hereby pledges, assigns, hypothecates, delivers and sets over to Pledgee all of the Pledged Securities (as defined in Section 1.2 hereof) and grants to Pledgee a lien on and security interest in all of the Pledged Securities and the products and proceeds thereof.

1.2 "Pledged Securities." The term "Pledged Securities" as used in this Agreement shall mean all of Pledgor's units of membership interest in the Company, which constitutes one hundred percent (100%) of the membership interest in the Company, accompanied by stock/bond

powers or assignments separate from certificates duly endorsed in blank, together with any other distributions issued as earnings on, in addition to, substitution of or exchange for, or on account of, any such Pledged Securities, including, but not limited to, interest, premiums, dividends, liquidating dividends, receivership distributions, rights of conversion or exchange rights, stock splits, reverse stock splits, recapitalization, reclassification, change of name, merger, consolidation, sale of assets, combination of units/shares, spinoffs or otherwise, and any or all proceeds and products thereof, now or hereafter owned or acquired by Pledgor or by any third party as trustee or nominee for Pledgor.

1.3 Delivery of Additional Pledged Securities. In the event that Pledgor shall become entitled to receive or shall receive any (a) stock, notes, bonds, debentures, options, rights, warrants, or other securities distributed on account of the Pledged Securities; or (b) dividends or distributions upon the dissolution or in partial or total liquidation, then Pledgor shall accept any such instruments, certificates or distributions as Pledgee's agent and shall hold them in trust for the benefit of Pledgee and shall deliver them forthwith to the Pledgee in the exact form received with, as may be necessary to negotiate, transfer, hypothecate, pledge or grant a security interest therein, the Pledgor's endorsement, or with stock/bond powers or appropriate stock/bond powers or assignments separate from certificates duly endorsed in blank or, in the case of uncertificated securities, a registration of pledge, to be held by the Pledgee as additional Pledged Securities subject to the terms of this Agreement.

## SECTION 2

### INDEBTEDNESS SECURED

This Agreement, and the security interest it grants Pledgee in the Pledged Securities, secures payment of all obligations of Pledgor under the Settlement Agreement including, without limitation, any expenses incurred by Pledgee pursuant to this Agreement or the Settlement Agreement (the "Indebtedness").

## SECTION 3

### REGISTRATION: VOTING RIGHTS AND DIVIDENDS

3.1 Registration of Pledged Securities. After an Event of Default (as defined in Section 6.1 hereof), Pledgee may have any or all of the Pledged Securities registered in its name or in the name of its nominee, and Pledgor hereby covenants that, upon demand by Pledgee, Pledgor shall cause the issuer of such Pledged Securities to effect such registration and shall execute such documents or instruments as necessary therefor. Pledgor hereby appoints Pledgee as its attorney-in-fact to arrange, upon the occurrence of an Event of Default, for the transfer of any or all of the Pledged Securities on the books of the issuer thereof in the name of Pledgee or in the name of its nominee.

3.2 Voting Rights.

a. As long as no Event of Default under this Agreement shall have occurred and be continuing, Pledgor shall be entitled to exercise all voting and consensual powers with respect to the Pledged Securities.

b. Immediately and without further notice to Pledgor, upon the occurrence of any Event of Default, which default is not cured within the applicable cure period, Pledgee or its nominee shall have the right, at its election, to exercise all voting and consensual rights with respect to any Pledged Securities, and Pledgor shall execute and deliver to Pledgee such proxies as shall be necessary to permit Pledgee's exercise of such voting and consensual rights.

3.3 Dividends and Other Distributions. Immediately and without further notice to Pledgor, upon the occurrence of any Event of Default, which default is not cured within the applicable cure period, Pledgee shall be entitled to receive all dividends and other distributions on any Pledged Securities as additional Pledged Securities and, in the event Pledgor shall receive any such dividends and other distributions, Pledgor shall hold such dividends or distributions in trust for the benefit of Pledgee and shall deliver such dividends or distributions to Pledgee in the exact form received with, as may be necessary to negotiate, transfer, hypothecate, pledge or grant a security interest therein, with appropriate stock powers or assignments separate from certificates duly endorsed in blank.

## SECTION 4

### REPRESENTATIONS AND WARRANTIES

Pledgor represents, warrants and, as long as the Indebtedness remains outstanding, shall be deemed continuously to so represent and warrant that:

4.1 Ownership of Pledged Securities. Pledgor is the owner of the Pledged Securities free and clear of all security interests or other encumbrances and claims of third parties, except for the pledge to Pledgee under this Agreement. Further, Pledgor is the owner of 100% of the membership interests in the Company. The pledge, assignment and delivery of the Pledged Securities pursuant to this Agreement creates a valid first priority lien in favor of Pledgee on the Pledged Securities and the proceeds from the sale or disposition of the Pledged Securities, securing the payment of the Indebtedness.

4.2 Due Authority. Pledgor is authorized to enter into this Agreement and pledge the Pledged Securities to Pledgee hereunder.

4.3 No Violation. The execution, delivery and performance by Pledgor of Pledgor's obligations under this Agreement does not and will not result in any violation of any agreement, indenture or other instrument applicable to Pledgor or to the Pledged Securities.

4.4 Validity of Agreement. Upon delivery of the Pledged Securities to Pledgee or its nominee and execution of this Agreement, this Agreement shall be a valid and binding agreement of Pledgor enforceable in accordance with its terms and shall grant Pledgee and create a valid first lien on and perfected security interest in the Pledged Securities.

## SECTION 5

### COVENANTS OF PLEDGOR

Pledgor covenants that, as long as the Indebtedness remains outstanding:

5.1 Further Assurances. Pledgor shall execute and deliver to Pledgee, or cause to be executed and delivered to Pledgee, all such other stock powers, assignments separate from certificates, registrations of pledge, proxies, financing statements, instruments, documents, and take such other action, as Pledgee may reasonably request from time to time, to carry out the provisions and purposes of this Agreement. Pledgor shall not cause the creation of any additional membership interests in the Company. In the event that Pledgor's membership interests are uncertificated, within fifteen (15) days of this Agreement, Pledgor shall cause the issuance of a certificate of Pledgor's membership interests.

5.2 Endorsements. Pledgor shall endorse, negotiate, transfer, deliver and/or assign any and all Pledged Securities duly endorsed in blank or in the name of Pledgee or its nominee.

5.3 Disposition of Pledged Securities. Pledgor shall not sell, convey or otherwise dispose of any Pledged Securities or any interest therein, or create, incur, or permit to exist any pledge, mortgage, lien, charge, encumbrance or any security interest whatsoever with respect to any of the Pledged Securities or the products and proceeds thereof, except for the security interest granted to Pledgee hereunder.

5.4 Filing of a Uniform Commercial Code Financing Statement. Pledgor acknowledges and agrees that the encumbrances set forth in this Agreement shall be evidenced by a Uniform Commercial Code Financing Statement filed with the Florida Secured Transaction Registry. Pledgor hereby irrevocably authorizes Pledgee at any time and from time to time to file in any jurisdiction any initial financing statements and amendments thereto that evidence the encumbrance created by this Agreement.

## SECTION 6

### EVENTS OF DEFAULT

6.1 Events of Default. Any of the following events or conditions shall constitute an event of default ("Event of Default") under this Agreement:

- a. The occurrence of an event of default under the Settlement Agreement;
- b. Failure by Pledgor to perform any obligations or covenants under this Agreement;
- c. Breach of warranty that Pledgor is the owner of the Pledged Securities free and clear of any encumbrance, except for the security interest granted to Pledgee hereunder;

- d. If the Company shall be dissolved whether by operation of law or by votes of the members or otherwise; or
- e. If the Pledgor shall cease, voluntarily or involuntarily, to be a member of the Company, whether because of retirement, insanity, court order, death or otherwise.

6.2 Rights and Remedies Upon Default. Pledgee may declare Pledgor to be in default hereunder without notice upon the occurrence of any Event of Default, and Pledgee shall have those rights described in Sections 3.2(b) and 3.3(b).

6.3 Cumulative Remedies. All rights, remedies or recourses of Pledgee under this Agreement and under the Uniform Commercial Code or other law, in equity or otherwise, are cumulative, and exercisable concurrently, and may be pursued singularly, successively or together and may be exercised as often as occasion therefor shall arise. No act of commission or omission by Pledgee, including, but not limited to, any failure to exercise, or any delay, forbearance or indulgence in the exercise of, any right, remedy or recourse hereunder or with respect to the Indebtedness shall be deemed a waiver, release or modification of that or any other right, remedy or recourse, and no single or partial exercise of any right, remedy or recourse shall preclude Pledgee from any other or future exercise of the right, remedy or recourse or the exercise of any other right, remedy or recourse. No waiver or release of any such rights, remedies and recourses shall be effective against Pledgee unless in writing and manually signed by an authorized officer on Pledgee's behalf, and then only to the extent recited therein. A waiver, release or modification with reference to any one event shall not be construed as continuing, nor shall it be construed as a bar to, or as a waiver, release or modification of, any subsequent right, remedy or recourse as to a subsequent event. Pledgee may cure any default by Pledgor in any reasonable manner without waiving the default so cured and without waiving any other prior or subsequent default by Pledgor.

6.4 Public or Private Sale; Other Disposition. Subject to the restrictions on transferability in this Agreement and the Company's operating agreement (if any), upon an Event of Default, which default is not cured within the applicable cure period, Pledgee may sell any or all of the Pledged Securities for cash, and the purchaser of all or any of the Pledged Securities so purchased shall thereafter hold the same absolutely, free from any claim, encumbrance or rights of any kind whatsoever. Pledgee shall give Pledgor reasonable notice of the time after which the intended disposition is to be made. Any requirements of reasonable notice shall be met if such notice is given as provided herein, at least ten (10) days before the time of the disposition. Any other requirement of notice, demand or advertisement for sale is, to the extent permitted by law, hereby specifically waived. The sale may be in one or more lots, as an entire or in separate lots as Pledgee, in its sole discretion, may determine.

6.5 Application of Cash, Dividends, Interest or Other Distributions Received and Proceeds. The proceeds of any sale of all or any Pledged Securities and any cash at any time held by Pledgee under this Agreement shall be applied first to the payment of expenses incurred or paid by Pledgee in connection with any sale, transfer or other disposition of the Pledged

Securities and the enforcement of this Agreement, including, but not limited to, attorneys' fees and the like, and second to the payment of any accrued but unpaid obligations under the Indebtedness.

## SECTION 7

### MISCELLANEOUS

7.1 Continuing Agreement. This Agreement is a continuing agreement which shall remain in force until the Settlement Agreement is paid in full.

7.2 Care of Pledged Securities. Beyond the exercise of reasonable care to assure the safe custody of the Pledged Securities while held by Pledgee under this Agreement, Pledgee shall have no duty or liability to preserve any rights of Pledgor in any Pledged Securities (including, but not limited to, the tendering of any unit of Pledged Securities in response to any tender offer, the exercise of any conversion or exchange rights with respect to any Pledged Securities or the exercise of any options, rights or warrants prior to their expiration), and shall be relieved of all responsibility for the Pledged Securities upon surrendering them or tendering surrender of them to the Pledgor.

7.3 Assignment. Pledgee may, at any time and without notice to Pledgor, sell, transfer or assign the Settlement Agreement, this Agreement and any related loan documents to any third party.

7.4 No Third Party Beneficiaries. Nothing contained in this Agreement is to be construed so as to grant or confer on any person other than Pledgor and Pledgee, and their respective successors and permitted assigns, any rights or privileges under this Agreement, and no person is intended to be a third party beneficiary of this Agreement.

7.5 Definitions; Multiple Parties; Section Headings. The term "person" as used in this Agreement shall mean any individual, partnership, corporation, association, joint venture or any other legal entity. The terms "Pledgee" and "Pledgor" as used in this Agreement include the heirs, personal representatives, and successors or assigns of these parties. If more than one Pledgor executes this Agreement, the term "Pledgor" includes each of the Pledgors as well as all of them, and their obligations under this Agreement shall be joint and several. Whenever the context so requires, the neuter gender includes the feminine and/or masculine and the singular number includes the plural, and the plural number includes the singular. Unless the context requires otherwise, terms used herein shall have the same meaning as defined in the Uniform Commercial Code as enacted by the State of Florida. Section headings are used herein for convenience only and do not alter or limit the meaning of the language contained in each section or paragraph.

7.6 Notices. All notices or other communications required or permitted to be given pursuant to this Agreement shall be in writing and shall be considered as properly given or made if hand delivered, mailed from within the United States by certified mail, or sent by overnight courier or delivery service or facsimile transmission to the applicable address appearing in the

preamble to this Agreement, or to such other address as either party may have designated by like notice forwarded to the other party hereto. All notices, except notices of change of address, shall be deemed given when mailed, hand delivered or faxed, and notices of change of address shall be deemed given when received.

7.7 Amendment; Waiver. This Agreement may not be modified or amended nor shall any provision of it be waived except by a written instrument signed by Pledgor and Pledgee.

7.8 Severability. Each provision and part thereof of this Agreement shall be deemed separate from each other provision or part thereof, and the invalidity or unenforceability, for any reason or to any extent, of any such provision or part thereof shall not affect the enforceability of the remainder of this Agreement.

7.9 Choice of Law. This Agreement has been delivered in the State of Florida and shall be construed under applicable Florida laws in effect from time to time.

7.10 Costs; Attorneys' Fees. In case this Agreement is enforced by law or through an attorney at law or under advice therefrom, Pledgor hereby agrees to pay all costs associated with the enforcement of this Agreement, and realization upon any Pledged Securities, including reasonable attorneys' fees, whether or not suit is brought, and whether incurred in connection with collection, trial, appeal, bankruptcy or other creditors' proceedings or otherwise.

7.11 Jurisdiction; Venue. The parties hereby acknowledge and agree that, in the event legal action is instituted to enforce the Indebtedness, to foreclose on any Pledged Securities or to otherwise enforce this Agreement, the parties consent to and by execution hereof submit to the jurisdiction of the courts of the State of Florida and, notwithstanding the place of residence of either of them or the place of execution of this Agreement or the location of the Pledged Securities, such litigation, whether arising in contract or tort, by statute or otherwise, shall be brought in (and, if brought elsewhere, may be transferred to) a court of competent jurisdiction in Hillsborough County, Florida.

[SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF, the parties hereto have executed this Membership Interest Pledge Agreement effective as of the day and year first above written.

**PLEDGOR:**

\_\_\_\_\_  
THOMAS E. STEAD

**PLEDGEE:**

\_\_\_\_\_  
MICHAEL E. MOECKER

[SIGNATURE PAGE TO MEMBERSHIP INTEREST PLEDGE AGREEMENT]