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Prepared By and After  
Recording, return to:

Derek L. Cottier  
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180 North LaSalle Street  
Suite 2700  
Chicago, Illinois 60601

## SUBORDINATION AGREEMENT

**THIS SUBORDINATION AGREEMENT** (this "Agreement"), made and entered into as of May 24, 2004, by and between **CIG INTERNATIONAL, LLC**, a Delaware limited liability company (the "Junior Lender" as hereinafter further defined); and **FIRST AMERICAN BANK**, an Illinois banking corporation (the "Senior Lender" as hereinafter further defined).

WITNESSETH:

WHEREAS, pursuant to that certain Loan Agreement, dated as of even date herewith (such Loan Agreement, as amended, modified, supplemented or restated from time to time, being herein called the "Senior Lender Loan Agreement"), between 1035 NORTH DEARBORN, LLC, an Illinois limited liability company (the "Borrower"), and the Senior Lender, the Senior Lender has agreed to make loans and extend credit and other financial accommodations to the Borrower, secured by security interests in and liens upon substantially all of the Borrower's assets, including without limitation the real estate set forth on Exhibit A attached hereto, all upon the terms and subject to the conditions contained therein;

WHEREAS, the Junior Lender has agreed to make a loan or extend credit or other financial accommodations to the Borrower, secured by security interests in and liens upon substantially all of the Borrower's assets, all upon the terms and subject to the conditions contained in the Junior Lender Loan Documents hereinafter described;

WHEREAS, the Senior Lender, as a condition precedent to its entering into the Senior Lender Loan Agreement and making loans and extending credit to the Borrower thereunder, requires the execution of this Agreement by the Junior Lender establishing the relative priorities and right of payment of the indebtedness owing by the Borrower to the Junior Lender and the Senior Lender, respectively, and the relative priorities of the Junior Lender's and the Senior Lender's security interests in and liens upon the assets of the Borrower and obtaining certain assurances from the Junior Lender;

WHEREAS, it is to the direct benefit and advantage of the Junior Lender for the Senior Lender to enter into the Senior Lender Loan Agreement with the Borrower and make loans and extend credit to the Borrower thereunder; and

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WHEREAS, the Junior Lender is therefore willing to enter into this Agreement in order to induce the Senior Lender to enter into the Senior Lender Loan Agreement with the Borrower and to make loans and extend credit to the Borrower thereunder.

NOW, THEREFORE, for and in consideration of the foregoing premises and other good and valuable considerations, the receipt and sufficiency of which are hereby expressly acknowledged, and in order to induce the Senior Lender to enter into the Senior Lender Loan Agreement, and make loans and extend credit to the Borrower thereunder, the Junior Lender and the Senior Lender, intending to be legally bound hereby, do hereby agree as follows:

1. Certain Definitions. As used in this Agreement, the following terms shall have the following meanings for the purposes of this Agreement:

"Actor" - as defined in Section 15(c) of this Agreement.

"Agreement" - shall mean this Subordination Agreement, as the same may be modified, amended or supplemented from time to time pursuant to the terms hereof.

"Bankruptcy Code" - the United States Bankruptcy Code as in effect from time to time.

"Borrower" - 1035 North Dearborn, LLC, an Illinois limited liability company.

"Business Day" - any day, excluding Saturday, Sunday and any day which is a legal holiday under the laws of the State of Illinois or is a day on which banking institutions located in such state are closed.

"CIG Takeover Event" - an exercise by Junior Lender under the Junior Lender Loan Documents, in accordance with the terms of this Agreement, of its remedy, under the Junior Lender Loan Documents, to foreclose upon and transfer to Junior Lender all membership interests in the Borrower and/or to take over, manage and/or control the operation of the Borrower and/or the Project upon a default by Borrower under the Junior Lender Loan Documents; provided, however, that Borrower, the Project and the persons or entities who manage and/or control either or both shall remain subject to all of the terms and conditions of the Senior Lender Loan Documents.

"Code" - the Uniform Commercial Code of the State of Illinois as in effect from time to time.

"Default" - any failure in the payment of any obligations or liabilities of Borrower or Guarantor under or in connection with any of the Senior Lender Loan Documents which is not cured within any applicable notice and grace period, or any other "Event of Default" under the Senior Lender Loan Documents as that term is defined in the Senior Lender Loan Documents; provided, however, that Senior Lender agrees that (i) it shall not be a Default or an Event of Default, or an event which with notice or the passage of time or both would become either or both a Default or an Event of Default under the Senior Lender Loan Documents if there is a CIG Takeover Event (as defined above), and (ii) the occurrence of a default or an event of default under the Junior Lender Loan

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Documents shall not be, in and of itself, a Default under the Senior Lender Loan Documents; provided, however, Junior Lender acknowledges and agrees that an event, circumstance or condition that constitutes a default or event of default under the Junior Lender Loan Documents may, independently, constitute a Default under the Senior Lender Loan Documents.

“Defense” - as defined in Section 15(c) of this Agreement.

“Guarantor” – James D. Letchinger

“Junior Indebtedness” - the principal of (and premium, if any) and interest on (including interest accruing after the occurrence of a default under the Junior Note or after the filing of a petition initiating any proceeding pursuant to any state or federal bankruptcy or other insolvency law at a rate per annum equal to the applicable default rate set forth in the Junior Note), and all fees, charges, expenses, attorneys’ fees and other amounts due on, the Junior Note or any of the other Junior Lender Loan Documents, including without limitation, the Asset Management Fee; provided, however, that any and all fees, charges and expenses paid by Borrower to Junior Lender simultaneous with or before the closing of the Junior Note shall not be included hereunder.

“Junior Lender” - CIG International, LLC, a Delaware limited liability company, and its successors and assigns, and any subsequent holder or holders of any of the Junior Indebtedness.

“Junior Lender Loan Documents” - the Junior Lender Loan Agreement, the Junior Note, the Junior Mortgage and all other agreements, documents and instruments, including without limitation the Asset Management Fee Agreement, evidencing, documenting, securing or otherwise relating to any of the Junior Indebtedness, whether now existing or hereafter incurred, all as the same may from time to time be amended, modified, extended, renewed or restated.

“Junior Note” - the \$3,800,000.00 Mortgage Note of the Borrower, dated as of the date hereof, executed to the order of the Junior Lender, as amended, modified, supplemented or restated from time to time.

“Lenders” - the Senior Lender and the Junior Lender or either or both of them as the context may require.

“Membership Interests” - all of the membership interests of the Borrower.

“Operating Agreement” - the Operating Agreement of the Borrower as in effect on the date of this Agreement.

“Permitted Payments” - as defined in Section 3 of this Agreement.

“Real Estate” - the real property of the Borrower located in Cook County, Illinois and being more particularly described on Exhibit A attached hereto.

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"Release Provisions" - those provisions of the Senior Lender Loan Agreement which sets forth the agreements between the Senior Lender and the Borrower for the terms (including the applicable release prices) upon which the Senior Lender shall release its lien in each Home sold by the Borrower.

"Senior Indebtedness" - the principal of (and premium, if any) and interest on (including interest accruing after the occurrence of any Default under the Senior Lender Loan Documents or after the filing of a petition initiating any proceeding pursuant to any state or federal bankruptcy or other insolvency law at a rate per annum equal to the applicable default rate set forth in the Senior Lender Loan Agreement), and all fees, charges, expenses, attorneys' fees and other amounts due on or in connection with, any indebtedness owing by the Borrower to the Senior Lender under the Senior Lender Loan Agreement or any of the other Senior Lender Loan Documents.

"Senior Lender" - Senior Lender, its successors and assigns, and any subsequent holder or holders of any of the Senior Indebtedness.

"Senior Lender Collateral" - the Real Estate and all other assets, properties and interests in property of the Borrower in which the Senior Lender has been or is hereafter granted a security interest, whether now owned or existing or hereafter acquired or arising, wherever located; provided, however, that the Senior Lender Collateral does not include, and at no time shall include, a security interest in the membership interests in Borrower or a security interest in the Pledged Account (as defined in the Junior Lender Loan Documents) in which the Interest Reserve for the Junior Loan is held.

"Senior Lender Loan Documents" - the Senior Lender Loan Agreement and all other agreements, documents and instruments evidencing, documenting, securing or otherwise relating to all or any portion of the Senior Lender Indebtedness, whether now existing or hereafter entered into, all as the same may from time to time be amended, modified, extended, renewed or restated.

"Unit" - a residential condominium unit, a parking space, or all or any portion of approximately 4,000 square feet of first floor commercial space to be developed as part of an 18-story building to be known as Maple Tower located at 1025 North Dearborn, Chicago, Illinois.

"Unmatured Default" - the occurrence of an event which, with the passage of time or the giving of notice, or both, and without cure by Borrower, where applicable, would become a Default or and Event of Default under the Senior Lender Loan Documents; provided, however, that only for the purpose of such an event being a Payment Blockage Event hereunder, written notice of such event has been provided to Junior Lender by Senior Lender.

## 2. Debt Subordination.

(a) The Junior Lender agrees that, upon the terms and subject to the conditions set forth in this Agreement, payment of all Junior Indebtedness is expressly subordinated to the prior payment in full of all Senior Indebtedness.

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(b) Except as set forth in Section 3 below, unless and until the Senior Indebtedness shall have been fully paid and all outstanding commitments of the Senior Lender for the incurring of additional Senior Indebtedness shall have been terminated in writing, the Junior Lender will not, without the Senior Lender's prior written consent:

(i) Ask, demand, take or receive any security from Borrower or the Guarantor for any of the Junior Indebtedness except for any liens and security interests expressly provided for in the Junior Lender Loan Documents which are at all times junior and subordinate to the prior liens and security interests of the Senior Lender therein;

(ii) Commence or join with any other creditor or creditors of Borrower or the Guarantor in commencing any bankruptcy, reorganization, receivership, insolvency or similar proceeding against Borrower or the Guarantor;

(iii) Take any action against Borrower or the Guarantor or any of either its or his assets, to enforce payment of, or to collect the whole or any part of the Junior Indebtedness, take any action to foreclose or otherwise enforce its lien on any of Borrower's or the Guarantor's assets, or exercise any other rights or remedies it may have under the Junior Lender Loan Documents or under applicable law with respect to Borrower's assets, except for a CIG Takeover Event; provided, however, that in the event Senior Lender shall commence any action to foreclose upon or otherwise enforce its liens upon Borrower's or the Guarantor's assets, Senior Lender shall name Junior Lender as a party in any such action and Junior Lender may participate in and have its lien rights adjudicated in conjunction with such action; provided further, that in connection with any such action Junior Lender will at all times recognize the superior position of Senior Lender's liens;

(iv) Take any action, exercise any rights, or initiate any proceeding of any kind, which hinders, interferes with, objects to or delays the Senior Lender in the enforcement of its liens in the Senior Lender Collateral, the liquidation, collection or foreclosure thereof, or the manner in which the Senior Lender chooses to effectuate such enforcement, collection, liquidation or foreclosure;

(v) Amend or modify any of the Junior Lender Loan Documents in any material respect, the materiality of which shall be determined by Senior Lender in its reasonable discretion; or

(vi) Ask, demand, take or receive any payment of the Junior Indebtedness, except as provided in Section 3 below.

(c) The provisions of this Agreement shall apply with respect to all of the Senior Indebtedness, regardless of whether the Senior Indebtedness has already been incurred or may be incurred in the future by future advances or other financial accommodations made or extended by the Senior Lender to the Borrower.



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(d) If the Junior Lender in violation of this Agreement shall commence, prosecute or participate in any suit, action or proceeding against the Borrower or shall attempt to enforce, foreclose or realize upon its security interest or lien in the Senior Lender Collateral, the Borrower or the Senior Lender may interpose as a defense or plea the making of this Agreement and the Senior Lender may intervene and interpose such defense in its name or in the name of the Borrower, and the Borrower or the Senior Lender may by virtue of this Agreement restrain the enforcement thereof in the name of the Borrower or the Senior Lender.

(e) If and to the extent that the performance or observance of any of the terms or provisions of the Junior Lender Loan Documents would be contrary to or inconsistent with any of the terms or provisions of the Senior Lender Loan Documents or this Agreement, then such terms and provisions of the Junior Lender Loan Documents shall not be observed or performed unless and until all of the obligations of Borrower set forth in the Senior Lender Loan Documents have been paid and performed in full. Notwithstanding the foregoing, the mere existence of any term or provision in the Junior Lender Loan Documents that is inconsistent with the Senior Lender Loan Documents shall not constitute a default under the Senior Loan Documents so long as neither Borrower nor any Guarantor observes or performs such terms or provisions prior to the payment and performance of the Senior Lender Loan Documents.

(f) Junior Lender hereby acknowledges and agrees that the intent and effect of this Agreement is and shall be to afford Senior Lender, in the event of Default under the Senior Lender Loan Documents, sole discretion and control with regard to the operation and disposition of the Senior Lender Collateral then subject to the Senior Lender Loan Documents. To that end, Junior Lender hereby covenants and agrees that upon a Default under the Senior Lender Loan Documents, Junior Lender shall have no right to receive any notice, except as expressly required by law and/or set forth herein, and no right to participate in or consent to any negotiations or settlement between Senior Lender and Borrower or the Guarantor, and Junior Lender shall have no right to interfere with or impede any actions or decisions made, directed or undertaken by Senior Lender with or without the involvement of the Borrower in the workout of the Senior Indebtedness and the Senior Lender Collateral. Without limitation of the generality of the foregoing, Junior Lender acknowledges and agrees that if Senior Lender and Borrower agree on the amount of the Senior Indebtedness owing to Senior Lender, such Agreement shall be binding on Junior Lender, and Junior Lender disclaims any right to question or contest or seek an accounting of the amount of the Senior Indebtedness.

### 3. Permitted Payments.

(a) Notwithstanding the provisions of Section 2 above, provided no Default or Unmatured Default exists (a "Payment Blockage Event"), then the Borrower may pay to the Junior Lender, and the Junior Lender may accept and retain from the Borrower, the following payments for application to the Junior Indebtedness (such payments to the Junior Lender being herein called the "Permitted Payments") all payments of interest and expenses, but not principal, due and payable pursuant to the terms of the Junior Note, and all payments of the Asset Management Fee due and payable pursuant to the terms of the

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Asset Management Fee Agreement by and between Junior Lender and Borrower (the "Asset Management Fee Agreement"), as and when due thereunder; provided, however, that all interest payments and/or Asset Management Fee payments shall first be paid out of the Interest Reserve (as defined in the Junior Lender Loan Documents) created under the Junior Lender Loan Documents and funded with \$836,000 of the proceeds of the Junior Note. Junior Lender represents and warrants to Senior Lender that, as of the date of funding of the Junior Loan, the total amount of the Interest Reserve is equal to \$836,000.00 (\$416,000.00 of which shall be funded in the event the maturity date of the Junior Indebtedness is extended pursuant to Section 1(d) of the Junior Note), which amount is sufficient to provide for interest payments due and payable under the Junior Note and Asset Management Fee payments due and payable under the Asset Management Fee Agreement for a period of approximately twenty-two (22) months after the date of funding of the Junior Loan. To effectuate the making of any Permitted Payments by the Borrower to the Junior Lender, the Senior Lender releases any lien in and security interest upon the funds of the Borrower that are used to make the Permitted Payments that Senior Lender may have. Senior Lender specifically acknowledges and agrees that as long as there is no Payment Blockage Event which has occurred and not been cured to Senior Lender's satisfaction and/or waived by Senior Lender, it shall be a Permitted Payment for Borrower to pay to Junior Lender all Current Interest and Asset Management Fees then due and payable out of Borrower's funds upon the exhaustion of the Interest Reserve.

(b) Upon the occurrence and during the existence of a Payment Blockage Event, the subordination provisions of Section 2 shall govern and control until the earlier to occur of:

(i) the date on which such Payment Blockage Event shall have been cured by the Borrower or by the Junior Lender on behalf of the Borrower and/or waived in writing by the Senior Lender; or

(ii) the date on which the Senior Indebtedness is paid in full and all outstanding commitments of the Senior Lender for the incurring of additional Senior Indebtedness are terminated;

after which, in the case of the foregoing clause (i), the Borrower may resume making all Permitted Payments in accordance with the terms hereof, and, in the case of the foregoing clause (ii), this Agreement shall be of no further force and effect.

(c) Notwithstanding the provisions of Section 2 above, (i) Junior Lender may accept and retain any and all interest payments and/or Asset Management Fee payments made out of the Interest Reserve created under the Junior Lender Loan Documents and funded with the proceeds of the Junior Note, and (ii) upon the occurrence of an Event of Default, as defined in the Junior Lender Loan Documents, Junior Lender may apply any and all funds held in the Pledged Account in any way permitted under the Junior Lender Loan Documents.

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(d) Any payment or other distribution received by Junior Lender from Borrower during the duration of any Payment Blockage Event (except as set forth in Subsection 3(c) above), shall not constitute a Permitted Payment and any such amount shall be received and held in trust by Junior Lender, as trustee, for the benefit of Senior Lender, and Junior Lender shall forthwith deliver the same to the Senior Lender in precisely the same form received (except for the endorsement or assignment without recourse or warranty of the Junior Lender, where necessary) for application to the Senior Indebtedness, due or not due, and until so delivered, the same shall be held in trust by the Junior Lender as the property of the Senior Lender.

4. Priority of Security Interests. Irrespective of (a) the time, order, manner or method of creation, attachment or perfection of the respective liens and security interests of the Junior Lender or the Senior Lender in any of the Senior Lender Collateral, (b) the time or manner of the filing of the respective financing statements, mortgages, deeds or trust or other documents of the Junior Lender or the Senior Lender, (c) whether the Junior Lender or the Senior Lender or any bailee or agent thereof holds possession of any of the Senior Lender Collateral, (d) the dating, execution or delivery of any agreement, document or instrument granting the Junior Lender or the Senior Lender liens and security interests in any of the Senior Lender Collateral, (e) the giving or failure to give notice of the acquisition or expected acquisition of any purchase money or other security interests, and (f) any provision of the Code or any other applicable law to the contrary, all security interests, liens, rights and interest of the Junior Lender, whether now or hereafter arising and howsoever existing, in all of the Senior Lender Collateral shall be and hereby are junior to all security interests, liens, rights and interests of the Senior Lender in all of the Senior Lender Collateral. For the purposes of this Section 4, any claim of a right of setoff shall be treated in all respects as a security interest and no claimed right of setoff shall be asserted to defeat or diminish the rights or priorities provided for herein.

5. Bankruptcy Distributions. In the event of any dissolution, winding up, liquidation, readjustment, reorganization or other similar proceedings relating to Borrower or its assets (whether voluntary or involuntary, partial or complete, and whether in bankruptcy, insolvency or receivership, or upon an assignment to benefit creditors, or any other marshalling of the assets and liabilities of Borrower, the Senior Indebtedness shall first be paid in full before Junior Lender shall be entitled to receive and to retain any payment or distribution with respect to the Junior Indebtedness. If Borrower shall become subject to a proceeding under the United States Bankruptcy Code and Senior Lender desires to permit the use of cash collateral by the Borrower or to provide financing to the Borrower under either Section 363 or 364 of the United States Bankruptcy Code, with or without obtaining a priority lien under Section 364(d) thereof, Junior Lender hereby agrees as follows: (a) adequate notice to Junior Lender shall have been given for such financing if Junior Lender receives notice thereof at least five (5) business days prior to the entry of the order approving such financing; and (b) no objection will be raised by Junior Lender to any such financing on the grounds of failure to provide "adequate protection" of Junior Lender's junior lien position, provided that the Junior Lender is granted a comparable junior lien on the post-petition collateral of the Borrower.

6. Modification of Senior Lender Loan Documents. Senior Lender may, at any time, or times, in its sole discretion (a) renew, extend or otherwise modify the rate of interest on, the time and/or terms of payment of, and/or any other of the terms and provisions related to the



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Senior Indebtedness or any of the other provisions of the Senior Lender Loan Documents, (b) lend additional monies, extend additional credit and make other financial accommodations to or for the benefit of Borrower, (c) waive or release any collateral or guaranties which may be held as security for or all of any part of the Senior Indebtedness, (d) renew, extend, modify, amend, supplement and/or restate any and all of its agreements with Borrower, and/or any guarantor, in any manner, (e) retain or obtain a security interest in any property to secure any of the Senior Indebtedness in each case, without necessity of notice to or consent from Junior Lender and without impairing or affecting this Agreement or any of its rights hereunder. Senior Lender shall provide Junior Lender with copies of any modifications or amendments to the Senior Lender Loan Documents promptly following execution thereof.

7. No Third Party Beneficiaries. All undertakings, agreements, representations and warranties contained in this Agreement are solely for the benefit of the Junior Lender and the Senior Lender and there are no other parties who are intended to be benefited in any way by this Agreement.

8. Reservation of Security Interest as Against Third Parties. Nothing contained in this Agreement is intended to affect or limit in any way the security interests and liens of the Junior Lender and the Senior Lender in any of the property and assets of the Borrower, whether tangible or intangible, insofar as the Borrower and third parties are concerned. The Senior Lender and, subject to the provisions of this Agreement, the Junior Lender, each specifically reserves all of its respective liens and security interests and rights to assert such liens and security interests as against the Borrower and third parties.

9. Junior Indebtedness Owed Only to Junior Lender. The Junior Lender warrants and represents to the Senior Lender that, other than as provided in this Section 9, it has not previously assigned any interest in the Junior Indebtedness to any party, that no party owns an interest in the Junior Indebtedness other than the Junior Lender (whether as joint holder of the Junior Indebtedness, participant or otherwise), that the entire Junior Indebtedness is owing to the Junior Lender, and the Junior Lender covenants that the Junior Indebtedness shall continue to be owing only to it, unless assigned, transferred or disposed of in accordance with the terms of this Agreement as provided in Section 12 hereof. Notwithstanding the foregoing, Junior Lender represents, and Senior Lender acknowledges, that the Junior Loan and the Junior Lender Loan Documents will be collaterally assigned by Junior Lender to CapitalSource Finance, LLC pursuant to that certain Collateral Assignment of Loan Documents of even date herewith.

10. Instrument Legend. The Junior Note and each of the documents evidencing, securing and/or given in connection with the Junior Indebtedness shall contain a statement indicating that the payment of the Junior Indebtedness and the liens and security interests securing the Junior Indebtedness are subordinated to the prior payment in full of all of the Senior Indebtedness pursuant to the terms of this Agreement.

11. Subrogation. After all of the Senior Indebtedness has been paid in full and until all of the Junior Indebtedness has been paid in full, the Junior Lender shall be subrogated to the rights of the Senior Lender to receive payments and distributions of assets with respect to the Senior Indebtedness, to the extent that distributions otherwise payable to the Junior Lender have been applied to the payment of Senior Indebtedness in accordance with the provisions of this

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Agreement. As between the Borrower and the Junior Lender, a distribution applied to the payment of Senior Indebtedness in accordance with the provisions of this Agreement which would otherwise have been made to the Junior Lender shall not be deemed a payment by the Borrower on the Junior Indebtedness, it being understood that the subordination provisions of this Agreement are intended solely for the purpose of defining the relative rights of the Junior Lender, on the one hand, and the Senior Lender, on the other hand, and nothing contained in this Agreement shall impair the obligations of the Borrower, which are absolute and unconditional, to pay to the Junior Lender the Junior Indebtedness as and when the same shall become due and payable in accordance with its terms, except as such obligation is modified by the rights confirmed hereunder in favor of the Senior Lender, or affect the relative rights of the Junior Lender and the creditors of the Borrower other than the Senior Lender.

12. Assignment of Junior Indebtedness. The Junior Lender agrees that until all of the Senior Indebtedness has been paid in full and all outstanding commitments of the Senior Lender for the incurring of Senior Indebtedness shall have been terminated, the Junior Lender will not assign, transfer or otherwise dispose of the Junior Indebtedness or any portion thereof unless such assignment, transfer or other disposition is made expressly subject to this Agreement, and the assignee or transferee expressly acknowledges in an instrument delivered to the Senior Lender that the Junior Indebtedness is being assigned or transferred subject to the terms of this Agreement.

13. Subordination Non-Impaired.

(a) All rights and interests of the Senior Lender, and all agreements and obligations of the Junior Lender hereunder, shall remain in full force and effect irrespective of: (i) except as set forth in Section 13(b) below, any amendment, modification, waiver or consent of any term or provision set forth in any document, instrument or other agreement evidencing or securing any of the Senior Indebtedness, or any change in the time, manner or place of payment of, or any other term of, all or any portion of the Senior Indebtedness; (ii) any release or non-perfection of any lien or security interest in any collateral securing the Senior Indebtedness, or any release or amendment or waiver of or consent to the departure from, any guaranty for all or any of the Senior Indebtedness; or (iii) any circumstances (other than payment of the Senior Indebtedness) which might otherwise constitute a defense available to, or discharge of, the Borrower in respect of the Senior Indebtedness or the Junior Lender in respect of its obligations under this Agreement,

(b) The provisions of this Agreement shall continue to be effective or be reinstated, as the case may be, if at any time payment of any Senior Indebtedness is rescinded or must otherwise be returned by the Senior Lender upon the insolvency, bankruptcy or reorganization of the Borrower, or otherwise, all as though such payment had not been made.

14. Term of Agreement. This Agreement shall continue in full force and effect and shall be irrevocable by the Junior Lender until the earliest to occur of the following:

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(a) All of the parties hereto mutually agree in writing to terminate this Agreement;

(b) All of the Senior Indebtedness is paid in full and all outstanding commitments of the Senior Lender for the incurring of Senior Indebtedness are terminated; or

(c) All of the Junior Indebtedness is paid in full and all outstanding commitments of the Junior Lender for the incurring of Junior Indebtedness are terminated.

## 15. Waivers of Junior Lender.

(a) All of the Senior Indebtedness shall be deemed to have been made or incurred in reliance upon this Agreement, and the Junior Lender expressly waives all notice of acceptance by the Senior Lender of the subordination and other provisions of this Agreement, notice of the incurring of any Senior Indebtedness from time to time and all other notices not specifically required pursuant to the terms of this Agreement or by applicable law, and reliance by, the Senior Lender upon the subordination and other agreements as herein provided. The Junior Lender agrees that the Senior Lender has made no warranties or representations with respect to the due execution, legality, validity, completeness or enforceability of the Senior Lender Loan Agreement or any of the other Senior Lender Loan Documents, or the collectibility of the Senior Indebtedness and that the Senior Lender shall be entitled to manage and supervise its loans and advances to the Borrowers in accordance with applicable law and its usual practices as the Senior Lender may deem appropriate under the circumstances without regard to the existence of any rights the Junior Lender may now or hereafter have in or to any portion of the Senior Lender Collateral.

(b) The Senior Lender shall not have any liability to the Junior Lender for, and the Junior Lender shall not assert, nor participate with anyone else in the assertion of, any claim against the Senior Lender, arising out of or related to any actions which the Senior Lender in good faith takes or omits to take with respect to the Senior Lender Collateral or the Senior Indebtedness secured thereby, including, without limitation, actions with respect to the creation, perfection or continuation of the liens and security interests of the Senior Lender in the Senior Lender Collateral, actions with respect to the occurrence of a Default, actions with respect to the foreclosure upon, sale, disposition, collection or failure to realize upon, the Senior Lender Collateral, and actions with respect to the collection of the Senior Indebtedness. Without limiting the generality of the foregoing, the Senior Lender may, without regard to the existence of any rights the Junior Lender may now or hereafter have in and to the Senior Lender Collateral, compromise, settle, adjust and in general deal in any manner with the Senior Lender Collateral, as the Senior Lender may deem appropriate, upon such terms and conditions (including the length of time incidental thereto) as the Senior Lender may deem appropriate, engage third parties to assist the Senior Lender in the effectuation of the liquidation, collection or foreclosure of the Senior Lender Collateral, upon such terms and conditions as the Senior Lender may deem appropriate, incur such out-of-pocket

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costs and expenses incidental to the actions described in this Agreement as the Senior Lender may deem appropriate, including, without limitation, the fees and disbursements of counsel to the Senior Lender and any other third party professionals engaged by it.

(c) The Junior Lender waives any right to: (i) require the Senior Lender to marshal the Senior Lender Collateral for the Senior Indebtedness or otherwise to compel the Senior Lender to seek recourse against or satisfaction of the Senior Indebtedness from one source before seeking recourse or satisfaction from the Senior Lender Collateral or any other source; (ii) require the Senior Lender to enforce any guaranty or any security interest or lien given by any person or entity other than the Borrower to secure the payment of any of the Senior Indebtedness as a condition precedent or concurrent to taking any action against or with respect to the Senior Lender Collateral; and (iii) bring any action to contest the validity, legality, enforceability, perfection, priority or avoidability of any of the Senior Indebtedness, any of the Senior Lender Loan Documents or any of the liens and security interests of the Senior Lender in the Senior Lender Collateral. The Junior Lender irrevocably waives any right it may have, whether at law or in equity, to receive any notice or accounting or to provide or withhold any consent to the foreclosure, collection, liquidation or realization upon the Senior Lender Collateral. In furtherance thereof, the Junior Lender specifically and irrevocably waives any right to assert any claim or bring any action, suit or proceeding, whether at law or in equity (an "Action") against the Senior Lender or raise any affirmative defense, claim or counterclaim (a "Defense") in any action brought against it by the Senior Lender, the effect of which is to contest the commercial reasonableness of the decisions or actions of the Senior Lender (whether made or taken alone or through any of its agents or representatives) with respect to the Senior Lender Collateral, and in furtherance thereof, the Junior Lender explicitly and irrevocably covenants with the Senior Lender that the Junior Lender shall forever and for all time forbear from bringing any such Action or asserting any such Defense.

16. Bankruptcy Financing Issues. This Agreement shall continue in full force and effect after the filing of any petition for relief by or against the Borrower or the Guarantor under the Bankruptcy Code and all converted or succeeding cases in respect thereof (all references herein to the Borrower or the Guarantor being deemed to apply to the Borrower or the Guarantor as a debtor-in-possession and to a trustee for the Borrower or the Guarantor), and shall apply with full force and effect with respect to all Senior Lender Collateral acquired by the Borrower or the Guarantor, and to all Senior Indebtedness and Junior Indebtedness incurred by the Borrower or the Guarantor, subsequent to such filing. No objection will be raised by the Junior Lender to the Senior Lender's motion for relief from automatic stay in any such proceeding to foreclose on, sell or otherwise realize upon the Senior Lender Collateral.

17. Release of Lien of the Junior Lender for the Sale of Homes.

(a) The Junior Lender agrees that, whether or not a default or an event of default has occurred under the Junior Indebtedness or the Junior Lender Loan Documents, the Junior Lender shall release or otherwise terminate its lien in all or any portion of the Senior Lender Collateral upon written request of the Borrower or the Senior Lender to the extent necessary to permit all or portion of the Senior Lender



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Collateral to be sold or otherwise disposed of by the Borrower or the Senior Lender as set forth in the Senior Lender Loan Documents; provided, however, that substantially contemporaneously with such release or termination, a release payment, equal to the Net Disposition Proceeds for the Unit(s) that is the subject of the sale is paid to the Senior Lender. Junior Lender acknowledges and agrees that, prior to the repayment in full of the Senior Loan, Junior Lender will receive no payment from the closing of the sale of each Unit(s). As used herein, the term Net Disposition Proceeds shall mean the gross proceeds from the sale of a Unit, less any and all prorations, credits and closing costs applicable to the sale of such Unit, including, without limitation, usual and customary credits and prorations (such as credits for earnest money and deposits paid by the purchaser under the applicable purchase contract and prorations for real estate taxes and condominium association assessments); brokerage fees; survey fees; title, escrow and closing costs; transfer taxes and reasonable legal fees for closings.

(b) Junior Lender shall take no action to hinder, impede or delay the closing of any Unit, including, without limitation, refusal to issue its payoff letter and/or partial release. Upon the execution and delivery of this Agreement, Junior Lender shall deliver to Chicago Title Insurance Company, or such other title insurance company as the Borrower may use to close the sale of Units, an irrevocable master payoff letter, in form and content satisfactory to Senior Lender and to the applicable title insurance company, stating that the Junior Lender will release the lien of the Junior Lender Loan Documents upon the sale of a Unit upon (i) payment to the Senior Lender of the Net Disposition Proceeds for such sale, and (ii) a copy of the HUD-1 closing statement prepared by the title company in connection with the closing of such sale. Junior Lender hereby agrees that it shall not rescind, withdraw or revoke the Master Payoff Letter for so long as the Senior Lender Loan Documents remain a lien upon any part of the Senior Lender Collateral. Junior Lender hereby further agrees that acquisition of fee title to the Senior Lender Collateral by Senior Lender, its nominee, or any other person or entity through a foreclosure of the Senior Lender Loan Documents (where such foreclosure does not extinguish the security interest created by the Junior Lender Loan Documents) or through a deed in lieu of foreclosure, or otherwise, unless otherwise agreed to in writing by Senior Lender, will extinguish the rights of Junior Lender with respect to the Senior Lender Collateral, and shall create no right of action by Junior Lender against Senior Lender with respect to the payment of the Junior Indebtedness. Junior Lender hereby irrevocably waives and relinquishes any and all rights to rescind, withdraw or revoke its agreement to deliver releases for so long as the Senior Lender Loan Documents remain a lien upon any part of the Senior Lender Collateral.

## 18. Provisions Concerning Insurance and Condemnation.

(a) Each Lender agrees that the other Lender shall be entitled to obtain loss payee endorsements and/or additional insured status with respect to any and all policies of insurance now or hereafter obtained by the Borrower insuring casualty or other loss to any property of the Borrower in which such Lender may have a lien. The rights and priorities of any party to any insurance proceeds shall be as provided in Section 4 of this Agreement.

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(b) In the event that the Real Estate or any of the other Senior Lender Collateral is taken by condemnation or insurance proceeds are payable for loss, damage or other casualty to any of the Real Estate or the other Senior Lender Collateral, then the proceeds payable from such condemnation or casualty shall be applied as set forth in the Senior Loan Documents or as otherwise agreed by the Senior Lender, and the decision made by the Senior Lender as to whether such proceeds shall be applied in whole or in part to the payment of the Senior Debt or released therefrom to the Borrower for the repair, restoration or replacement of the damaged or condemned Real Estate or other Senior Lender Collateral shall be conclusive and binding upon the Junior Lender. The Junior Lender agrees to execute such consents, releases, endorsements and other documents as may be reasonably necessary to accomplish the application of such condemnation or casualty proceeds, all without any additional consideration or payment to the Junior Lender.

(c) The Senior Lender shall have the sole and exclusive right to require the Borrower to pay periodic installments of the insurance premiums and taxes on the Real Estate and the other Senior Lender Collateral before the due date thereof into an escrow account to be held by the Senior Lender pursuant to the terms of the Senior Lender Loan Documents. If Senior Lender does so require the Borrower to pay such periodic installments, then the Junior Lender shall not request the Borrower to make any such payments to the Junior Lender nor accept any such payments from the Borrower.

19. Financial Condition of the Borrower. The Junior Lender hereby assumes responsibility for keeping itself informed of the financial condition of the Borrower and the Guarantor and of all other circumstances bearing upon the risk of nonpayment of the Junior Indebtedness that diligent inquiry would reveal and the Junior Lender hereby agrees that the Senior Lender shall have no duty to advise the Junior Lender of any information regarding such condition or any such circumstances.

20. Notices of Default; Code Notices. The Senior Lender hereby agrees to provide the Junior Lender with written notice of any Default by the Borrower under the Senior Loan Documents, and shall provide the Junior Lender with an opportunity to cure such Default within the time period provided to Borrower under the Senior Loan Documents. The Senior Lender hereby agrees to provide the Junior Lender with written notice of any Payment Blockage Event and shall provide the Junior Lender with an opportunity to cure such Payment Blockage Event within the time period provided to Borrower, if any, under the Senior Loan Documents.

In addition, if the Senior Lender shall be required by the Code or any other applicable law to give notice to the Junior Lender of any action taken or to be taken by the Senior Lender against or with respect to any of the Senior Lender Collateral, such notice shall be given in accordance with Section 26 below and ten (10) Business Days notice shall be conclusively deemed to be commercially reasonable.

Junior Lender hereby agrees to give Senior Lender, contemporaneously with the giving thereof to Borrower, copies of any notices given to Borrower regarding any default under the Junior Lender Loan Documents or which notice would, following the passage of time and failure

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to cure, result in the recurrence of a default or event of default under the Junior Lender Loan Documents.

21. Further Assurances. The Junior Lender agrees to take any and all additional actions and execute, deliver, file and record any additional documents, agreements and instruments as may be necessary or as the Senior Lender may from time to time reasonably request to effect the subordination and other provisions of this Agreement.

22. No Violation of Loan Documents. The Junior Lender warrants and represents to the Senior Lender that the terms and provisions of this Agreement do not violate any term or provision of any of the Junior Lender Loan Documents. The Senior Lender warrants and represents to the Junior Lender that the terms and provisions of this Agreement do not violate any term or provision of any of the Senior Lender Loan Documents.

23. Modifications in Writing. No amendment, modification, supplement, termination, consent or waiver of or to any provision of this Agreement nor any consent to any departure therefrom shall in any event be effective unless the same shall be in writing and signed by or on behalf of each of the Junior Lender and the Senior Lender

24. Waiver; Failure or Delay. No failure or delay on the part of the Junior Lender or the Senior Lender in the exercise of any power, right, remedy or privilege under this Agreement shall impair such power, right, remedy or privilege or shall operate as a waiver thereof; nor shall any single or partial exercise of any such power, right, remedy or privilege preclude any other or further exercise of any other power, right, remedy or privilege. The waiver of any such right, power, remedy or privilege with respect to particular facts and circumstances shall not be deemed to be a waiver with respect to other facts and circumstances.

25. Execution of Easements. In the event that Borrower requests that Senior Lender execute any easements, plats of subdivision, declarations or similar documents in connection with the construction, development, operation maintenance and/or sale of the Senior Lender Collateral, and Senior Lender executes the same, Junior Lender agrees to execute such documents and instruments as its interests appear and to subordinate the lien of the Junior Lender Loan Documents to such document and instrument.

26. Notices. All notices, requests and demands to or upon a party hereto, to be effective, shall be in writing and shall be personally delivered or sent by facsimile telecommunications, by overnight air express service, or by registered or certified mail, postage pre-paid, return receipt requested, addressed to the parties hereto at their respective addresses set forth below. Such notice or other communication shall be deemed given (i) upon receipt or upon refusal to accept delivery if delivered by registered or certified mail, (ii) one business day after tendering to an overnight air express service if by overnight air express, (iii) upon receipt if by personal delivery, or (iv) upon confirmation of transmission if by facsimile telecommunications provided a hard copy is placed in first class mail, with proper postage prepaid. Any party may from time to time designate to the other by like written notice given at least ten (10) days prior to the date such change becomes effective:

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If to the Senior Lender: First American Bank  
 1650 Louis Avenue  
 Elk Grove, Illinois 60007  
 Attention: John Olsen, Senior Vice President  
 Facsimile No.: (847) 290-8040

With a copy to: Duane, Morris & Hecksher LLP  
 227 West Monroe Street  
 Suite 3400  
 Chicago, Illinois 60606  
 Attn: Daniel Kohn, Esq.  
 Fax No: (312) 499-6701

If to the Junior Lender: CIG International, LLC  
 203 North LaSalle Street, Suite 2100  
 Chicago, Illinois 60601  
 Attention: Carolyn J. Brocovich  
 Facsimile No.: (312) 558-1582

With a copy to: Schwartz, Cooper, Greenberger & Krauss, Chtd.  
 180 North LaSalle Street  
 Suite 2700  
 Chicago, Illinois 60601  
 Attn: Derek L. Cottier  
 Fax No: (312) 843-5104

27. Severability. Whenever possible, each provision of this Agreement shall be interpreted in such a manner as to be effective and valid under applicable law, but if any provision of this Agreement shall be prohibited by or invalid under applicable law, such provision shall be ineffective only to the extent of such prohibition or invalidity, without invalidating the remainder of such provisions or the remaining provisions of this Agreement.

28. Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the Junior Lender and the Senior Lender and their respective successors and assigns.

29. Equitable Remedies. Each party to this Agreement acknowledges that the breach of any of the provisions of this Agreement is likely to cause irrevocable damage to the other party. Therefore, the relief to which any party shall be entitled in the event of any such breach or threatened breach shall include, without limitation, a mandatory injunction for specific performance, injunctive or other judicial relief to prevent a violation of any of the provisions of this Agreement, damages and any other relief to which it may be entitled at law or in equity.

30. Option to Purchase. At any time while a Default exists, the Junior Lender shall have the right, at its option, to (i) purchase from the Senior Lender (without any warranty or representation by the Senior Lender except for its ownership of the Senior Indebtedness and the Senior Lender Loan Documents, and its right and authority to sell the same free of liens and



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encumbrances) all, but not less than all, of the Senior Indebtedness for a purchase price payable in immediately available funds equal to the full amount of the Senior Indebtedness owing on the date of payment (specifically including, but not limited to, an amount equal to all outstanding letters of credit issued by Senior Lender for the benefit of Borrower pursuant to the Senior Lender Loan Agreement unless such letters of credit are terminated and returned to the Senior Lender), whereupon the Junior Lender shall succeed to the rights, and assume all of the obligations, of the Senior Lender under the Senior Lender Loan Documents; or (ii) pay off the Senior Indebtedness in full in immediately available funds equal to the full amount of the Senior Indebtedness owing on the date of payment (specifically including, but not limited to, an amount equal to all outstanding letters of credit issued by Senior Lender for the benefit of Borrower pursuant to the Senior Lender Loan Agreement unless such letters of credit are terminated and returned to the Senior Lender).

31. Junior Lender's Pledge of Membership Interests. Senior Lender hereby acknowledges and agrees to the Junior Lender's receiving from the members of Borrower a pledge of their membership interests in and to Borrower. Senior Lender acknowledges and agrees that in the event of a default under the Junior Lender Loan Documents, Junior Lender has the right, through the exercise of its rights under the Junior Lender Loan Documents, including without limitation the Collateral Pledge and Security Agreement by which the members of the Borrower have granted Junior Lender a security interest in their membership interests, to effect a CIG Takeover Event. In the event of such a CIG Takeover Event, Senior Lender acknowledges and agrees that Junior Lender, as the manager of Borrower or the Project, shall not be subject to the terms and conditions found herein, but shall be and remain subject to the terms and conditions of the Senior Loan Documents; provided, however, that Junior Lender, as lender, shall remain subject to the terms and conditions of this Agreement.

32. Section Titles. The section titles contained in this Agreement are and shall be without substantive meaning or content of any kind whatsoever and are not a part of the agreement among the parties hereto.

33. Authority. Each party represents and warrants to each other party that it has the authority to enter into this Agreement and that the person signing for such party is authorized and directed to do so.

34. Counterparts. This Agreement may be executed by the parties hereto in one or more counterparts, each of which when so executed shall be an original. When taken together, such counterparts shall constitute but one and the same document.

35. GOVERNING LAW; CONSENT TO FORUM. THIS AGREEMENT HAS BEEN NEGOTIATED, EXECUTED AND DELIVERED AT AND SHALL BE DEEMED TO HAVE BEEN MADE IN ILLINOIS. THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF ILLINOIS. AS PART OF THE CONSIDERATION FOR NEW VALUE RECEIVED, AND REGARDLESS OF ANY PRESENT OR FUTURE DOMICILE OR PRINCIPAL PLACE OF BUSINESS OF THE JUNIOR LENDER OR THE SENIOR LENDER, THE JUNIOR LENDER AND THE SENIOR LENDER HEREBY CONSENT AND AGREE THAT THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS, OR, AT THE SENIOR LENDER'S OPTION, THE UNITED

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STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF ILLINOIS, SHALL HAVE EXCLUSIVE JURISDICTION TO HEAR AND DETERMINE ANY CLAIMS OR DISPUTES BETWEEN THE JUNIOR LENDER AND THE SENIOR LENDER PERTAINING TO THIS AGREEMENT OR TO ANY MATTER ARISING OUT OF OR RELATED TO THIS AGREEMENT. THE JUNIOR LENDER AND SENIOR LENDER EXPRESSLY SUBMIT AND CONSENT IN ADVANCE TO SUCH JURISDICTION IN ANY ACTION OR SUIT COMMENCED IN ANY SUCH COURT, AND THE JUNIOR LENDER AND THE SENIOR LENDER HEREBY WAIVE ANY OBJECTION WHICH THE OTHER MAY HAVE BASED UPON LACK OF PERSONAL JURISDICTION, IMPROPER VENUE OR FORUM NON CONVENIENS AND HEREBY CONSENTS TO THE GRANTING OF SUCH LEGAL OR EQUITABLE RELIEF AS IS DEEMED APPROPRIATE BY SUCH COURT.

36. WAIVERS OF TRIAL BY JURY. THE SENIOR LENDER AND THE JUNIOR LENDER WAIVE, TO THE FULLEST EXTENT PROVIDED BY APPLICABLE LAW, THE RIGHT TO TRIAL BY JURY IN ANY ACTION, SUIT, PROCEEDING OR COUNTERCLAIM OF ANY KIND ARISING OUT OF OR RELATING TO THIS AGREEMENT, THE SENIOR LENDER COLLATERAL, THE SENIOR LENDER LOAN DOCUMENTS, THE JUNIOR LENDER COLLATERAL OR THE JUNIOR LENDER LOAN DOCUMENTS. THE SENIOR LENDER AND THE JUNIOR LENDER ACKNOWLEDGE THAT THE FOREGOING WAIVERS ARE A MATERIAL INDUCEMENT TO THE ENTERING INTO THE SENIOR LENDER LOAN DOCUMENTS AND THE JUNIOR LENDER LOAN DOCUMENTS AND EXTENDING CREDIT TO THE BORROWER THEREUNDER AND THAT THE SENIOR LENDER AND THE JUNIOR LENDER ARE RELYING UPON THE FOREGOING WAIVERS IN ITS FUTURE DEALINGS WITH THE BORROWER

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IN WITNESS WHEREOF, this Agreement has been duly executed under seal by the parties hereto as of the day and year first above written.

**JUNIOR LENDER:**

CIG INTERNATIONAL, LLC, a Delaware limited liability company

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_


**SENIOR LENDER:**

FIRST AMERICAN BANK, an Illinois banking corporation

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

The undersigned hereby consents to and acknowledges the foregoing Agreement:

1035 NORTH DEARBORN, LLC, an Illinois limited liability company

By:   
James D. Letchinger  
Its: Manager

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STATE OF ILLINOIS

)  
) SS.

COUNTY OF COOK

I, Michelle Madrigal, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY THAT James D. Letchinger, the Manager of 1035 North Dearborn, LLC, an Illinois limited liability company, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he/she signed and delivered the said instrument on behalf of such limited liability company as its own free and voluntary act, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 24th day of May, 2004.

Michelle Madrigal  
Notary Public

My Commission Expires: 9/19/05



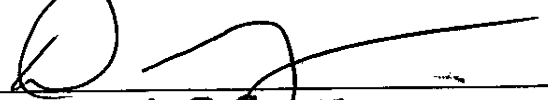


# UNOFFICIAL COPY

IN WITNESS WHEREOF, this Agreement has been duly executed under seal by the parties hereto as of the day and year first above written.

**JUNIOR LENDER:**

CIG INTERNATIONAL, LLC, a Delaware limited liability company

By:   
Name: Douglas D. Grayson  
Title: Senior Vice President/CFO

**SENIOR LENDER:**

FIRST AMERICAN BANK, an Illinois banking corporation

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

The undersigned hereby consents to and acknowledges the foregoing Agreement:

1035 NORTH DEARBORN, LLC, an Illinois limited liability company

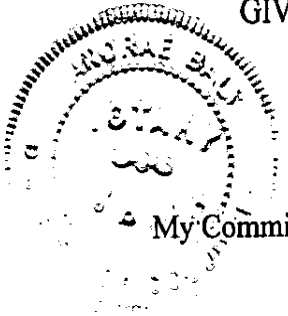
By: \_\_\_\_\_  
James D. Letchinger  
Its: Manager

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DISTRICT OF COLUMBIA ) SS.

I, Andrae Baly, a Notary Public in and for the District of Columbia, DO HEREBY CERTIFY THAT Douglas D. Grayson, the Senior Vice President of CIG International, LLC, a Delaware limited liability company, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he/she signed and delivered the said instrument on behalf of such limited liability company as its own free and voluntary act, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 20<sup>th</sup> day of May, 2004.



My Commission Expires: 6/14/2009

Andrae Baly  
Notary Public

ANDRAE BALLY  
Notary Public, District of Columbia  
My Commission Expires June 14, 2005

Property of Cook County Clerk's Office

# UNOFFICIAL COPY

IN WITNESS WHEREOF, this Agreement has been duly executed under seal by the parties hereto as of the day and year first above written.

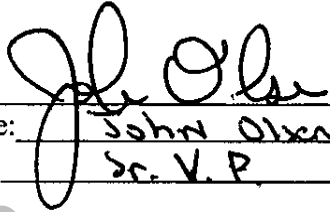
**JUNIOR LENDER:**

CIG INTERNATIONAL, LLC, a Delaware limited liability company

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**SENIOR LENDER:**

FIRST AMERICAN BANK, an Illinois banking corporation

By:   
Name: John Olson  
Title: Sr. V.P.

The undersigned hereby consents to and acknowledges the foregoing Agreement:

1035 NORTH DEARBORN, LLC, an Illinois limited liability company

By: \_\_\_\_\_  
James D. Letchinger  
Its: Manager

# UNOFFICIAL COPY

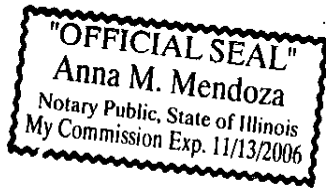
STATE OF ILLINOIS            )  
  ) SS.  
COUNTY OF COOK *(Dupage)*

I, Anna M. Mendoza Notary Public in and for said County, in the State aforesaid,  
DO HEREBY CERTIFY THAT John Olsen, the Sr. VP of First  
American Bank, who is personally known to me to be the same person whose name is subscribed  
to the foregoing instrument, appeared before me this day in-person and acknowledged that he/she  
signed and delivered the said instrument on behalf of such bank as its own free and voluntary act,  
for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 19 day of May, 2004.

Anna M. Mendoza  
Notary Public

My Commission Expires: 11-13-2006





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## EXHIBIT A

### LEGAL DESCRIPTION

LOTS 1, 2, 3, 4 AND 5 IN SUBDIVISION OF LOT 4 IN BLOCK 16 OF BUSHNELL'S ADDITION TO CHICAGO IN THE EAST HALF OF THE SOUTHEAST QUARTER OF SECTION 4, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

Common Address: 1035 North Dearborn, Chicago, Illinois

PINs: 17-04-424-001-0000  
17-04-424-002-0000  
17-04-424-003-0000  
17-04-424-004-0000  
17-04-424-005-0000