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Doc#: 0726705054 Fee: \$54.00
Eugene "Gene" Moore RHSP Fee: \$10.00
Cook County Recorder of Deeds
Date: 09/24/2007 11:55 AM Pg: 1 of 16

This instrument prepared by and
after recording please return to:
Schain, Burney, Ross & Citron, Ltd.
222 North LaSalle Street
Suite 1910
Chicago, Illinois 60601
Attention: Courtney E. Mayster

INTERCREDITOR AND SUBORDINATION AGREEMENT

This INTERCREDITOR AND SUBORDINATION AGREEMENT (this "Agreement"), dated as of September 20, 2007, is entered into by and among GEOFFREY W. RUTTENBERG ("Subordinated Lender") C/A 23 LLC, an Illinois limited liability company ("Borrower") and MB FINANCIAL BANK, N.A. ("Senior Lender").

In consideration of the mutual covenants contained herein, the parties hereto hereby agree as follows:

1. Definitions. The following terms shall have the following meanings:

"Agreement": this Intercreditor and Subordination Agreement, as the same may be amended, modified or otherwise supplemented from time to time.

"Collateral": the collective reference to any and all real and personal property which comprise the Property from time to time subject to one or more Liens to secure payment or performance of both the Senior Obligations and the Subordinated Obligations.

"Default Notice": a copy of any written notice of default hereunder or under the Senior Loan Documents given by the Senior Lender or a copy of any written notice of default hereunder or under the Subordinated Loan Documents given by or on behalf of Subordinated Lender, as the case may be.

"Enforcement Action": the commencement of the exercise of any remedies against the Collateral including, without limitation, the commencement of any litigation or proceeding, including the commencement of any foreclosure proceeding, the exercise of any power of sale, the sale by advertisement, the taking of a deed or assignment in lieu of foreclosure, the obtaining of a receiver or the taking of any other enforcement action against, or the taking of possession or control of, any of the Collateral, but specifically excludes (a) requests and demands made upon Borrower by delivery of notices (including, but not limited to, one or more Default Notices) to Borrower, (b) the cure by the Subordinated Lender of any Senior Loan Default by Borrower under the Senior Loan Documents as provided herein, (c) assertion or enforcement of any right of the Subordinated Lender to receive payment from proceeds of a foreclosure sale of any Collateral incident to foreclosure of the Liens or security interests of the Senior Loan Documents

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which may remain after payment of costs and expenses of such foreclosure and payment and satisfaction in full of the Senior Obligations, (d) participating in and the filing of claims in any Proceeding or Insolvency Event concerning Borrower as may be required to protect and preserve the right of the Subordinated Lender to participate in such Proceeding or Insolvency Event as creditor and to participate in distributions of assets of Borrower in said Proceeding with respect to the Subordinated Obligations in accordance with the terms of this Agreement, (e) the commencement, exercise or pursuit of any rights or remedies by Subordinated Lender against or with respect to Borrower or any Guarantor, (f) accelerating the Subordinated Obligations upon the acceleration by Senior Lender of the Senior Obligations following the occurrence of a Senior Loan Default.

“Guarantors” means collectively **Geoffrey W. Ruttenberg**.

“Insolvency Event”: (a) Borrower commences any case, proceeding or other action (1) under any existing or future law of any jurisdiction, domestic or foreign, relating to bankruptcy, insolvency reorganization, conservatorship or relief of debtors, seeking to have an order for relief entered with respect to it, or seeking to adjudicate it as bankrupt or insolvent, or seeking reorganization, arrangement, adjustment, winding-up, liquidation, dissolution, composition or other relief with respect to it or its debts, or (2) seeking appointment of a receiver, trustee, custodian, conservator or other similar official for it or for any part of the Collateral or for all or any substantial part of its assets, or Borrower makes a general assignment for the benefit of its creditors; or (b) any case, proceeding or other action of a nature referred to in clause (a) above is commenced against Borrower which (1) results in the entry of an order for relief or any such adjudication or appointment or (2) remains undismitted, undischarged or unbonded for a period of sixty (60) days; or (c) any case, proceeding or other action is commenced against Borrower seeking issuance of a warrant of attachment, execution, distraint or similar process against all or any substantial part of its assets which results in the entry of an order for any such relief which shall not have been vacated, discharged, or stayed or bonded pending appeal within 60 days from the entry thereof, or (d) Borrower or any of its subsidiaries takes any action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any of the acts set forth in clause (a), (b) or (c) above; or (e) Borrower or any of its subsidiaries generally does not pay, or is unable to pay, or admits in writing its inability to pay, its debts as they become due.

“Lien”: any mortgage, deed of trust, pledge, hypothecation, assignment, deposit arrangement, security interest, encumbrance, lien (statutory or other and including without limitation, any attachment, levy or judgment lien), preference, priority, or other security agreement or other preferential arrangement whatsoever, including, without limitation, any right of setoff (statutory or otherwise), any conditional sale or other title retention agreement, the interest of a lessor under a lease, any financing lease having substantially the same economic effect as any of the foregoing and the filing of any financing statement (other than a financing statement filed by a “true” lessor pursuant to Section 9-408 of the Uniform Commercial Code or other comparable law of any jurisdiction) naming the owner of the asset to which such lien relates as debtor.

“Proceedings”: “Proceedings,” as defined in Section 4(B) of this Agreement.

“Property”: the real property legally described in the Senior Mortgage and legally described on

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the attached Exhibit "A".

"Senior Loan Agreement": the Loan Agreement dated as of December 21, 2006, by and between Borrower and Senior Lender, as such Loan Agreement, subject to the terms, conditions, restrictions and limitations of this Agreement, may be further amended, modified or supplemented from time to time.

"Senior Lender": **MB Financial Bank, N.A.**

"Senior Loan Default": (a) the occurrence of a Default under the Senior Loan Documents permitting Senior Lender to accelerate the payment of all or any portion of the Senior Obligations, (b) the existence of such facts or circumstances that, with the giving of notice or the passage of time or both, would (if not cured) result in the occurrence of a Default under the Senior Loan Documents permitting Senior Lender to accelerate the payment of all or any portion of the Senior Obligations or (c) a default by Borrower of its covenants and obligations herein.

"Senior Loan Documents": the collective reference to the Senior Loan Agreement, the Senior Note, the Senior Mortgage and all other documents that from time to time evidence the Senior Obligations or secure or support payment or performance thereof.

"Senior Loan": the loan made by Senior Lender to Borrower pursuant to the Senior Loan Agreement in an aggregate principal amount not to exceed **Eighteen Million Fifteen Thousand Nine Hundred Thirty Nine and 00/100 Dollars (\$18,015,939.00)** provided, that the maximum principal amount outstanding at any time shall not exceed **Fourteen Million Five Hundred Thousand and 00/100 Dollars (\$14,500,000.00)**.

"Senior Mortgage": the Construction Mortgage, Assignment of Leases and Rents, and Security Agreement dated September 20, 2007, made by Borrower in favor of Senior Lender, creating a first priority Lien on the Property to secure the Senior Loan.

"Senior Nonpayment Default": a Senior Loan Default other than a Senior Payment Default.

"Senior Note": that certain Revolving Construction Mortgage Note dated September 20, 2007 in the original principal amount of **Fourteen Million Five Hundred Thousand and 00/100 Dollars (\$14,500,000.00)**.

"Senior Obligations": the collective reference to the unpaid principal of and interest on the Senior Note including, without limitation, interest accruing at the then applicable rates provided in the Senior Loan Agreement after the maturity of the Senior Loan and interest accruing at the then applicable rate provided in the Senior Loan Agreement after the filing of any petition in bankruptcy, or the commencement of any insolvency, reorganization or like proceeding, relating to Borrower, whether or not a claim for post-filing or post-petition interest is allowed in such proceeding.

"Senior Payment Default": any Senior Loan Default resulting from Borrower's failure to pay when due any of the Senior Obligations.

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“Subordinated Loan”: the loan made by Subordinated Lender pursuant to the Subordinated Loan Documents in a principal amount not to exceed **One Million Twenty Two Thousand Three Hundred Twenty Five and 70/100 Dollars (\$1,022,325.70)**.

“Subordinated Loan Default”: (a) the occurrence of a “Default” or “Event of Default” under and as defined in the Subordinated Loan Documents permitting Subordinated Lender to accelerate the payment of all or any portion of the Subordinated Obligations, (b) the existence of such facts or circumstances that, with the giving of notice or passage of time or both, would (if not cured) result in the occurrence of a “Default” or “Event of Default” under and as defined in the Subordinated Loan Documents permitting Subordinated Lender to accelerate the payment of all or any portion of the Subordinated Obligations, or (c) a default by Borrower of its covenants and obligations herein

“Subordinated Loan Documents”: the collective reference to the Subordinated Note and any other documents or instruments that from time to time evidence the Subordinated Obligations or secure or support payment or performance thereof.

“Subordinated Note”: that certain Promissory Note of even date herewith in the original principal amount of **One Million Twenty Two Thousand Three Hundred Twenty Five and 70/100 Dollars (\$1,022,325.70)**.

“Subordinated Obligations”: the collective reference to the unpaid principal of and interest on the Subordinated Note and all other direct obligations and liabilities of Borrower to Subordinated Lender (including, without limitation, interest accruing at the then applicable rate provided in the Subordinated Loan Documents after the maturity of the Subordinated Loan, interest accruing at the then applicable rate provided in the Subordinated Loan Documents after the filing of any petition in bankruptcy, or the commencement of any insolvency, reorganization or like proceeding, relating to Borrower, whether or not a claim for post-filing or post-petition interest is allowed in such proceeding and the Subordinated Loan Documents).

The words “hereof”, “herein” and “hereunder” and words of similar import when used in this Agreement shall refer to this Agreement as a whole and not to any particular provision of this Agreement, and section and paragraph references are to this Agreement unless otherwise specified.

The meanings given to terms defined herein shall be equally applicable to both the singular and plural forms of such terms.

2. Lien Subordination.

- (a) Borrower agrees and Subordinated Lender agrees, for itself and each future holder of the Subordinated Obligations, that, subject to the terms, conditions, restrictions and limitations of this Agreement and other Subordinated Loan Documents which encumber the Property are expressly “subordinate and junior in lien and terms” (as that phrase is defined in Section 2(b) below) to the Senior Mortgage and the

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other Senior Loan Documents. Subordinated Lender further agrees that Subordinated Lender shall not commence any Enforcement Action in connection with the Subordinated Obligations until such time as the Senior Obligations have been paid in full.

- (b) "Subordinate and junior in lien and terms" means that, unless and until the Senior Obligations have been paid in full, the Liens in the Property granted to Subordinated Lender to secure the Subordinated Obligations shall constitute and be a second priority security position subject, subordinate and postponed in lien and priority to the Liens granted to Senior Lender in the Property to secure the Senior Obligations.
- (c) Notwithstanding anything to the contrary in any Senior Loan Documents, Senior Lender consents to the Subordinated Loan Documents (subject to the terms of this Agreement), and to the Liens created and granted to Subordinated Lender under the Subordinated Loan Documents in the Collateral. Notwithstanding anything to the contrary in any of the Subordinated Loan Documents, Subordinated Lender consents to the Senior Loan Documents (subject to the terms of this Agreement) and to the Liens created and granted to Senior Lender under the Senior Loan Documents in the Collateral.

3. Subordinated Claims. Prior to accelerating the maturity of the Subordinated Obligations, Subordinated Lender shall send to Senior Lender a Default Notice. Subordinated Lender shall not commence any Enforcement Action in connection with said acceleration.

4. Additional Provisions Concerning Subordination.

- (a) Unless and until the Senior Obligations have been paid in full, Subordinated Lender and Borrower agree that upon the occurrence and during the pendency of any Insolvency Event, any payment or distribution of the Collateral, whether in cash, property or securities, to which Subordinated Lender would be entitled except for the provisions hereof, shall be paid or delivered by Borrower, or any receiver, trustee in bankruptcy, liquidating trustee, disbursing agent or other Person making such payment or distribution, directly to Senior Lender, to the extent necessary, to pay in full the Senior Obligations, before any payment or distribution shall be made to Subordinated Lender.
- (b) Upon the occurrence and during the pendency of any proceeding against Borrower under any existing or future law or statute relating to bankruptcy, insolvency, reorganization, receivership or relief of debtors (a "Proceeding") commenced by or against Borrower at a time when the Senior Obligations have not been paid in full, Subordinated Lender shall retain all rights it would have under applicable law to participate and exercise Subordinated Lender's rights in any such Proceeding, including, without limitation, membership on creditors' committees, voting on or proposing a plan of reorganization and to file any proof of claim with respect to the Subordinated Obligations.

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5. No Partnership; Responsibilities. The execution of this Agreement shall not create or be construed as creating a partnership, joint venture, other joint enterprise or any special relationship between Senior Lender and Subordinated Lender.

6. Representations and Warranties of Subordinated Lender. Subordinated Lender represents and warrants to Senior Lender that:

- (a) Subordinated Lender is the owner and holder of the Subordinated Loan and the Subordinated Loan Documents;
- (b) there is no assignment to any party of any of the Subordinated Lender's rights under any of the Subordinated Loan Documents;
- (c) Subordinated Lender has provided to Senior Lender true, correct and complete copies of the Subordinated Loan Documents, such Subordinated Loan Documents have not been modified or amended and such Subordinated Loan Documents, together with this Agreement, represent the entire agreement of Subordinated Lender and Borrower with respect to the Subordinated Obligations, and the Senior Lender acknowledges receipt of documents by its execution hereof;
- (d) Subordinated Lender has the corporate power and authority and the legal right to execute and deliver and to perform its obligations under this Agreement and has taken all necessary corporate action to authorize its execution, delivery and performance of this Agreement;
- (e) this Agreement constitutes a legal, valid and binding obligation of Subordinated Lender;
- (f) the execution, delivery and performance of this Agreement will not violate any provision of any Law(s) or contractual obligation of Subordinated Lender and will not result in the creation or imposition of any Lien on any of the properties or revenues of Subordinated Lender pursuant to any Law(s) affecting or any contractual obligation of Subordinated Lender, except the interest of Senior Lenders under this Agreement; and
- (g) no consent or authorization of, filing with, or other act by or in respect of, any arbitrator or governmental authority and no consent of any other Person (including, without limitation, any stockholder or creditor of Subordinated Lender), is required which has not been obtained in connection with the execution, delivery, performance, validity or enforceability of this Agreement.

7. No Default. Senior Lender agrees that the granting of the Liens in the Collateral to Subordinated Lender pursuant to the Subordinated Loan Documents and the terms of this Agreement shall not, in and of itself, constitute a Senior Loan Default.

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8. Default Under Subordinated Loan. The occurrence of an event of default under the Subordinated Loan Documents shall not, in and of itself, constitute a Senior Loan Default; provided however, that the events or circumstances giving rise to an event of default under the Subordinated Loan Documents may also result in the occurrence of a Senior Loan Default.

9. Remedies. Without in any way limiting any rights or remedies of Senior Lender hereunder or at law or equity, in the event of a breach by Subordinated Lender or Borrower of any of the terms, covenants or provisions of this Agreement, Senior Lender shall have, without limitation, the right to specific performance of the terms, covenants and provisions so breached. The rights and remedies provided to Senior Lender in this Agreement, the Senior Loan Documents and in all other agreements, instruments and documents referred to in any of the foregoing are cumulative and shall not be exclusive of any rights or remedies provided by law or equity; however, the exercise of such rights and remedies is subject to the terms of this Agreement.

10. Provisions Applicable After Bankruptcy. The provisions of this Agreement shall continue in full force and effect notwithstanding the occurrence of any Proceeding or Insolvency Event. Nothing herein contained shall be construed as limiting or otherwise affecting the rights of Subordinated Lender in any such Proceeding or Insolvency Event.

11. Further Assurances. Senior Lender, Subordinated Lender and Borrower, at their own expense and at any time from time to time, upon the written request of any party hereto will promptly and duly execute and deliver such further instruments and documents in form and substance reasonably satisfactory to the party requested to take such action and take such further reasonable actions as any party-hereto reasonably may request for the purposes of obtaining or preserving the full benefits of this Agreement and of the rights and powers herein granted.

12. Expenses.

- (a) Borrower will pay or reimburse Senior Lender, and Subordinated Lender upon demand, for all its costs and expenses in connection with the enforcement or preservation of any rights under this Agreement, including, without limitation, fees and disbursements of counsel to Senior Lender and Subordinated Lender.
- (b) Borrower will pay, indemnify, and hold Senior Lender and Subordinated Lender harmless from and against any and all other liabilities, obligations, losses, damages, penalties, actions (whether sounding in contract, tort or on any other ground), judgments, suits, costs, expenses or disbursements of any kind or nature whatsoever with respect to the execution, delivery, enforcement, performance and administration of, or in any other way arising out of or relating to, this Agreement or any action taken or omitted to be taken by Senior Lender or Subordinated Lender with respect to any of the foregoing.

13. Provisions Define Relative Rights. This Agreement is intended solely for the purpose of defining the relative rights of Senior Lender on the one hand and Subordinated Lender on the other, and no other person shall have any right, benefit or other interest under this Agreement.

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Nothing herein is intended to or shall impair Borrower's obligation to Subordinated Lender to pay to Subordinated Lender both principal and interest in accordance with the terms of, or performance of other obligations under, any of the Subordinated Loan Documents. No provision of this Agreement shall be deemed to subordinate, to any extent, any claim or right of Subordinated Lender to any claim against Borrower by any creditor or other Person other than Senior Lender with respect to the Collateral.

14. Powers Coupled With An Interest. All powers, authorizations and agencies contained in this Agreement are coupled with an interest and are irrevocable until the Senior Obligations are paid in full.

15. Notices. All notices, requests and demands to or upon Senior Lender, Borrower or Subordinated Lender to be effective shall be in writing and shall be deemed to have been duly given or made (1) when delivered by hand by a nationally recognized commercial courier service (such as Federal Express), or (2) if given by certified mail, return receipt requested on the date appearing on the return receipt therefor, or if not delivered because of refusal or change of address for which proper notification hereunder has not been provided, then on the date of such refusal or the first attempt to deliver, addressed as follows:

If to Senior Lender: MB Financial Bank, N.A.
6111 North River Road
Rosemont, Illinois 60018
Attention: Vincent G. Laughlin

With a courtesy copy to: Schain, Burney, Ross & Citron Ltd.
222 N. LaSalle Street, Suite 1910
Chicago, Illinois 60601
Attn: David J. O'Keefe

If to Borrower: C/A 23 LLC
c/o The Brixton Group, Ltd.
106 North Aberdeen Street
Suite 200
Chicago, Illinois 60607
Attention: Geoffrey W. Ruttenberg

With a courtesy copy to: Goldberg Kohn
55 East Monroe Street
Suite 3300
Chicago, Illinois 60603
Attention: Adam Laser

If to Subordinated Lender: Geoffrey W. Ruttenberg
106 North Aberdeen Street
Suite 200
Chicago, Illinois 60607

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With a courtesy copy to: Goldberg Kohn
55 East Monroe Street
Suite 3300
Chicago, Illinois 60603
Attention: Adam Laser

Senior Lender, Borrower and Subordinated Lender may change their addresses for notices by notice in the manner provided in this section.

16. Counterparts. This Agreement may be executed by one or more of the parties on any number of separate counterparts, and all of said counterparts taken together shall be deemed to constitute one and the same instrument.

17. Severability. Any provision of this Agreement which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

18. Amendments in Writing; No Waiver; Cumulative Remedies.

- (a) None of the terms or provisions of this Agreement may be waived, amended, supplemented or otherwise modified except by a written instrument executed by Senior Lender and Subordinated Lender.
- (b) No failure to exercise, nor any delay in exercising, on the part of Senior Lender or Subordinated Lender, any right, power or privilege hereunder shall operate as a waiver thereof except to the extent such failure to exercise or delay in exercising extends beyond the time period therefor as expressly set forth herein. No single or partial exercise of any right, power or privilege hereunder shall preclude any other or further exercise thereof or the exercise of any other right, power or privilege. Time is of the essence with respect to each and every provision of this Agreement.
- (c) The rights and remedies herein provided are cumulative, may be exercised singly or concurrently and are not exclusive of any other rights or remedies provided by law.

19. Section Headings. The section headings used in this Agreement are for convenience of reference only and are not to affect the construction hereof or be taken into consideration in the interpretation hereof.

20. Successors and Assigns. This Agreement shall be binding upon the successors and assigns of Borrower, Senior Lender and Subordinated Lender and shall, inure to the benefit of Senior Lender, Subordinated Lender and their respective successors and assigns.

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21. No Obligation to Make Additional Loans. Nothing herein shall create any right on the part of Borrower or any obligation on the part of Senior Lender with respect to the funding by Senior Lender of any loans or advances in excess of the amounts contemplated in, and pursuant to all conditions set forth under, the Senior Loan Agreement. Nothing herein shall create any right on the part of Borrower or any obligation on the part of Subordinated Lender with respect to the funding by Subordinated Lender of any loans or advances in excess of the amounts contemplated in, and pursuant to all conditions set forth under, the Subordinated Loan Documents.

22. Notices of Default. Subordinated Lender hereby agrees to give Senior Lender, contemporaneously with the giving thereof to the applicable obligor, copies of any notices given to an obligor regarding any default or event of default or event which following the passage of time and failure to cure, could result in the occurrence of a Subordinated Loan Default.

23. Consent to Easement and Plats of Subdivision. At the joint direction of Borrower and Senior Lender, or at the direction of Senior Lender, Subordinated Lender hereby agrees to execute, whether or not a Subordinated Loan Default may then exist, any easements, plats of subdivision, non-disturbance agreements, and similar documents in connection with the construction, development, operation, maintenance or marketing of the Property, as Subordinated Lender's interest appear, and Subordinated Lender hereby irrevocably agrees that Senior Lender may, at its sole discretion, in the name of Subordinated Lender or otherwise, execute such documents or instruments. No payment or other consideration need be paid to Subordinated Lender as a condition to its execution and delivery of any such document or instrument.

24. Permitted Actions by Senior Lender. Senior Lender may, at any time and from time to time, in its sole discretion, take any or all of the following actions: (a) retain or obtain a security interest in any property to secure any of the Senior Liabilities; (b) retain or obtain the primary or secondary obligation of any obligor or obligors with respect to any of the Senior Liabilities; (c) extend or renew the Loan for one or more period of time (whether or not longer than the original period), alter or modify any of the Senior Liabilities, or release or compromise any obligation of any nature of any obligor with respect to any of the Senior Liabilities; (d) amend any one or more of the Senior Loan Documents, including without limitation increasing or decreasing the principal amount of the Senior Liabilities, or the interest payable thereon; (e) release its security interest in, or surrender, release or permit any substitution or exchange for all or any part of, the property securing any of the Senior Liabilities, or release, compromise, alter or modify any obligation of any nature of any obligor with respect to any such property; (f) advance such additional sums as Senior Lender may in its reasonable discretion deem necessary to protect or preserve the Collateral (including without limitation, advances to pay taxes, assessments, insurance premiums, and funds to repair, maintain and preserve the Collateral, notwithstanding that such advances may cause the Senior Obligations to exceed the face amount of the Senior Note; and (g) take any such action with respect to any collateral for the Senior Liabilities which it may be entitled to take under the Senior Loan Documents or pursuant to applicable law; however, the parties acknowledge that these rights in the Senior Lender are not understood and are not to be construed in such a way as to compromise the rights of the Subordinated Lender to

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receive payment of the Subordinated Loan when due from the Borrower.

25. No Waiver by Senior Lender. Senior Lender shall not be prejudiced in its rights under this Agreement by any act or failure to act by an obligor or Subordinated Lender, or any non-compliance of any obligor or Subordinated Lender with any agreement or obligation, regardless of any knowledge thereof which Senior Lender may have or with which senior Lender may be charged; and no action of Senior Lender permitted hereunder shall in any way affect or impair the rights of Senior Lender and the obligations of Subordinated Lender under this Agreement. No delay on the part of Senior Lender in the exercise of any rights or remedies shall operate as a waiver thereof, and no single or partial exercise by Senior Lender of any right or remedy shall preclude other or further exercise thereof or the exercise of any other right or remedy; nor shall any modification or waiver of any of the provisions of this Agreement be binding upon Senior Lender except as expressly set forth in writing duly signed and delivered on behalf of Senior Lender.

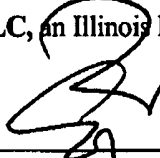
(SIGNATURES APPEAR ON THE FOLLOWING PAGE)

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IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first set forth above.

C/A 23 LLC, an Illinois limited liability company

By: 

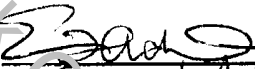
Name: GEORGE W. RUTTENBERG

Its: PRESIDENT



GEOFFREY W. RUTTENBERG

MB FINANCIAL BANK, N.A.

By: 

Name: Emily L. Antstatter

Title: Commercial Banking Officer

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IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first set forth above.

C/A 23 LLC, an Illinois limited liability company

By: _____

Name: GEOFFREY W. RUTTENBERG

Its: PRESIDENT

GEOFFREY W. RUTTENBERG

MB FINANCIAL BANK, N.A.

By: _____

Name: _____

Title: _____

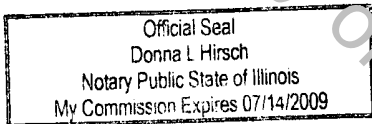
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STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

I, the undersigned, a notary public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that **Geoffrey W. Ruttenberg**, President of **The Brixton Group, Ltd.**, an Illinois corporation, the Manager of **C/A 23 LLC**, an Illinois limited liability company, personally known to me to be the same person whose name is subscribed to the foregoing **INTERCREDITOR AND SUBORDINATION AGREEMENT**, appeared before me this day in person and acknowledged that he signed, sealed and delivered the said instrument, on behalf of said Company and as his free and voluntary act, for the uses and purposes therein set forth.

GIVEN under my hand and seal, this 19th day of September, 2007.



Donna L. Hirsch
Notary Public

STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

I, the undersigned, a notary public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that **Geoffrey W. Ruttenberg** personally known to me to be the same person whose name is subscribed to the foregoing **INTERCREDITOR AND SUBORDINATION AGREEMENT**, appeared before me this day in person and acknowledged that he signed, sealed and delivered the said instrument as his free and voluntary act, for the uses and purposes therein set forth.

GIVEN under my hand and seal, this 19th day of September, 2007.



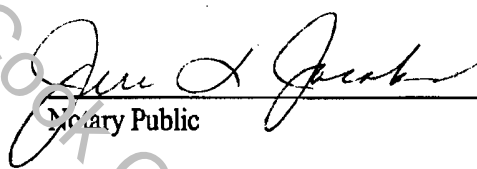
Donna L. Hirsch
Notary Public

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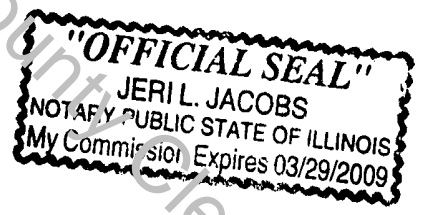
STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

I, the undersigned, a notary public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that EMILY ACHTSATER CPO ~~Vice President~~ of MB FINANCIAL BANK, N.A., personally known to me to be the same person whose name is subscribed to the foregoing INTERCREDITOR AND SUBORDINATION AGREEMENT, appeared before me this day in person and acknowledged that she signed, sealed and delivered the said instrument, on behalf of said Bank and as her free and voluntary act, for the uses and purposes therein set forth.

GIVEN under my hand and seal, this 19th day of September, 2007.



Notary Public



Property of Cook County Clerk's Office

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EXHIBIT "A"

LEGAL DESCRIPTION

LOTS 8 AND 9 (EXCEPT THE NORTH 10 FEET OF LOT 9 THEREOF) AND ALL OF LOTS 10, 11, 12 AND 13 IN BLOCK 49 IN CARPENTERS ADDITION TO CHICAGO IN THE SOUTHEAST ¼ OF SECTION 8, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PINS: 17-08-445-01-0000
17-08-445-012-0000
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