

# UNOFFICIAL COPY

## MORTGAGE



### GRANTOR(S)

MMBC INVESTMENTS LLC, an  
Illinois Limited Liability Company

Doc#: 0812618090 Fee: \$74.00  
Eugene "Gene" Moore RHSP Fee: \$10.00  
Cook County Recorder of Deeds  
Date: 05/05/2008 03:51 PM Pg: 1 of 20

### LENDER

THORNWOOD PARTNERS I,  
LLC

### BORROWER(S)

MMBC INVESTMENTS LLC, an  
Illinois Limited Liability Company

② 231493

1. **GRANT.** For good and valuable consideration, Grantor(s) hereby mortgage(s) and warrant(s) to Lender identified above, the real property described in Schedule A which is attached to this Mortgage and incorporated herein, together with all future and present improvements and fixtures; privileges; hereditament; appurtenances; leases; licenses and other agreements; rents; issues; profits; water well(s); ditch(es); reservoir(s); mineral rights; stocks and standing timber and crops; of any kind or nature pertaining to the real property (collectively, the "Property").

2. **OBLIGATIONS.** This Mortgage shall secure the payment and performance of all of Borrower's present and future indebtedness, liabilities, obligations and covenants (together, the "Obligations") to Lender pursuant to:

(a) this Mortgage and the following promissory note (the "Promissory Note")

PRINCIPAL AMOUNT	INTEREST RATE	MATURITY DATE
\$157,100.00	Sixteen Percent (16%)	OCTOBER 31, 2008

(b) and all other present or future obligations of Borrower(s) or Grantor(s) to Lender (whether incurred for the same or different purposes than the foregoing) which Obligations shall include but shall not be limited to the payment obligation regarding all renewals, extensions, amendments, modifications or substitutions to any of the foregoing.

3. **BUSINESS PURPOSE.** This Mortgage and the Obligations herein are executed and incurred solely for the purpose of refinance or acquisition of property for business

MAIL TO:  
HOME EQUITY TITLE  
SERVICES, INC.  
415 W. GOLF RD. #18  
ARLINGTON HTS., IL 60005

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20 pgs

Handwritten signature

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reasons.

4. **FUTURE ADVANCES.** This Mortgage secures the repayment of all advances that Lender may extend to Borrower(s) or Grantor(s) under the Promissory Note evidencing the loan described in Paragraph Two (2) hereof. The Mortgage secures not only existing indebtedness, but also secures future advances, with interest thereon, whether such advances are obligatory or to be made at the option of Lender, to the same extent as if such future advances were made on the date of the execution of this Mortgage, and even though there may be no indebtedness outstanding at the time any advance is made. The total amount of indebtedness secured by this Mortgage under the Promissory Note may increase or decrease from time to time, but the Lender shall not have any obligation or requirement to make future advances by reason of this provision.

5. **EXPENSES.** Except as may be limited from time to time by applicable law, this Mortgage secures the repayment of all amounts expended by Lender to perform covenants of the Borrower(s) or Grantor(s) under this Mortgage or to maintain, preserve, or dispose of the Property, including but not limited to, amounts expended for the payment of preservation of the Property, maintenance of the Lender's first and prior security interest in and lien upon the Property, taxes, special assessments, or insurance on the Property, plus interest on the amount or amounts expended.

6. **REPRESENTATIONS, WARRANTIES AND COVENANTS.** Grantor(s) and Borrower(s) represent(s), warrant(s) and covenant(s) to Lender that:

(a) Grantor(s) shall maintain the Property free of all liens, security interests, encumbrances and claims except for this Mortgage and those described in Schedule B which is attached to this Mortgage and incorporated herein by reference.

(b) Neither Grantor(s) nor, to the best of the knowledge of Grantor(s), any other party, has used, generated, released, discharged, stored or disposed of any unlawful quantities of any "Hazardous Materials", as defined herein, in connection with the Property or transported any Hazardous Materials to or from the Property. Grantor(s) shall not commit or permit such actions to be taken in the future. The term "Hazardous Materials" shall mean any hazardous waste, toxic substances, or any other substance, material, or waste which is or becomes regulated by any governmental authority including, but not limited to, (i) petroleum; (ii) friable or nonfriable asbestos; (iii) polychlorinated biphenyls; (iv) those substances, materials or wastes designated as a "hazardous substance" pursuant to Section 311 of the Clean Water Act or listed pursuant to Section 307 of the Clean Water Act or any amendments or replacements to these statutes; (v) those substances, materials or wastes defined as a "hazardous waste" pursuant to Section 1004 of the Resource Conservation and Recovery Act or any amendments or replacements to that statute; and (vi) those substances, materials or wastes defined as a "hazardous substance" pursuant to Section 101 of the Comprehensive Environmental Response,

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Compensation and Liability Act, or any amendments or replacements to that statute or any other similar statute, rule, regulation or ordinance now or hereafter in effect;

(c) Grantor(s) has/have the right and is/are duly authorized to execute and perform all of the Obligations to Lender, whether under this Mortgage or the Note or otherwise, and these actions do not and shall not conflict with the provisions of any statute, regulation, ordinance, rule of law, contract or other agreement which may be binding on Grantor(s) at any time;

(d) No action or proceeding is or shall in the future be pending or threatened which might materially affect the Property;

(e) Grantor(s) has/have not violated and shall not violate any statute, regulation, ordinance, rule of law, contract or other agreement which might materially affect the Property (including, but not limited to, those governing Hazardous Materials) or Lender's rights or interest in the Property pursuant to this Mortgage.

## 7. TRANSFERS OF THE PROPERTY OR BENEFICIAL INTERESTS IN BORROWER.

Except as may be provided herein or prohibited by applicable law, upon the sale or transfer to any person of all or any part of the Property, or any interest therein, or of all or any beneficial interest in any Borrower or any Grantor (if such Borrower or Grantor is not a natural person but is a corporation, partnership, trust, or other legal entity) that is not pursuant to a complete repayment of the Obligations or the subject of Lender's prior written approval after written request therefore, Lender may, at Lender's option, declare the sums secured by this Mortgage to be accelerated and immediately due and payable, and Lender may invoke any remedies permitted by the Promissory Note or other agreement of even date herewith or by this Mortgage.

8. **INQUIRES AND NOTIFICATION TO THIRD PARTIES.** Grantor(s) and Borrower(s) hereby expressly authorize Lender to contact any third party and make any inquiry pertaining to any Grantor's and/or Borrower's financial condition, or the condition of the Property. In addition, Lender is authorized to provide oral or written notice of its interest in the Property to any third party. If any inquiry response or notification is prohibited pursuant to law, including the federal HIPAA, the undersigned hereby expressly waive any such restriction or prohibition and agree, in any event, that if such waiver is ineffective, that they shall not be entitled to any damages of any kind as a result of same.

9. **INTERFERENCE WITH LEASES AND OTHER AGREEMENTS.** Neither Grantor(s) nor any person acting by or for Grantor(s) shall take or fail to take any action which may cause or permit the termination or the withholding of any payment in connection with any lease or other agreement ("Agreement") pertaining to the Property. In addition, the Grantor(s), agree not to do any of the following without Lender's prior written consent: (a) collect any monies payable under any Agreement more than one month in advance; (b) except as required in the ordinary course of business of Grantor(s) modify any Agreement;

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(c) assign or allow a lien, security interest or other encumbrance to be placed upon the rights, title and/or interest of Grantor(s) in and to any Agreement or monies payable thereunder; or (d) terminate or cancel any Agreement except for the nonpayment of any sum or other material breach by the other party thereto. If Grantor(s) receive at any time any written communication asserting a default by Grantor(s) under any such Agreement or purporting to terminate or cancel any such Agreement, Grantor(s) shall promptly forward a copy of such communication (and any subsequent communications relating thereto) to Lender. No Property manager will be employed without prior notification to Lender.

**10. COLLECTION OF INDEBTEDNESS FROM THIRD PARTY.** Lender shall be entitled to notify or require Grantor(s) and/or Borrower(s) to notify any third party (including, but not limited to, lessees, licensees, governmental authorities, Contract Purchasers of the property described in Schedule A and insurance companies) to pay Lender any indebtedness or obligation owing to Grantor(s) with respect to the Property (cumulatively "Indebtedness") after the occurrence of an event of default under this Mortgage or the Promissory Note which has not been cured after any applicable grace period. Grantor(s) shall diligently collect the Indebtedness owing to Grantor(s) from such third parties until the giving of such notification. In the event that Grantor(s) possess(es) or receive(s) possession of any instrument or other remittances with respect to the Indebtedness following the giving of such notification or if the instruments or other remittances constitute the prepayment of any indebtedness or the payment of any insurance or condemnation proceeds, Grantor(s) shall hold such instruments and other remittances in trust for Lender apart from its other funds, endorse the instruments and other remittances to Lender, and immediately provide Lender with possession of the instruments and other remittances. Lender shall be entitled, but not required, to collect (by legal proceedings or otherwise), extend the time for payment, compromise, exchange or release any obligor or collateral upon, or otherwise settle any of the Indebtedness whether or not an event of default exists under this Agreement. Lender shall not be liable to Grantor(s) or any other person for any action, error, mistake, omission or delay pertaining to the actions described in this paragraph or any other damages resulting therefrom, and Grantor(s) and Borrower(s) agree and hereby indemnify and agree to hold Lender and its agents, employees and officers harmless from and against any liability or damages arising from same.

**11. USE AND MAINTENANCE OF PROPERTY.** Grantor(s) shall take all actions and make any repairs needed to maintain the Property in good condition. Grantor(s) shall not commit or permit any waste to be committed with respect to the Property. Grantor(s) shall use the Property solely in compliance with applicable law and insurance policies. Grantor(s) shall not make any alterations, additions or improvements to the Property without Lender's prior written consent. Without limiting the foregoing, all alterations, additions and improvements made to the Property shall be subject to the interest of the Lender created hereby, shall not be removed without Lender's prior written consent, and shall be made at the sole expense of Grantor(s).

The phrase "shall not commit or permit any waste" shall include, but shall not be limited to, Grantor(s) or Borrower(s) failure to pay real estate taxes when due.

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12. **LOSS OR DAMAGE.** Grantor(s) shall bear the entire risk of any loss, theft, destruction or damage (cumulatively "Loss or Damage") to the Property or any portion thereof from any case or circumstance whatsoever. In the event of any Loss or Damage, Grantor(s) shall, at the option of Lender, repair the affected Property to its previous condition or pay or cause to be paid to Lender the decrease in the fair market value of the affected Property.

13. **INSURANCE.** Grantors shall keep the Property insured for its full value against all hazards including but not limited to loss or damage caused by fire, collision, theft, flood (if applicable) or other casualty, the insurance required may be more fully described in a separate Agreement bearing even date herewith. Grantors may obtain insurance on the Property from such companies as are acceptable to Lender in its sole discretion. The insurance policies shall require the insurance company to provide Lender with at least thirty (30) days' written notice before such policies are altered or canceled in any manner. The insurance policies shall name Lender as a mortgagee and provide that no act or omission of Grantors or any other person shall affect the right of Lender to be paid the insurance proceeds pertaining to the loss or damage of the Property. In the event Grantors fail to acquire or maintain insurance, Lender (after providing notice as may be required by law) may in its discretion procure appropriate insurance coverage upon the Property and the insurance cost shall be an advance payable and bearing interest as described in Paragraph Twenty Five (25) hereof and secured hereby. Grantors shall furnish Lender with evidence of insurance indicating the required coverage. **The requirement of the preceding sentence may be satisfied only with the actual Policy accompanied by proof of premium payment in form and substance acceptable to Lender.** Lender may act as attorney-in-fact for Grantors in making and settling claims under insurance policies, canceling any policy or endorsing Grantors' name on any draft or negotiable instrument drawn by any insurer. All such insurance policies shall be constantly assigned, pledged and delivered to Lender for further securing the Obligations. In the event of loss, Grantors shall immediately give Lender written notice and Lender is authorized to make proof of loss. Each insurance company is directed to make payments directly to Lender instead of to Lender and Grantors. In the event Grantors and/or Borrowers are in default in any of their Obligations or other requirements to be performed by them, Lender shall have the right, at its sole option, to apply such monies toward the Obligations or toward the cost of rebuilding and restoring the Property. Any amount applied against the Obligations shall be applied in the inverse order of the due dates thereof. In any event Grantors shall be obligated to rebuild and restore the Property, Lender may, at any time, regardless of any other provision to the contrary, take possession of the insurance proceeds and disburse same to Grantors or Borrowers for the purpose of rebuilding or restoration. Lender shall disburse said monies as if the disbursement was being made pursuant to a Construction Loan. Borrowers shall provide Lender with sufficient and acceptable evidence that the insurance proceeds will be sufficient to fully rebuild or restore the Property. In the event the insurance proceeds are not sufficient Borrowers shall deposit the difference between the insurance proceeds and the amount required to restore or rebuild with Lender. Lender shall then disburse the total on deposit for the purpose of restoration or rebuilding. All

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disbursements shall be made by and through a Construction Loan Escrow established at a Title Company of Lenders choice.

14. **ZONING AND PRIVATE COVENANTS.** Grantors shall not initiate or consent to any change in the zoning provisions or private covenants affecting the use of the Property without Lender's prior written consent. If Grantors' use of the Property becomes a nonconforming use under any zoning provision, Grantors shall not cause or permit such use to be discontinued or abandoned without the prior written consent of Lender. Grantors will immediately provide Lender with written notice of any proposed changes to the zoning provisions or private covenants affecting the Property.

15. **CONDEMNATION.** Grantors shall immediately provide Lender with written notice of any actual or threatened condemnation or eminent domain proceeding pertaining to the Property. All monies payable to Grantors from such condemnation or taking are hereby assigned to Lender and shall be applied first to the payment of Lender's attorneys' fees, legal expenses and other costs (including appraisal fees) in connection with the condemnation or eminent domain proceedings and then to the payment of the obligations or the restoration or repair of the Property. The disbursement of said funds shall be in the manner described for distribution of insurance proceeds in Par. 13 above.

16. **LENDER'S RIGHT TO COMMENCE OR DEFEND LEGAL ACTIONS.** Grantors shall immediately provide Lender with written notice of any actual or threatened action, suit, or other proceeding affecting the Property. Grantors hereby appoint Lender as its attorney-in-fact to commence, intervene in, and defend such actions, suits, or other legal proceedings and to compromise or settle any claim or controversy pertaining thereto. Lender shall not be liable to Grantors for any action, error, mistake, omission or delay pertaining to the actions described in this paragraph or any damages resulting therefrom. Nothing contained herein will prevent Lender from taking the actions described in this paragraph in its own name. Grantors shall cooperate and assist Lender in any action hereunder.

17. **INDEMNIFICATION.** Lender shall not assume or be responsible for the performance of any of Grantors' Obligations with respect to the Property under any circumstances. Grantor shall immediately provide Lender with written notice of and indemnify and hold Lender harmless from all claims, damages, liabilities (including attorneys' fees and legal expenses) causes of action, actions, suits and other legal proceedings (cumulatively "Claims") pertaining to the Property (including, but not limited to, those involving Hazardous Materials). Grantors, upon the request of Lender, shall hire legal counsel acceptable to Lender to defend Lender from such Claims, and pay the costs incurred in connection therewith. In the alternative, Lender shall be entitled to employ its own legal counsel to defend such Claims at Grantors' cost. Grantors' obligation to indemnify Lender shall survive the termination, release or foreclosure of this Mortgage.

18. **TAXES AND ASSESSMENTS.** Grantors shall pay all taxes and assessments relating to Property when due and to secure the obligation to do so. Grantors and/or

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Borrower shall, at initial closing, deposit with Lender a (i) sum equal to one (1) full calendar year taxes and a further sum equal to one twelfth (1/12) of the annual taxes times the number of full and partial months from January 1st to the date of initial funding and (ii) each month during the entire term of this Mortgage Grantors/Borrowers shall deposit one-twelfth (1/12) the estimated annual insurance premium, taxes and assessments pertaining to the Property as determined from the most recent ascertainable Real Estate Tax Bill and the Invoice for the Insurance Premium paid by Borrowers in order to satisfy the Borrowers' obligation to provide Lender with insurance coverage. So long as there is no default, these amounts shall be applied to the payment of taxes, assessments and insurance as required on the Property. In the event of default, Lender shall have the right, at its sole option, to apply the funds so held to pay any taxes or against the Obligations. Any funds applied against the Obligations shall be applied in the reverse order of the due date thereof.

19. **INSPECTION OF PROPERTY, BOOKS, RECORDS AND REPORTS.** Grantors shall allow Lender or its agents to examine and inspect the Property and examine, inspect and make copies of Grantors' books and records pertaining to the Property from time to time. Grantors shall provide any assistance required by Lender for these purposes. All of the signatures and information contained in Grantors' books and records shall be genuine, true accurate and complete in all respects. Grantors shall note the existence of Lender's interest in its books and records pertaining to the Property. Additionally, Grantors shall report, in a form satisfactory to Lender, such information as Lender may request regarding the Grantors' and Borrowers' financial condition and that of the Property. The information shall be for such periods, shall reflect Grantors' records at such time, and shall be rendered with such frequency as Lender may designate. All information furnished to Lender shall be true, accurate and complete in all respects.

20. **ESTOPPEL CERTIFICATES.** Within ten (10) days after any request by Lender, Grantors shall deliver to Lender, or any intended transferee of Lender's rights with respect to the Obligations, a signed and acknowledged statement specifying (a) the outstanding balance on the Obligations; and (b) whether Grantors or Borrowers possess any claims, defenses, set-offs or counterclaims with respect to the Obligations and, if so, the nature of such claims, defenses, set-offs or counterclaims. Grantors and Borrowers will be conclusively bound by any representation that Lender may make to the intended transferee with respect to these matters in the event that Grantors and Borrowers fail to provide the requested statement in a timely manner.

21. **DEFAULT.** Grantors and Borrowers shall be deemed as being in default if either or both:

(a) fails to pay any Obligation to Lender when due;

(b) fails to perform any Obligation or breaches any warranty or covenant to Lender contained in this Mortgage or any other present or future, written agreement, which includes but is not limited to all Loan Documents bearing even date herewith, and any Loan Commitment executed by the parties regarding this loan.

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foreclosure and sale, sell the Property, and all estate, right, title, interest, claim and demand of both Grantors and Borrowers therein, and all rights of redemption (after sale) thereof, at one or more sales, as an entirety or in parcels, with such elements of real and/or personal property (and, to the extent permitted by applicable law, may elect to deem all of the Property to be real property for purposes thereof), and at such time or place and upon such terms and Lender may deem expedient, or as may be required by applicable law;

(d) Apply for the appointment of a receiver, custodian, trustee, liquidator or conservator of the Property, to be invested with the fullest powers permitted under applicable law, as a matter of right and without regard to or the necessity to disprove the adequacy of the security of the obligations or the solvency of either the Grantors or Borrowers or any other person liable for the payment of the Obligation, and either the Grantors or Borrowers and each other person so liable waives or shall be deemed to have waived such necessity and consents or shall be deemed to have consented to such appointment;

(e) Subject to the provisions and restrictions of any applicable law and after a judicial order or decree directing or permitting Lender to take any such action and subject to the rights of any tenants pursuant to non-disturbance agreements into which Mortgagee has entered, enter upon the Property, and exclude Grantors and Borrowers and their agents, servants, employees and other representatives wholly therefrom, without liability for trespass, damages or otherwise, and take possession of all books, records and accounts relating thereto, and Borrowers and Grantors agree to surrender possession of the Property and of such books, records and accounts to Lender on demand if any Event or Default shall have occurred and be continuing; and having and holding the same may use, operate, manage, preserve, control and otherwise deal therewith and conduct the business thereof, either personally or by its superintendents, managers, agents, servants, attorneys or receivers, without interference from Grantors or Borrowers; and upon each such entry and from time to time thereafter may, at the expense of Grantors, Borrowers and the Property, without interference by Grantors or Borrowers and as Lender may deem advisable, (i) maintain and restore the Property, (ii) insure or reinsure the same, (iii) make all necessary or proper repairs, renewals, replacements, alterations, additions, betterments and improvements thereto and thereon, (iv) complete the construction of the improvements if any are being constructed and, in the course of such completion, may make such changes in the contemplated or completed improvements as it may deem advisable, (v) in every such case in connection with the foregoing have the right to exercise all rights and powers of Grantor and Borrower with respect to the Property, either in Grantors and Borrowers' name or otherwise, including the right to make, cancel, enforce or modify any Tenant Leases and subleases, obtain and evict tenants and subtenants on such terms as Lender shall deem advisable and to take any actions described in subsection (f) of this Section;

(f) Subject to the provisions and restrictions of any applicable law, Lender may, with or without the entrance upon or taking possession of the Property, collect, receive, sue for and recover in its own name all Rents and cash collateral derived from the Property, and

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after deducting therefrom all costs, expenses and liabilities of every character incurred by Lender in collecting the same and in using, operating, managing, preserving and controlling the Property, and otherwise in exercising Lender's rights under subsection (e) of this Section, including all amounts necessary to pay Impositions, insurance premiums and other charges in connection with the Property, as well as compensation for the services of Lender and its respective attorneys, agents and employees, apply the remainder as provided hereinafter;

(g) Take all action permitted under the Uniform Commercial Code of the State of Illinois;

(h) Terminate the employment of any Manager of the Property; and

(i) Take any other action, or pursue any other right or remedy, as Lender may have under applicable law, and Grantors and Borrowers do hereby grant the same to Lender.

In the event the Lender exercises any of the rights or remedies set forth in subsections (e) and (f) of this Section, Lender shall not be deemed to have entered upon or taken possession of the Property except upon the exercise of its option to do so, evidenced by its demand and overt act for such purpose, nor shall it be deemed a Mortgagee in possession by reason of such entry or taking possession, Lender shall not be liable to account for any action taken pursuant to any such exercise other than for Rents and other amounts actually received by it, nor liable for any loss sustained by either Grantor or Borrower resulting from any failure to let the Property, or from any other act or omission of Lender in connection therewith except to the extent such loss is caused by the gross negligence, willful misconduct or bad faith of Lender. Grantors and Borrowers hereby consent to, ratify and confirm the exercise by Lender of said rights and remedies, and appoints Lender as their attorney-in-fact, which appointment shall be deemed to be coupled with an interest and is irrevocable, for such purposes.

**22.01 EXPENSES.** In any suit to foreclose this Mortgage or enforce any other remedy of Lender hereunder or under any other Loan Document, there shall be allowed and included as an addition to and a part of the Indebtedness in the decree for sale or other judgment or decree all expenditures and expenses which may be paid or incurred in connection with the exercise by Lender of any of its rights and remedies provided or referred to in this Mortgage (including reasonable attorneys fees and disbursements), together with interest thereon at the Default Rate and the same shall be part of the indebtedness and shall be secured by this Mortgage.

**22.02 RIGHTS PERTAINING TO SALES.** Subject to applicable requirements of law, the following provisions shall apply to any sale or sales of all or any portion of the Property under or by virtue of this Paragraph, made under or by virtue of judicial proceedings or of a judgment or decree of foreclosure and sale:

(a) Lender may conduct any number of sales from time to time. The right to sell

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pursuant to this Par. 22.02 shall not be exhausted by any one or more such sales as to any part of the Property which shall not have been sold, nor by any sale which, is not completed or is defective in Lender's opinion, until the indebtedness shall have been paid in full.

(b) Any sale may be postponed or adjourned by public announcement at the time and place appointed for such sale or for such postponed or adjourned sale without further notice.

(c) After each sale, Lender, or an officer of any court empowered to do so, shall execute and deliver to the purchaser or purchasers at such sale a good and sufficient instrument or instruments granting, conveying, assigning and transferring all right, title and interest of Grantors and Borrowers in and to the property and rights sold and shall receive the proceeds of said sale or sales and apply the same as herein provided. Lender is hereby appointed the true and lawful attorney-in-fact of Grantors and Borrowers, which appointment is irrevocable and shall be deemed, to be coupled with an interest, in Grantors and Borrowers name and stead, to make all necessary conveyances, assignments, transfers and deliveries of the property and rights so sold, and for that purpose Lender may execute all necessary instruments of conveyance, assignment, transfer and delivery, and may substitute one or more persons with like power, Grantors and Borrowers hereby ratifying and confirming all that said attorney or such substitute or substitutes shall lawfully do by virtue thereof. Nevertheless, Grantors and Borrowers, if requested by Lender, shall ratify and confirm any such sale or sales by executing and delivering to Lender or such purchaser or purchasers, all such instruments as may be advisable, in Lender's judgment, for the purposes as may be designated in such request.

(d) The receipt of Lender of the purchase money paid at any such sale, or the receipt of any other person authorized to receive the same, shall be sufficient discharge therefor to any purchaser of any property or rights sold as aforesaid, and no such purchaser, or its representatives, grantees or assigns, after paying such purchase price and receiving such receipt, shall be bound to see to the application of such purchase price or any part thereof upon or for any trust or purposes of this price or any part thereof upon or for any trust or purpose of this Mortgage or, in any manner whatsoever, be answerable for any loss, misapplication or non-application of any such purchase money, or part thereof, or be bound to inquire as to the authorization, necessity, expediency or regularity of any such sale.

(e) Any such sale or sales shall operate to divest all of the estate, right, title, interest, claim and demand whatsoever, whether at law or in equity, of Grantors and Borrowers in and to the properties and rights so sold, and shall be a perpetual bar both at law or in equity against Grantors and Borrowers and any and all persons claiming or who may claim the same, or any part thereof, by through or under Grantors and Borrowers to the fullest extent permitted by applicable law.

(f) Upon any such sale or sales, Lender may bid for and acquire the Property and,

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in lieu of paying cash therefore, may make settlement for the purchase price by crediting against the Obligation(s) the amount of the bid made therefor, after deducting therefrom the expenses of the sale, the cost of any enforcement proceeding hereunder and any other sums which Lender is authorized to deduct under the terms hereof, to the extent necessary to satisfy such bid.

(g) In the event that Grantors and Borrowers, or any person claiming by, through or under Grantors and Borrowers, shall transfer or refuse or fail to surrender possession of the Property after any sale thereof, then Grantors and Borrowers or such person shall be deemed a tenant at sufferance of the purchaser at such sale, subject to eviction by means of forcible entry and detainer proceedings, or subject to any other right or remedy available hereunder or under applicable law.

(h) Upon any such sale, it shall not be necessary for Lender or any public officer acting under execution or order of court to have present or constructively in its possession any of the Property.

**22.03 APPLICATION OF PROCEEDS.** Except as herein expressly provided to the contrary, the purchase money, proceeds or avails of any sale referred to herein, together with any other sums which may be held by Lender hereunder, shall be applied as follows:

FIRST: To the payment of the costs and expenses of any such sale, including reasonable attorneys fees and disbursements, and of any judicial proceeding wherein the same may be made, and of all expenses, liabilities and advances made or incurred by Lender hereunder, together with interest thereon at the Default Rate, and all taxes, assessments and other charges, except any taxes, assessments or other charges subject to which the Property shall have been sold.

SECOND: To the payment in full of the Obligations (including principal, interest, premium, penalty and fees) in such order as Lender may elect.

THIRD: To the extent permitted by applicable law, to be set aside by Lender as adequate security in its reasonable judgment for the payment of sums which would have been paid to Lender under clauses FIRST and SECOND above, but which sums are not yet due and payable or liquidated.

FOURTH: The balance if any to Borrowers.

**22.04 ADDITIONAL PROVISIONS AS TO REMEDIES.**

(a) To the extent permitted by applicable law, no right or remedy herein conferred upon or reserved to Lender is intended to be exclusive of any other right or remedy, and each and every such right or remedy shall be cumulative and continuing, shall be in addition to every other right or remedy given hereunder, or under the Note or any Loan Document or now or hereafter existing at law or in equity, and may be exercised from time

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to time and as often as may be deemed expedient by Lender.

(b) No delay or omission by Lender in exercising any right or remedy hereunder during the continuance of an Event of Default shall impair such exercise or be construed to be a waiver of any such Event of Default or an acquiescence therein.

(c) The failure, refusal or waiver by Lender of its right to assert any right or remedy hereunder during the continuance of an Event of Default or other occurrence shall not be construed as waiving such right or remedy upon any other or subsequent Event of Default or other occurrence.

(d) Lender shall not have any obligation to pursue any rights or remedies it may have under any other agreement prior to pursuing its rights or remedies hereunder or under the Note or any other Loan Document.

(e) No recovery of any judgment by Lender and no levy or an execution upon the Property or any other property of Grantors or Borrowers shall affect, in any manner or to any extent, the lien of the Mortgage upon the Property, or any liens, rights, powers or remedies of Lender hereunder and such liens, rights, powers and remedies shall continue unimpaired as before.

(f) Lender may resort to any security given by this Mortgage or any other security now given or hereafter existing to secure the obligation, in whole or in part, in such portions and in such order and Lender may deem advisable, and no such action shall be construed as a waiver of any other liens, rights or benefits granted hereunder.

(g) Acceptance of any payment after the occurrence of an Event of Default shall not be deemed a waiver or a cure of such Event of Default.

(h) Nothing in this Mortgage, the Note or any other Loan Document shall affect the obligations of Grantors and Borrowers to pay the obligation in the manner and at the time and place herein or therein respectively expressed.

(i) In the event that Lender shall have proceeded to enforce any right or remedy hereunder by foreclosure, entry or otherwise, and such proceeding shall be discontinued, abandoned or determined adversely for any reason, then Grantors, Borrowers and Lender shall be restored to their former positions and rights hereunder with respect to the Property, subject of the lien hereof.

**22.05 WAIVER OF RIGHTS AND DEFENSES.** To the fullest extent Grantors and Borrowers may lawfully do so, Grantors and Borrowers agree with Lender as follows:

(a) Grantors and Borrowers will not at any time, insist on, plead, claim or take the benefit or advantage of any statute or rule of law now or hereafter in force providing for any appraisalment, valuation, extension, moratorium or redemption at or after sale and Grantors

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and Borrowers, for themselves and their heirs, devisees, representatives, successors and assigns, and for any and all persons ever claiming an interest in the Property (other than Lender), hereby waives and releases all rights of redemption at or after sale, valuation, appraisal, notice of intention at to mature or declare due the whole of the indebtedness, and all rights to a marshaling of the assets of Grantors and Borrowers, including the Property, or to a sale in inverse order of alienations, in the event of foreclosure of the liens and security interests created hereunder.

**(b) Grantors and Borrowers shall not have or assert any right under any statute or rule of law pertaining to any of the matters set forth in subsection (a) of this Par. 22.05, to the administration of estates of decedents or to any other matters whatsoever to defeat, reduce or affect any of the rights or remedies of Lender hereunder, including the rights of Lender to the payment of the Obligation out of the proceeds of sale of the Property in preference to any other person. All rights and benefits under any by virtue of the homestead exemption laws of the State of Illinois are expressly released and waived.**

(c) If any statute or rule of law referred to in this Section and now in force, of which Grantors and Borrowers or any of their representatives, successors or assigns and such other persons claiming any interest in the Property might take advantage despite this Paragraph 22 shall hereafter be repealed or cease to be in force, such statute or rule of law shall not thereafter be deemed to preclude the application of this Paragraph 22.

(d) Neither Grantors nor Borrowers shall be relieved or their obligation to pay the obligation at the time and in the manner provided herein and in the Note or any other Loan Document, nor shall the lien or priority of this Mortgage or any other Loan Document be impaired by any of the following actions, non-actions or indulgences of Lender;

(i) any failure or refusal by Lender to comply with any request by Grantors or Borrowers (A) to consent to any action by Grantors or Borrowers or (B) take any action to foreclose this Mortgage or otherwise enforce any of the provisions of any Loan Document;

(ii) any release, regardless of consideration, of the whole or any part of the Property or any other security for the obligation, or any person liable for payment of the obligation;

(iii) any waiver by Lender of compliance by Grantors or Borrowers with any provision of any Loan Document, or consent by Lender to the performance by Grantors or Borrowers of any action which would otherwise be prohibited hereunder or thereunder, or to the failure by Grantors or Borrowers to take any action which would otherwise be required hereunder or thereunder; and

(iv) any agreement or stipulation between Lender renewing, extending or modifying the time of payment or the terms of this Mortgage, the Note or any other

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Loan Document (including a modification of any interest rate), and in any such event Grantors or Borrowers shall continue to be obligated to pay the Obligation at the time and in the manner provided herein and in the Note and Loan Documents, as so renewed, extended or modified, unless expressly released and discharged by Lender.

(e) Regardless of consideration, and without the necessity for any notice to or consent by the holder of any subordinate lien, encumbrance, right, title or interest in or to the Property, Lender may release any person at any time liable for the payment of the Obligation or any portion thereof or any part of the security held for the Obligation and may extend the time of payment or otherwise modify the terms of this Mortgage, the Note and/or any Loan Document, including, without limitation, a modification of the interest rate payable on the principal balance of the Note, without in any manner impairing or affecting this Mortgage or the lien thereof or the priority of this Mortgage, as so extended and modified, as security for the Obligation over any such subordinate lien, encumbrance, right, title or interest. Lender may resort for the payment of the Obligation to any other security held by Lender in such order and manner as Lender, in its discretion may elect. Lender may take action to enforce any covenant hereof or of the Note or any other Loan Document without prejudice to the right of the Lender thereafter to foreclose this Mortgage. Lender shall not be limited exclusively to the rights and remedies herein stated but shall be entitled to every additional right and remedy now or hereafter afforded by law or equity. The rights of Lender under this Mortgage shall be separate, distinct and cumulative and none shall be given effect to the exclusion of the others. No act of Lender shall be construed as an election to proceed under any one provision herein to the exclusion of any other provision.

**22.06 INTEREST AFTER DEFAULT.** Upon the occurrence of an Event of Default, any Obligation then due and owing (including interest to the extent then permitted by applicable law) shall bear interest hereunder at the "Default Rate" which is specified in the Note. Such interest shall be added to and become a part of the Obligation and shall be secured hereby.

**23. WAIVER OF HOMESTEAD AND OTHER RIGHTS.** Grantors and Borrowers hereby waive all homestead or other exemptions to which Grantors and Borrowers would otherwise be entitled under any applicable law.

**24. SATISFACTION.** Upon the payment in full of the Obligations, this Mortgage shall be satisfied of record by Lender. Lender shall have no obligation to release this Mortgage unless all monies due Lender are paid in full.

**25. REIMBURSEMENT OF AMOUNTS EXPENDED BY LENDER.** Upon demand, Grantors and/or Borrowers shall immediately reimburse Lender for all amounts (including attorneys' fees and legal expenses) expended by Lender in the performance of any action required to be taken by Grantors or Borrowers or the exercise of any right or remedy of Lender under this Mortgage, together with interest thereon at the rate of Twenty Five per

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cent (25%) per annum from the date of payment until the date of reimbursement. These sums shall be included in the definition of Obligations herein.

26. **APPLICATION OF PAYMENTS.** All payments made on behalf of Grantors or Borrowers may be applied against amounts paid by Lender (including attorneys' fees and legal expenses) in connection with the exercise of its rights or remedies described in this Mortgage and then to the payment of the remaining Obligations in whatever order Lender chooses.

27. **Intentionally omitted.**

28. **COLLECTION COSTS.** If Lender hires an attorney to assist in collecting any amount due or enforcing any right or remedy under this Mortgage, Grantors and/or Borrowers agree to pay Lender's reasonable attorneys' fees and costs.

29. **PARTIAL RELEASE.** Lender may release its interest in any one (1) parcel of real estate that constitute the Property by executing and recording one or more partial releases without affecting its interest in the remaining portion of the Property. Except as provided in paragraph Twenty Four (24) hereof, nothing herein shall be deemed to obligate Lender to release any of its interest in the Property.

30. **MODIFICATION AND WAIVER.** The modification or waiver of any of Grantors' or Borrowers' Obligations or Lenders rights under this Mortgage must be contained in a writing signed by Lender. Lender may perform any of Grantors' or Borrowers' Obligations or delay or fail to exercise any of its rights without causing a waiver of those Obligations or rights. A waiver on one occasion shall not constitute a waiver on any other occasion. Grantors' or Borrowers' Obligations under this Mortgage shall not be affected if Lender amends, compromises, exchanges, fails to exercise, impairs or releases any of the Obligations of Borrowers or the Grantors, or Borrowers, third party or any of its rights against any Grantors, or third party.

31. **SUCCESSORS AND ASSIGNS.** This Mortgage shall be binding upon and inure to the benefit of Grantors, Borrowers and Lender and their respective successors, assigns, trustees, receivers, administrators, personal representatives, legatees and devisees.

32. **NOTICES.** Any notice of other communication to be provided under this Mortgage shall be in writing and sent to the parties at the addresses described in this Mortgage or such other address as the parties may designate in writing from time to time. Any such notice so given and sent by certified mail, postage prepaid, shall be deemed given three (3) days after such notice is sent and any other such notice shall be deemed given when received by the person to whom such notice is being given.

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Address for Notices:

A. If to the Lender:

Thornwood Partners I, LLC  
5225 W. Touhy Ave., Suite 213  
Skokie, Illinois 60077

copy to:

Marc D. Sherman  
Marc D. Sherman & Associates, P.C.  
3700 W. Devon Avenue, Suite E  
Lincolnwood, Illinois 60712

B. If to Grantor or Borrower:

MMBC INVESTMENTS LLC  
645 Linda Ct.  
Marengo, Illinois 60152

copy to:

Synergy Law Group, LLC  
Attn: Jeremy Whitzman  
730 W. Randolph St., Suite 600  
Chicago, IL 60661

33. **SEVERABILITY.** If any provision of this Mortgage violates the law or is unenforceable, the rest of the Mortgage shall continue to be valid and enforceable.

34. **APPLICABLE LAW.** This Mortgage shall be governed by Illinois law. Grantor(s) and Borrower(s) hereby consent to the jurisdiction and venue of any court located in such state.

35. **MISCELLANEOUS.** Grantors, Borrowers and Lender agree that time is of the essence. Grantors and Borrowers waive presentment, demand for payment, notice of dishonor and protest except as required by law. All references to Grantor in this Mortgage shall include all persons signing below. If there is more than one Grantor, their Obligations shall be joint and several. **Grantors hereby waive any right to trial by jury in any civil action arising out of, or based upon, this Mortgage or the Property securing this Mortgage.** The Mortgage and any related documents represent the complete integrated understanding between Grantors and Lender pertaining to the terms and conditions of those documents.

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36. **ADDITIONAL TERMS.** Wherever the term "Grantor" appears in this Mortgage it shall be deemed to mean "Grantor and Borrower" it being the intention of the parties that Borrower be equally liable, obligated and responsible for the performance of all duties and obligations set forth herein. The terms "Grantor" and "Borrower" shall also be deemed to mean "Grantors" and "Borrowers".

37. **WAIVER OF RIGHT OF REDEMPTION.** Grantors and Borrowers hereby expressly waive any Right of Redemption any or all of them may have pursuant to applicable Statutes of the State of Illinois.

DATED: April 23, 2008

Grantor(s) and Borrower(s) acknowledge that they have read, understand, and agree to the terms and conditions of this Mortgage:

GRANTOR(S):  
MMBC INVESTMENTS LLC, an  
Illinois Limited Liability Company

Matthew H. Aukes  
By: Matthew H. Aukes  
Its: Manager

BORROWER(S):  
MMBC INVESTMENTS LLC, an  
Illinois Limited Liability Company

Matthew H. Aukes  
By: Matthew H. Aukes  
Its: Manager

Borrower Initial: MA

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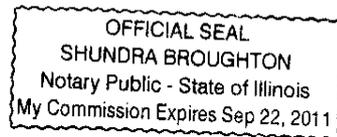
STATE OF ILLINOIS     )  
                                  )  
COUNTY OF COOK     )     SS.

I, Shundra Broughton, a Notary Public, in and for said County, in the State aforesaid, DO HEREBY CERTIFY THAT Matthew Aukes, the Manager of MMBC INVESTMENTS LLC, who is (are) personally known to me to be the same person(s) whose name(s) is (are) subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that they signed and sealed the said instrument as his/her own free and voluntary act, and as the authorized action of such entity, for the uses and purposes set forth herein.

GIVEN under my hand and notarial seal this 23 day of April, 2008.

[Signature]  
\_\_\_\_\_  
Notary Public

My commission expires 9.22.2011.



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## Schedule A

### Legal Description

#### PARCEL 1:

UNIT 1 TOGETHER WITH ITS UNDIVIDED PERCENTAGE INTEREST IN THE COMMON ELEMENTS IN 4442 SOUTH INDIANA CONDOMINIUM AS DELINEATED AND DEFINED IN THE DECLARATION RECORDED AS DOCUMENT 0518234048, AS MAY BE AMENDED FROM TIME TO TIME, IN THE SOUTHWEST ¼ OF SECTION 3, TOWNSHIP 38 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

#### PARCEL 2:

THE EXCLUSIVE RIGHT TO THE USE OF PARKING SPACE P-1, A LIMITED COMMON ELEMENT AS DELINEATED ON THE SURVEY ATTACHED TO THE DECLARATION AFORESAID RECORDED AS DOCUMENT NUMBER 0518234048.

**Common Address: 4442 SOUTH INDIANA AVE., UNIT 1, CHICAGO, ILLINOIS**

**PIN: 20-03-308-036-1003**

## Schedule B

### Permitted Title Exceptions

General Real Estate Taxes For The Year 2007[2d installment] (not yet due and payable) and Provisions, Conditions, Limitations, Restrictions and Option created by the Declaration of Condominium Recorded 07/01/2005 as Document No. 0518234048 in Cook County, Illinois

#### **Mail Recorded Document to:**

Thornwood Partners I, LLC  
5225 W. Touhy Ave., Suite 213  
Skokie, Illinois 60077

#### **Document Prepared by:**

Marc D. Sherman  
3700 W. Devon Avenue, Ste. E  
Lincolnwood, Illinois 60712  
847 674 8756 x200

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