

# UNOFFICIAL COPY

## Illinois Anti-Predatory Lending Database Program

### Certificate of Exemption



Doc#: 0922403094 Fee: \$58.00  
Eugene "Gene" Moore RHSP Fee:\$10.00  
Cook County Recorder of Deeds  
Date: 08/12/2009 04:07 PM Pg: 1 of 12

**Report Mortgage Fraud**  
**800-532-8785**

The property identified as: **PIN:** 32-07-202-049-0000

**Address:**

**Street:** 4 Giana

**Street line 2:**

**City:** Flossmoor

**State:** IL

**ZIP Code:** 60422

**Lender:** Harris, NA

**Borrower:** Diane Hasty, as Trustee under Trust Agreement dated May 17, 1995 & known as the Diane Hasty Living Trust

**Loan / Mortgage Amount:** \$600,000.00

This property is located within Cook County and the transaction is exempt from the requirements of 765 ILCS 77/70 et seq. because the application was taken by an exempt entity.

**Certificate number:** 305C4140-587F-4B14-BAB2-C2C70FDE05EB

**Execution date:** 06/24/2009

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This instrument was prepared by and  
when recorded mail to:

Daniel W. Baker, Esq.  
Chapman and Cutler LLP  
111 West Monroe Street  
Chicago, Illinois 60603

67720-2 AC1

SPACE ABOVE THIS LINE RESERVED FOR RECORDER'S  
USE ONLY

**MORTGAGE**

**NOTICE: THIS INSTRUMENT SECURES FUTURE ADVANCES UNDER  
A REVOLVING CREDIT FACILITY THE PRIORITY OF WHICH DATE  
TO THE RECORDING DATE HEREOF.**

THIS MORTGAGE, made June 24, 2009, between Diane Hasty, as Trustee under Trust Agreement dated May 17, 1995 & known as the Diane Hasty Living Trust, c/o Diane Hasty of 4 Gianna, Flossmoor, Illinois 60422 (herein referred to collectively as "*Mortgagor*") and Harris N.A., a national banking association, with an address of 111 West Monroe Street, Chicago, Illinois 60603 (herein referred to as "*Mortgagee*");

**WITNESSETH THAT:**

WHEREAS, TriStar Real Estate Holdings, L.L.C., an Alabama limited liability company ("*TriStar*") is justly and truly indebted to Mortgagee in the principal sum of Six Hundred Thousand and 00/100 Dollars (\$600,000.00) as evidenced by that certain Promissory Note dated as of June 13, 2007 and payable to the order of Mortgagee whereby TriStar promises to pay said principal sum together with interest thereon prior to maturity at the rate per annum equal to 8.20% (and after maturity until paid at the rate per annum determined by adding 3% to the rate applicable thereto at such maturity) at the times therein provided, with a final maturity of all principal and interest not required to be sooner paid of June 30, 2012 (the "*TriStar Note*"); and

WHEREAS, Best - Foam Fabricators, Inc., an Illinois corporation ("*Best - Foam*"), has entered into with Mortgagee that certain Credit Agreement dated as of March 27, 2007, as amended from time to time, by and between Best - Foam and Mortgagee (the "*Credit Agreement*") which Mortgagee has committed, subject to certain terms and conditions, to make various loans and financial accommodations available to Best - Foam; and

WHEREAS, such loans and financial accommodations subject to the terms of the Credit Agreement include, without limitation, that certain (i) term loan evidenced by a Term Note of Best - Foam dated as of March 27, 2007 in the original principal amount of \$1,600,000 payable to the order of and delivered to Mortgagee, bearing interest at the rate and maturing as provided

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in the Credit Agreement, with a final payment of the balance due on March 31, 2012 (the "*Term Note*"), and (ii) revolving credit facility evidenced by a Revolving Note of Best - Foam dated as of December 1, 2008 in the original principal amount of \$1,230,000 payable to the order of and delivered to Mortgagee, bearing interest at the rate and maturing as provided in the Credit Agreement, with a final payment of the balance due on April 30, 2009 (the "*Revolving Note*"); and the TriStar Note, the Term Note, the Revolving Note, and any and all notes issued in substitution or replacement therefor or in extension or renewal thereof, in each case whether in whole or in part, as any of the foregoing may from time to time be modified or amended, being hereinafter referred to individually as a "*Note*" and collectively as the "*Notes*"; and

WHEREAS, pursuant to the terms of the Credit Agreement, Mortgagee may from time to time issue letters of credit (the "*Letters of Credit*") for the account of Best - Foam with expiry dates on or before April 30, 2009 in an aggregate face amount which, when combined with the principal amount of revolving loans made under and pursuant to such revolving credit facility as evidenced by the Revolving Note from time to time, shall not at any one time exceed \$1,230,000; and

WHEREAS, Best - Foam may from time to time enter into one or more agreements with respect to, among other things, interest rate, foreign currency and/or commodity exchange, swap, cap, collar, floor, forward, option or other similar agreements with Mortgagee, or its affiliates, for the purpose of hedging or otherwise protecting against interest rate, foreign currency and/or commodity exposure (such agreements as the same may be amended or modified from time to time being hereinafter referred to as "*Hedging Agreements*" and the liability of Best - Foam in respect of such Hedging Agreements being hereinafter referred to as "*Hedging Liability*"); and

WHEREAS, Mortgagee has required that Mortgagor guaranty any and all indebtedness, obligations and liabilities of TriStar and Best - Foam to Mortgagee, including but not limited to the Notes, pursuant to those certain Guaranty agreements dated March 27, 2007 and June 13, 2007 (such Guaranty agreements together with any additional guaranty agreements made by Mortgagor in favor of Mortgagee and any guaranty agreements provided in substitution of or replacement for such Guaranty agreements are individually referred to as a "*Guaranty Agreement*" and collectively referred to as the "*Guaranty Agreements*");

WHEREAS, as a condition precedent to maintaining the loans and financial accommodations available to TriStar and Best - Foam under the Notes and the Credit Agreement, Mortgagee has required, among other things, that Mortgagor grant to Mortgagee a lien on and security interest in certain real and personal properties of Mortgagor as collateral security for the Notes, the Credit Agreement, the Hedging Agreements and the Guaranty Agreements, and related obligations, pursuant to this Mortgage and various other instruments and documents; and

WHEREAS, Mortgagor will benefit, directly or indirectly, from the continued credit and other financial accommodations extended and maintained by Mortgagee to TriStar and Best - Foam;

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NOW, THEREFORE, in order to secure (i) the prompt payment and performance of the TriStar under the TriStar Note, (ii) the prompt payment and performance of Best - Foam under the Credit Agreement, the Revolving Note, and the Term Note, (iii) the payment of all sums due or owing by Best - Foam with respect to the Hedging Liability, (iv) the payment and performance of all obligations arising under any applications executed by Best - Foam in connection with any of the Letters of Credit, including the obligation of Best - Foam to reimburse Mortgagee for any draws under the Letters of Credit, (v) the prompt payment and performance of all obligations of Mortgagor under the Guaranty Agreements, (vi) payment of all other sums at any time due or owing from or required to be paid by Mortgagor under the terms of this Mortgage as supplemented, and the performance and observance of all the covenants and agreements in this Mortgage as supplemented provided to be performed or observed by Mortgagor, and (vii) the performance and observance of the covenants and agreements contained in this Mortgage, the Credit Agreement, the Notes, the Hedging Agreements, the Guaranties and any other instrument or document securing any of the foregoing or setting forth terms and conditions applicable thereto (all of such indebtedness, obligations and liabilities referred to in the immediately foregoing clauses (i), (ii), (iii), (iv), (v), (vi) and (vii) being hereinafter collectively referred to as the "*indebtedness hereby secured*"), Mortgagor does by these presents MORTGAGE, GRANT, CONVEY AND WARRANT unto Mortgagee, and Mortgagee's successors and assigns, the real estate lying and being in the County of Cook in the State of Illinois, more particularly described in Schedule C attached hereto and made a part hereof, together with all improvements, tenements, easements, fixtures, and appurtenances thereto belonging, and all rents, issues and profits thereof for so long and during all such times as Mortgagor may be entitled thereto (which are pledged primarily and on a parity with said real estate and not secondarily) and all apparatus, equipment or articles now or hereafter therein or thereon used to supply heat, gas, air conditioning, water, light, power, refrigeration (whether single units or centrally controlled), and ventilation, including (without restricting the foregoing), screens, window shades, storm doors and windows, floor coverings, awnings, stoves and water heaters. All of the foregoing are declared to be a part of said real estate whether physically attached thereto or not, and it is agreed that all similar apparatus, equipment or articles hereafter placed in the premises by Mortgagor or their successors or assigns shall be considered as constituting part of the real estate.

TO HAVE AND TO HOLD the premises unto Mortgagee, and Mortgagee's successors and assigns, forever, for the purposes, and upon the uses herein set forth, free from all rights and benefits under and by virtue of the Homestead Exemption Laws of the State of Illinois, which said rights and benefits Mortgagor does hereby expressly release and waive.

The name of a record owner is Diane Hasty, as Trustee under Trust Agreement dated May 17, 1995 & known as the Diane Hasty Living Trust.

It is expressly understood and agreed that the indebtedness hereby secured will in no event exceed \$6,860,000.00 (the "*maximum indebtedness hereby secured*").

Mortgagor hereby covenants and agrees with Mortgagee as follows:

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1. Mortgagor shall (1) promptly repair, restore or rebuild any buildings or improvements now or hereafter on the premises which may become damaged or be destroyed; (2) keep said premises in good condition and repair, without waste, and free from mechanic's or other liens or claims for lien not expressly subordinated to the lien thereof; (3) pay when due any indebtedness which may be secured by a lien or charge on the premises superior to the lien hereof, and upon request exhibit satisfactory evidence of the discharge of such prior lien to Mortgagee; (4) complete within a reasonable time any building or buildings now or at any time in process of erection upon said premises; (5) comply with all requirements of law or municipal ordinances with respect to the premises and the use thereof; (6) pay, when due, all dues and assessments and perform all obligations imposed pursuant to documents relating to the creation and/or governance of the condominium project; and (6) make no material alterations in said premises except as required by law or municipal ordinance.

2. Mortgagor shall pay before any penalty attaches all general taxes, and shall pay special taxes, special assessments, water charges, sewer service charges, and other charges against the premises when due, and shall, upon written request, furnish to Mortgagee duplicate receipts therefor. To prevent default hereunder Mortgagor shall pay in full under protest, in the manner provided by statute, any tax or assessment which Mortgagor may desire to contest.

3. In the event of the enactment after this date of any law of Illinois deducting from the value of land for the purpose of taxation any lien thereon, or imposing upon Mortgagee the payment of the whole or any part of the taxes or assessments or charges or liens herein required to be paid by Mortgagor, or changing in any way the laws relating to the taxation of mortgages or debts secured by mortgages or Mortgagee's interest in the property, or the manner of collection of taxes, so as to affect this Mortgage or the indebtedness hereby secured or the holder thereof, then, and in any such event, Mortgagor, upon demand by Mortgagee, shall pay such taxes or assessments, or reimburse Mortgagee therefor; *provided, however*, that if in the opinion of counsel for Mortgagee (a) it might be unlawful to require Mortgagor to make such payment or (b) the making of such payment might result in the imposition of interest beyond the maximum amount permitted by law, then, and in such event, Mortgagee may elect, by notice in writing given to Mortgagor, to declare all of the indebtedness hereby secured to be and become due and payable sixty (60) days from the giving of such notice.

4. If, by the laws of the United States of America or of any state having jurisdiction in the premises, any tax is due or becomes due in respect of the issuance of any Note hereby secured, Mortgagor covenants and agrees to pay such tax in the manner required by any such law. Mortgagor further covenants to hold harmless and agrees to indemnify Mortgagee, and Mortgagee's successors or assigns, against any liability incurred by reason of the imposition of any tax on the issuance of any Note or the Credit Agreement or any Hedging Agreement or any Guaranty Agreement secured hereby.

5. Mortgagor shall keep all buildings and improvements now or hereafter situated on said premises insured against loss or damage by fire, lightning and windstorm under policies providing for payment by the insurance companies of moneys sufficient either to pay the cost of replacing or repairing the same or to pay in full the indebtedness hereby secured, all in companies satisfactory to Mortgagee, under insurance policies payable, in case of loss or

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damage, to Mortgagee, such rights to be evidenced by the standard mortgage clause to be attached to each policy, and shall deliver all policies, including additional and renewal policies, to Mortgagee, and in case of insurance about to expire, shall deliver renewal policies not less than ten days prior to the respective dates of expiration.

6. In case of default therein, Mortgagee may, but need not, make any payment or perform any act hereinbefore required of Mortgagor in any form and manner deemed expedient, and may, but need not, make full or partial payments of principal or interest on prior encumbrances, if any, and purchase, discharge, compromise or settle any tax lien or other prior lien or title or claim thereof, or redeem from any tax sale or forfeiture affecting said premises or contest any tax or assessment. All moneys paid for any of the purposes herein authorized and all expenses paid or incurred in connection therewith, including attorney's fees, and any other moneys advanced by Mortgagee to protect the mortgaged premises and the lien hereof, shall be so much additional indebtedness hereby secured and shall become immediately due and payable without notice and with interest thereon at the highest rate now permitted by Illinois law. Inaction of Mortgagee shall never be considered as a waiver of any right accruing to Mortgagee on account of any default hereunder on the part of Mortgagor.

7. Mortgagee making any payment hereby authorized relating to taxes or assessments may do so according to any bill, statement or estimate procured from the appropriate public office without inquiry into the accuracy of such bill, statement or estimate or into the validity of any tax, assessment, sale, forfeiture, tax lien or title or claim thereof.

8. The indebtedness hereby secured will be promptly paid as and when the same becomes due. Any one of the following shall constitute an event of default hereunder:

(a) default in making payment when due (whether by lapse of time, acceleration or otherwise) of any installment of principal or interest on any Note or any payment or performance under the Credit Agreement, any Hedging Agreement or any Guaranty Agreement or any other indebtedness hereby secured; or

(b) any event occurs or condition exists which is specified as an "Event of Default" under the Credit Agreement, any Note, any Hedging Agreement or any Guaranty Agreement.

9. When any event of default hereunder has happened and is continuing (regardless of the pendency of any proceeding which has or might have the effect of preventing Mortgagor from complying with the terms of this Mortgage and of the adequacy of the security for the Notes or any other indebtedness hereby secured) and in addition to such other rights as may be available under applicable law, but subject at all times to any mandatory legal requirements, Mortgagee shall have the right to foreclose the lien hereof. In any suit to foreclose the lien hereof, there shall be allowed and included as additional indebtedness in the decree for sale all expenditures and expenses which may be paid or incurred by or on behalf of Mortgagee for attorneys' fees, appraiser's fees, outlays for documentary and expert evidence, stenographers' charges, publication costs and costs (which may be estimated as to items to be expended after entry of the decree) of procuring all such abstracts of title, title searches, and examinations, title

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insurance policies, and similar data and assurances with respect to title as Mortgagee may deem to be reasonably necessary either to prosecute such suit or to evidence to bidders at any sale which may be had pursuant to such decree the true condition of the title to or the value of the premises. All reasonable expenditures and expenses of the nature in this paragraph mentioned shall become so much additional indebtedness hereby secured and immediately due and payable, with interest thereon at the highest rate now permitted by Illinois law, when paid or incurred by Mortgagee in connection with (a) any proceeding, including probate and bankruptcy proceedings, to which Mortgagee shall be a party, either as plaintiff, claimant or defendant, by reason of this Mortgage or any indebtedness hereby secured; or (b) preparations for the commencement of any suit for the foreclosure hereof after accrual of such right to foreclose whether or not actually commenced; or (c) preparations for the defense of any actual or threatened suit or proceeding which might affect the premises or the security hereof.

10. The proceeds of any foreclosure sale of the premises shall be distributed and applied in the following order of priority: First, on account of all costs and expenses incident to the foreclosure proceedings, including all such items as are mentioned in the preceding paragraph hereof; second, all other items which under the terms hereof constitute indebtedness hereby secured, with interest thereon as herein provided; third, any overplus to Mortgagor, their heirs, legal representatives or assigns, as their rights may appear.

11. Upon or any time after the filing of a complaint to foreclose this Mortgage, the court in which such complaint is filed may appoint receiver of said premises. Such appointment may be made either before or after the sale, without notice, without regard to the solvency or insolvency of Mortgagor at the time of application for such receiver and without regard to the then value of the premises or whether the same shall be then occupied as a homestead or not, and Mortgagee may be appointed as such receiver. Such receiver shall have power to collect the rents, issues and profits of said premises during the pendency of such foreclosure suit and, in case of a sale and a deficiency, during the full statutory period of redemption, whether there be redemption or not, as well as during any further times when Mortgagor, except for the intervention of such receiver, would be entitled to collect such rents, issues and profits, and all other powers which may be necessary or are usual in such cases for the protection, possession, control, management and operation of the premises during the whole of said period. Such court from time to time may authorize the receiver to apply the net income in his hands in payment in whole or in part of: (1) the indebtedness hereby secured, or by any decree foreclosing this Mortgage, or any tax, special assessment or other lien which may be or become superior to the lien hereof or of such decree, *provided* such application is made prior to foreclosure sale, and (2) the deficiency in case of a sale and deficiency.

12. No action for the enforcement of the lien or of any provision hereof shall be subject to any defense which would not be good and available to the party interposing same in an action at law upon the Credit Agreement, any Hedging Agreement, any Guaranty Agreement or any Note hereby secured.

13. Mortgagee shall have the right to inspect the premises at all reasonable times and access thereto shall be permitted for that purpose.

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14. Mortgagee, without notice to anyone, and without regard to the consideration, if any, paid therefor, or the presence of other liens on the premises, may in its discretion release any part of the premises or any person liable for any of the indebtedness hereby secured, may extend the time of payment of any of the indebtedness hereby secured and may grant waivers or other indulgences with respect hereto and thereto, and may agree with Mortgagor to modifications to the terms and conditions contained herein or otherwise applicable to any of the indebtedness hereby secured (including modifications in the rates of interest applicable thereto), without in any way affecting or impairing the liability of any party liable upon any of the indebtedness hereby secured or the priority of the lien of this Mortgage upon all of the premises not expressly released, and any party acquiring any direct or indirect interest in the premises shall take same subject to all of the provisions hereof.

15. Mortgagor acknowledges and agrees that the lien and security interest hereby created and provided for are absolute and unconditional and shall not in any manner be affected or impaired by any acts or omissions whatsoever of Mortgagee or any other holder of any of the indebtedness hereby secured, and without limiting the generality of the foregoing, the lien and security hereof shall not be impaired by any acceptance by Mortgagee or any other holder of any of the indebtedness hereby secured of any other security for or guarantors upon any of the indebtedness hereby secured or by any failure, neglect or omission on the part of Mortgagee or any other holder of any of the indebtedness hereby secured to realize upon or protect any of the indebtedness hereby secured or any collateral or security therefor. The lien and security interest hereof shall not in any manner be impaired or affected by (and Mortgagee, without notice to anyone, is hereby authorized to make from time to time) any sale, pledge, surrender, compromise, settlement, release, renewal, extension, indulgence, alteration, substitution, exchange, change in, modification or disposition of any of the indebtedness hereby secured, or of any collateral or security therefor, or of any guaranty thereof, or of any instrument or agreement setting forth the terms and conditions pertaining to any of the foregoing. In order to realize hereon and to exercise the rights granted Mortgagee hereby and under applicable law, there shall be no obligation on the part of Mortgagee or any other holder of any of the indebtedness hereby secured at any time to first resort for payment to either TriStar or Best - Foam or to any guaranty of any of the indebtedness hereby secured or any portion thereof or to resort to any other collateral, security, property, liens or any other rights or remedies whatsoever, and Mortgagee shall have the right to enforce this Mortgage irrespective of whether or not other proceedings or steps seeking resort to or realization upon or from any of the foregoing are pending.

16. The lien and security interest herein created and provided for stand as direct and primary security for the Notes as well as for any of the other indebtedness hereby secured. No application of any sums received by Mortgagee in respect of the premises or any disposition thereof to the reduction of the indebtedness hereby secured or any part thereof shall in any manner entitle Mortgagor to any right, title or interest in or to the indebtedness hereby secured or any collateral or security therefor, whether by subrogation or otherwise, unless and until all indebtedness hereby secured has been fully paid and satisfied and any commitment of Mortgagee to extend credit to Mortgagor or to TriStar or to Best - Foam shall have expired.



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17. Mortgagee shall release this Mortgage and lien thereof by proper instrument upon payment and discharge of all indebtedness hereby secured and payment of a reasonable fee to Mortgagee for the execution of such release.

18. This Mortgage is given to secure, among other things, a revolving credit facility and shall secure not only presently existing indebtedness but also future advances as are made within twenty (20) years from the date hereof, to the same extent as if such future advances were made on the date of the execution of this Mortgage, although there may be no advance made at the time of execution of this Mortgage and although there may be no indebtedness hereby secured outstanding at the time any advance is made. The lien of this Mortgage shall be valid as to all indebtedness hereby secured, including future advances, from the time of its filing for record in the recorder's or registrar's office of the county in which the premises are located. This Mortgage shall be valid and have priority over all subsequent liens and encumbrances, including statutory liens, excepting solely taxes and assessments levied on the premises, to the extent such amount shall not exceed the maximum indebtedness hereby secured.

19. If all or any part of the premises or any interest in it is sold or transferred without Mortgagee's prior written consent, Mortgagee may, at its option, require immediate payment in full of the indebtedness hereby secured. However, this option shall not be exercised by Mortgagee if exercise is prohibited by federal law as of the date of this Mortgage. If Mortgagee exercises this option, Mortgagee shall give Mortgagor notice of acceleration. The notice shall provide a period of not less than 30 days from the date the notice is delivered or mailed within which Mortgagor must pay all indebtedness hereby secured. If Mortgagor fails to pay the sums due prior to the expiration of this period, Mortgagee may invoke any remedies permitted by this Mortgage without further notice or demand on Mortgagor.

20. This mortgage and all provisions hereof shall extend to and be binding upon Mortgagor and all persons claiming under or through Mortgagor, and the word "Mortgagor" when used herein shall include all such persons and all persons liable for the payment of the indebtedness or any part thereof, whether or not such persons shall have executed a Note, any Guaranty Agreement or this Mortgage. The word "Mortgagee" when used herein shall include the successors and assigns of Mortgagee named herein and the holder or holders, from time to time, of the Notes secured hereby.

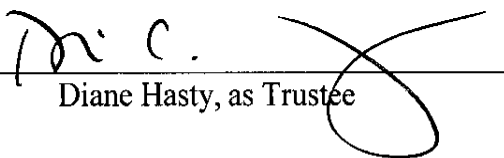
21. Mortgagor acknowledges and agrees that the indebtedness hereby secured constitutes indebtedness incurred for a business purpose and not for personal, family or household purposes.

[SIGNATURE PAGE TO FOLLOW]

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Witness the hand of Mortgagor the day and year first above written.

DIANE HASTY LIVING TRUST

By   
Diane Hasty, as Trustee

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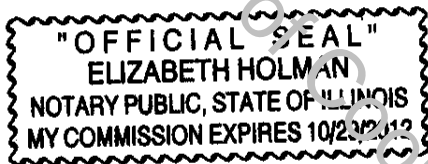
State of Illinois, County of Cook ) ss.

IMPRESS  
SEAL  
HERE

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Diane Hasty 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 she signed, sealed and delivered the said instrument as her free and voluntary act, for the uses and purposes therein set forth.

Given under my hand and official seal, this 24~~th~~ day of June, 2009.

Commission expires 10/29/12. Elizabeth Holman  
Notary Public



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## SCHEDULE I

### LEGAL DESCRIPTION

LOT 1 IN FLOSSMOOR'S BUTTERFIELD POINTE UNIT III BEING A SUBDIVISION OF BUTTERFIELD POINTE UNITS I AND II, SUBDIVISIONS OF PART OF THE SOUTH 1/2 OF THE NORTHEAST 1/4 OF SECTION 7, TOWNSHIP 35 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY.

P.I.N.: 32-07-202-049-0000

Commonly known as: 4 Gianna, Flossmoor, Illinois 60422

Property of Cook County Clerk's Office