

UNOFFICIAL COPY

Facsimile memorandum of
Contract
Articles of Agreement
For Sale of Improved
Real Estate For
Purposes of Recording



Doc#: 1010312144 Fee: \$64.00
Eugene "Gene" Moore RHSP Fee: \$10.00
Cook County Recorder of Deeds
Date: 04/13/2010 11:13 AM Pg: 1 of 15

After Recording Return To:
John Conway Esq.
Sullivan Hincks & Conway
120 West 22nd Street #100
Oak Brook, IL 60523

PIN: 06-13-403-020-0000
LEGAL:

PARCEL 1:

LOT 2 IN STREAMWOOD CAR CARE CENTER RESUBDIVISION OF LOT 2 IN T.H.P. COMMERCIAL PARK, BEING A SUBDIVISION OF PART OF THE SOUTHEAST ¼ OF SECTION 13, TOWNSHIP 41 NORTH, RANGE 9, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED SEPTEMBER 11, 1995 AS DOCUMENT 95604386, IN COOK COUNTY, ILLINOIS

PARCEL 2:

A PERPETUAL NON-EXCLUSIVE EASEMENT IN FAVOR OF PARCEL 1 FOR PEDESTRIAN AND VEHICULAR MOVEMENT, INGRESS AND EGRESS FOR PASSAGE OF MOTOR VEHICLES (EXCEPT FOR VEHICLES IN EXCESS OF ONE TON IN GROSS WEIGHT) INTO, OUT OF, ON, OVER AND ACROSS ALL ROADWAYS WITHIN THE COMMON AREA AS DEFINED WITHIN DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS WITH GRANT OF EASEMENTS RECORDED AS DOCUMENT NO. 89340318.

This instrument was prepared by, and after recording should be returned to:

John Conway, Esq.
Sullivan Hincks & Conway
122 West 22nd Street, Suite 100
Oak Brook, IL 60523
(630) 573-5021

P.N.T.N.

10/15

UNOFFICIAL COPY

ARTICLES OF AGREEMENT FOR SALE OF IMPROVED REAL ESTATE

These Articles of Agreement for Sale of Improved Real Estate ("Agreement") made and entered into this 20th day of March, 2010 by and between Bill Loumbardias and Wash Werks Enterprises, LLC, an Illinois limited liability company ("Seller") and Gary Patel and Hemin Patel and Bharat Ram, Inc., an Illinois corporation, jointly and severally ("Buyer") upon the terms and conditions set forth herein. When provisions herein apply to both or either Seller and Buyer, they sometimes are referred to as "Parties" or "Party."

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

1. Purchase and Sale. Seller hereby agrees to sell to, and Buyer hereby agrees to purchase, for the price and on the terms and conditions contained herein, the following real estate (hereinafter "Property") and personal property:

A. Real estate commonly known as 4 North Barrington Road, Streamwood, IL 60107, as more particularly described in Exhibit "A" the legal description of which is set forth on Exhibit A attached hereto and made a part hereof, together with improvements consisting of a car wash and related improvements.

B. Personal property: all personal property and equipment and inventory used in the general operation of the car wash.

2. Purchase Price. The purchase price is \$1,130,000.00, which Buyer shall pay in the following manner:

A. \$230,000.00 upon the execution of this Agreement by cashier's or certified check, which shall be non-refundable.

B. The balance of \$900,000.00 payable as follows

(1) Buyer's payment of Seller's first mortgage in the principal sum of **\$654,000** ("Seller's Mortgage") to be evidenced by a payoff statement from Seller's lender and a payment schedule. Buyer shall make a monthly payment directly to the mortgagee of Seller's Mortgage in the sum of Eight Thousand Six Hundred Eleven and 94/100 (\$8,611.94) per month on the first (1st) of each month from April 1, 2010 through and including January 1, 2013, unless sooner paid, with a balloon payment on or before January 26, 2013 of all amounts then remaining unpaid. The Seller shall not cause the principal amount of the Seller's Mortgage to be increased. Buyer shall cause the Seller's Mortgage to be paid in full on or before January 26, 2013. Attached hereto as Exhibit B is the payment schedule related to the Buyer's payment of the Seller's Mortgage. It is expressly understood and agreed that the monthly payment of \$8,611.94 includes the payment of real estate taxes. In the event that there is a reduction in the monthly payment of the Seller's Mortgage because of a reduction in the real estate taxes payable or otherwise, the monthly payment as set forth in this section shall be reduced accordingly. The monthly payment of principal and interest is \$5,311.94.

UNOFFICIAL COPY

(2) Buyer's execution of a promissory note (the "Note") in favor of the Seller in the sum of \$246,000, amortized over twenty years at a fixed interest rate of .083 per annum (8.3%). Attached hereto as Exhibit C is that amortization schedule of this Note. Buyer shall pay the Note to Seller by making equal monthly installments of \$2,103.81 commencing on April 1, 2010 and a balloon payment of the remaining unpaid amounts on or before January 26, 2013.

C. The amount of the Seller's Mortgage and the Note may be prepaid in whole or in part at any time and from time to time without penalty.

3. Present Liens and Encumbrances. (a) General taxes for 2009 not yet due and owing (Seller hereby represents that the first installment payment for the 2009 real estate taxes is paid and no other taxes are delinquent or sold for non-payment); (b) mortgage of record with respect to Seller's Mortgage originally securing a note in the amount of \$760,000 to Oxford Bank and Trust with a current principal balance of \$654,000. Seller represents that the Seller's Mortgage is not in default and that Seller is current with all payments due under Seller's Mortgage; (c) acts done or suffered by Buyer; and (d) the rights, if any, of the public in any portion of the Property, which may fall within any public street, way, or alley adjacent or contiguous to the Property.

4. Prorations. Insurance premiums of assignable insurance policies; general real estate taxes; fuel; gas; electricity; water; and other customary items will be prorated, if applicable at the Initial Closing. Tax prorations shall be made on the basis of the last ascertainable tax bill. The insurance, utilities, real estate taxes and similar items shall be re-rated upon receipt of the final tax bill(s) for the year(s) involved, and shall be adjusted in cash within 10 days from issuance of such bill(s).

5. Title and Closing.

A. Seller, prior to the Initial Closing, shall deliver or cause to be delivered to Buyer, at Seller's cost, the following:

(1) Existing Plat of Survey of the Property by a licensed surveyor showing the present location of the improvements thereto and no encroachments thereon; and

(2) Title insurance commitment from Chicago Title Insurance Company or other title insurance company for a title insurance policy in the amount of the purchase price insuring Buyer's interest as a contract purchaser of the Property, subject only to the title exceptions described in Section 3, and to liens or encumbrances of a definite or ascertainable amount which may be removed by the payment of money at the time of the Initial Closing, and which shall be removed by Seller at the time of such closing (such exceptions, liens and encumbrances collectively referred to herein as "permitted exceptions"). Seller shall be required to pay for only one title policy. Buyer will notify Seller whether it wants the title policy at the time of the Initial Closing or upon recording of the deed. Seller shall also deliver to the Title Company and to Buyer such certificates of incumbency and evidence of corporate authority for the execution and delivery of this Agreement and all documents required hereunder in such

UNOFFICIAL COPY

form and content as the Title Company and Buyer reasonably may require; and deliver such other standard closing documents as may be required by state, federal or local authorities, including W-9 forms, and certificate of non-foreign status.

B. (1) At least 5 days prior to the Initial Closing defined below, a joint direction escrow (the "Escrow" as attached as Exhibit D) shall be entered into contemporaneously with such Initial Closing, into which: Seller shall deposit (i) a Bill of Sale conveying title to the personal property listed in Section 1B, and (ii) a Warranty Deed conveying the Property to Buyer or Buyer's nominee. Seller and Buyer shall jointly deposit a copy of this Agreement; and which shall provide that upon Buyer's depositing in the escrow evidence of payment to the Seller of all sums due under Section 2, Buyer shall be entitled to recording of the aforesaid Warranty Deed and to delivery of the aforesaid Bill of Sale from the Escrow.

(2) From and after the Initial Closing, and for so long as Buyer shall not be in default hereunder, Buyer shall be entitled to possession of the Property.

C. Seller warrants that no party in possession, no contractor who has furnished labor or materials, and no other person has any right, title, interest, lien, claim or charge against the Property except as is specifically disclosed in Section 3 hereof or in any of the title commitment. Such warranty shall survive closing and delivery of possession.

D. Closings. The Initial Closing shall occur within fourteen (14) days of the execution hereof ("Initial Closing"). The final closing shall occur if and when all covenants and conditions herein to be performed by Buyer have been so performed and all payments due hereunder have been paid by Buyer. Final Closing shall occur on the third anniversary of the Initial Closing pursuant to the terms hereof (hereinafter "Final Closing"). Any unpermitted title exceptions attributable to Seller shall be removed by Seller prior to the Final Closing.

E. The Parties shall each pay one-half of escrow fees and Seller and Buyer shall pay one half of all other closing costs, including, without limitation, recording fees. Seller shall pay any transfer taxes as of the Closing Date exclusive of any transfer taxes imposed with respect to any mortgage or deed of trust placed on the Property as part of Buyer's financing of the acquisition of the Property. Each Party shall bear its own attorneys' fees in connection with the transaction contemplated by this Agreement. Buyer shall bear any sales tax imposed on the sale of equipment by Seller to Buyer.

6. Inventory. At the Initial Closing, Buyer shall also purchase from Seller the useable inventory of the car wash calculated at one dollar and 00/100.

7. Buyer Obligations. Buyer covenants and agrees as follows:

A. To make the installment payments noted in Section 2 in the amounts and in the manner herein provided.

B. To pay all general taxes attributable to the property after the date of closing, and all special assessments levied against the Property after the date hereof. All such payments or installments thereof shall be made on or before the date on which the same may

UNOFFICIAL COPY

respectively from time to time be paid without penalty and receipts therefore or other evidence satisfactory to Seller showing payment thereof shall be given to Seller.

C. To keep the buildings and improvements on the Property in at least as good repair as at the time possession thereof shall have been delivered to Buyer, (reasonable wear and tear expected) and, in the event of any damage occasioned by fire or other casualty, to rebuild or restore all buildings or improvements on the Property that may have been destroyed or damaged within one hundred eighty (180) days after destruction or damage thereof unless prevented by strikes, lockouts, rules and regulations of any governmental bodies or agencies, acts of God, or for other reasons beyond the control of Buyer, to substantially their condition immediately before the casualty.

D. To deposit with Seller in an escrow fund or directly to Seller's Mortgage lender or to Seller as Seller may direct, on the due date of each monthly payment date of principal and interest, an additional amount equal to 1/12th of the last ascertainable real estate tax bill and 1/12th of Seller's estimate of the annual costs of insuring the Property. Said fund shall be used, so far as it will reach, to pay real estate taxes when the bills are issued and to renew or increase insurance as required hereunder.

E. To keep all personal property which is included in this contract in at least as good repair as at the time possession thereof shall have been delivered to Buyer, and to replace the same as is required from time to time with similar items, unencumbered and fully paid for.

F. To keep, as its own cost and expense, all improvements at any time on the Property insured against loss by fire and extended coverage policies with companies acceptable to Seller (such approval not to be unreasonably withheld), to the full insurable value thereof, written in the name of Seller and Buyer as an additional insured with suitable loss clauses attached making a loss, if any, payable to Seller and Buyer, as their interests may appear; and to deliver all such policies to Seller. So long as this Agreement is not in default, Buyer shall have the right to use all of the proceeds of insurance for the purpose of rebuilding the improvements to such conditions as existed prior to the loss by use of insurance proceeds to be advanced from time to time by the insurer during such reconstruction. If the proceeds of the insurance when collected are not sufficient to pay in full the expense of such restoring, rebuilding or repairing the Property, then the proceeds shall be used for such purpose only if the Buyer shall, within 60 days after the damage shall have occurred, deposit with the Seller additional funds which, together with the proceeds of the insurance monies, shall be sufficient to pay in full such expenses of said restoring, rebuilding or repairing the said premises, free of mechanic's liens, and if the Buyer shall fail to deposit such additional funds within said 60 day period, or, having deposited such funds shall fail to carry on or complete such restoration, rebuilding or such repairs within reasonable dispatch, then upon such failure, the Seller may apply the proceeds of the insurance monies to the indebtedness owing hereunder. Any restoration, rebuilding or repairs not as a result of a fire or any other kind of loss hereunder shall be done only in accordance with Paragraph 8 and the provisions of this contract

G. To procure, carry and maintain general liability insurance (sometimes known as owner's, landlord's and tenant's public liability insurance) in companies acceptable to

UNOFFICIAL COPY

Seller (such approval not to be unreasonably withheld), indemnifying and insuring Seller to the extent hereinafter specified against all loss or damage which may result to Seller from any accident or casualty whatsoever, whereby any person or persons may be injured or killed or the property of any person or persons damaged, in or about the Property. Said policy or policies of insurance shall indemnify Seller to the extent of \$2,000,000.00 for injury to or death of anyone person, to the extent of \$3,000,000.00 for injury to or death of two or more persons in any single accident or casualty and to the extent of \$500,000.00 for property damage, and a certificate evidencing such policy or policies shall be deposited with Seller.

H. That waste on the Property shall not be committed or suffered.

I. That Buyer has examined the Property and has noted its physical condition; and Buyer takes the Property in its present physical condition and without warranty or representation of any kind relating thereto.

J. That Buyer shall not serve or give away any alcoholic liquor or beverages on the Property or permit any person who occupies the same to do so without the written consent of Seller.

K. That Buyer will not commit or suffer to be committed any breach of any of the conditions, covenants or restrictions presently relating to the title of the Property.

L. That Buyer will comply with all federal, state and municipal laws, ordinances and regulations relating to the operation of the Property, will not violate any building, zoning or health code or regulation, and will not permit the Property to be used for any indecent or immoral purpose.

8. Representations and Warranties of Buyer. The Buyer represents and warrants to Seller as follows:

A. Buyer has full right, power and authority to enter into this Agreement and to perform its obligations hereunder.

B. There are no suits, actions or claims, nor any governmental investigations or inquiries, nor any legal, administrative or arbitration proceedings pending, or to the knowledge of Buyer threatened, against Buyer or its shareholders which, if decided adversely to Buyer or its shareholders, would have the effect of preventing Buyer and the Guarantor from performing its obligations to Seller hereunder. Buyer has complied and is presently complying, in all material respects, with all laws, rules, regulations, orders and requirements (federal, state and local) applicable to it where failure to so comply, if resulting in actions against Buyer decided adversely against Buyer, would have the effect of preventing Buyer from performing its obligations to Seller hereunder.

C. No representation or warranty by Buyer in this Agreement or in any written statement, certificate, schedule, exhibit or other document furnished to Seller pursuant to or in connection with the transaction contemplated hereby contains or will contain any untrue

UNOFFICIAL COPY

statement of a material fact or will omit to state a material fact necessary to make the statements herein or therein not misleading.

9. **Use of Property and Repairs.** The Buyer covenants and agrees that it will not use or permit any person to use the Property or buildings or improvements at any time situated thereon, for any use or purpose in violation of the laws of the United States of America, the State of Illinois, or the ordinances or regulations of the City or Village where the Property is located or any Department thereof or any other lawful authority, and that until the entire purchase price shall be fully paid with interest as aforesaid and that Agreement fully performed by the Buyer, that Buyer will keep the Property in a safe, tenantable and good condition, order and repair, and will hold harmless and indemnify the Seller from and against all liens or claims for lien or for material or labor or both and will not permit or suffer any liens to arise or accrue against said Property or the Seller and will not suffer or permit any waste on or to the Property, nor do or permit to be done, anything to diminish the value thereof, and the Buyer further covenants and agrees to save, protect and keep harmless the Seller against any loss, damage, cost or expense, by reason of any accident, loss or damage resulting to any person or property by reason of any use which may be made of the Property, or by reason of or accruing out of any act or thing done or permitted to be done or not done upon the Property.

10. **Waiver of Liens.** The Buyer shall not suffer or permit any mechanic's or other liens to accrue or attach to said Property, or Seller's interest therein. Buyer agrees that every contract for repairs to, the erection of improvements thereon or the alteration of said Property, or any part thereof, shall contain express, full and complete waivers (release or releases) of any kind and all liens, claims or rights of liens against said Property, and no contract or agreement, oral or written, shall be entered into by Buyer for repairs, alterations or construction of improvements of said Property, unless the same contains such express waiver or release of lien or liens or claims therefore upon the part of the party or parties contracting to furnish work and labor or materials, or both, in connection therewith. In case repairs, alterations or construction of improvements on said Property shall cost more than \$10,000.00, a copy of each and every such contract and plans and specifications for such repairs, alterations or improvements shall be delivered to and approved by Seller prior to letting of any such contract or contracts by Buyer. Seller shall have the right to retain a copy of each contract, plan and specification so submitted to them. It is further made an express condition of this Agreement that no liens shall be virtue of any act or omission or commission on the part of the Buyer or anyone claiming by, through or under him, attach to said Property or the title or state of Seller therein, and any and all persons or corporations dealing with Buyer shall be charged with notice of this condition.

11. Alterations.

A. **Requirements.** Buyer shall be allowed to make replacements, alterations, improvements and/or additions to the Property (collectively an "Alteration") without the prior written consent of Seller.

B. **Waiver of Liens.** Upon completion of any Alteration, Buyer shall promptly furnish Seller with sworn owner's and contractors' statements and full and final waivers of lien covering all labor and materials included in such Alteration. Buyer shall not permit any mechanic's lien to be filed against the Property arising out of any Alteration performed, or

UNOFFICIAL COPY

alleged to have been performed, by or on behalf of Buyer. If any such lien is filed, Buyer shall within fifteen (15) days thereafter have such lien released of record or deliver to Seller a bond in form, amount, and issued by a surety satisfactory to Seller, indemnifying Seller against all costs and liabilities resulting from such lien and the foreclosure or attempted foreclosure thereof. If Buyer fails to have such lien so released or to deliver such bond to Seller, Seller, without investigating the validity of such lien, may payor discharge the same, and Buyer shall reimburse Seller upon demand for the amount so paid by Seller, including Seller's expenses and attorneys' fees.

12. Seller's Representations and Warranties and Indemnities.

A. **Seller's Representations and Warranties.** Seller hereby represents and warrants to Buyer as follows, which representations and warranties shall be deemed made by Seller also as of the Closing Date:

(i). Seller is an Illinois limited liability company duly organized, validly existing, and in good standing under the laws of the State of Illinois. Seller has full power and authority to enter into this Agreement and to perform its obligations hereunder.

(ii). All requisite corporate and other authorizations for the execution, delivery, and performance of this Agreement have been duly obtained by Seller.

B. **Seller Indemnification Obligations.** Without in any manner limiting any other indemnification by Seller of Buyer, Seller shall indemnify and hold harmless Buyer, and Buyer's successors, assigns, directors, employees, subsidiaries, affiliates and agents ("Indemnitees"), from and against each and every Claim, which results from, arises out of or is attributable in any way to any of the following:

(i). Claims with respect to brokers', finders' and agents' fees and commissions in connection with the transaction contemplated in this Agreement asserted by any person on the basis of any statement, instrument, action, inaction or agreement alleged to have been made by the Seller;

(ii). any representation or warranty made by Seller in this Agreement or in documents delivered by Seller at the Closing which is misleading or untrue in any material respect;

(iii). any breach of the obligations, covenants or agreements made by Seller in this Agreement

13. **Refinancing.** Seller shall not cause the refinancing of the existing mortgage on the Property or to increase the amount owed on the existing mortgage or to otherwise encumber the Property.

14. Seller Remedies.

UNOFFICIAL COPY

A. In the event of the failure of Buyer to insure or to pay taxes or assessments, or to discharge or pay any claim which may ripen into a mechanic's lien against the Property, Seller may, without any obligation to do so, procure such insurance, pay such taxes or assessments, penalties, interest and costs thereon, discharge any tax lien or mechanic's lien affecting the Property without any obligation to examine or require into the legality or validity of any such matter, and all monies so paid or advanced by Seller, Buyer agrees to repay immediately upon demand to Seller, together with interest thereon at the rate provided in Section 2C, all of which expenditures and interest shall be added to and become a part of the purchase price; notwithstanding the foregoing, Buyer shall have the right to contest any such lien, in which event Seller shall only have the right to require Buyer to post reasonable security, and shall only payout against such security upon entry or judgment enforcing such lien.

B. In case of the failure of Buyer to make any of the payments or any part thereof at the time and in the manner specified, or to perform any of the covenants hereof on Buyer's part hereby made and entered into, then in the event any such failure or default shall continue for a period of 30 days after written notice thereof to Buyer, all payments made by or on behalf of Buyer to Seller under this Agreement shall, at the option of Seller, be forfeited and such payments shall be retained by Seller.

15. Assignment. No assignment or transfer by the Buyer of its interest or any part thereof in or under this Agreement shall be recognized by or binding upon the Seller unless said assignment or transfer is approved by Seller in writing, but no such assignment by the Buyer of its interest under this Agreement (even with the approval of the Seller) shall in any event or under any circumstance, relieve the Buyer from his obligations hereunder, and the Buyer shall remain primarily liable at all times and shall be and become jointly and severally liable with such assignee for the prompt and faithful performance of all the terms, covenants, and conditions herein contained on the part of the Buyer to be kept and performed. The Buyer will not mortgage, encumber, offer as collateral, sublet or lease said Property, or any part thereof for any purpose, until all covenants and conditions herein to be performed by Buyer have been so performed and all payments due hereunder have been paid.

16. Vesting of Title. No right, title or interest, legal or equitable, in the Property aforesaid, or any part thereof, shall vest in the Buyer until the delivery of the deed to Escrowee by the Seller at the Initial Closing.

17. Seller warrants and covenants as to the suitability of the Property and as to the physical condition thereof, and except as expressly reported to Buyer in writing, that there are no hazardous materials in, at, on, under, or related to the Property, whether such objections or claims arise out under contract, tort, strict liability, common law, statute or any other theory of recovery, legal or equitable, as to Seller. For purposes of this Agreement, "hazardous material" shall be deemed to mean any hazardous substance or material as defined by any federal, state, or local law, statute or ordinance and any regulation promulgated thereunder.

18. Modification. No extension, change, modification or amendment to or of this Agreement of any kind, whatsoever, shall, or will, be made or claimed by the Buyer, and no notice of any extension, change, modification or amendment, made or claimed by the Buyer,

UNOFFICIAL COPY

shall have any force or effect whatsoever except if the same shall be in writing and signed by the parties hereto.

19. **Seller's Access.** Seller may make or cause to be made reasonable entries upon the Property to inspect the condition of the Property, provided such inspections shall occur during normal business hours and with prior notice to Buyer.

20. **Remediation and Access.** In the event that Seller discloses the existence of hazardous substances on the Property in writing to the Buyer and advises Buyer that there are or may be hazardous substances on, under or migrating from or onto the Property and which may require monitoring well installation, tests, inspections, borings, engineering studies, surveys, appraisals, environmental studies, remediation operations and/or other activities hereinafter referred to as "Corrective Action" with respect to such petroleum or other substances. Buyer shall have the right to review and approve all terms of any access agreements. Seller shall cause all remediation required, if any, prior to the Final Closing.

21. **Bulk Sales Laws.** Seller agrees to be responsible for all bulk sales laws that maybe applicable to the transactions contemplated by this Agreement. Seller hereby indemnifies Buyer against any claims resulting from Seller's failure to comply with any such bulk sales laws.

22. **Post-Closing Obligations of the Parties.** On or after the initial Closing:

A. Each party shall execute all certificates, instruments and other documents and take all actions reasonably requested by the other party to effectuate the intents and purposes of this Agreement and to consummate and evidence the consummation of the transactions herein provided; and

B. Seller will not enter into any new contracts relating to or affecting the Property, without receiving Buyer's prior written consent, except those contracts entered into in the ordinary course of business.

23. **Survival of Warranties and Indemnification.**

A. **Survival and Extent of Representations, Warranties, Indemnifications and Covenants.** All representations, warranties, indemnifications and covenants contained in this Agreement shall survive the Closings hereunder and shall continue in full force and effect thereafter.

B. **Indemnification by Seller.** Seller hereby agrees to indemnify, defend and hold harmless Buyer from and against all losses, liabilities, indebtedness, damages, actions, causes of action, debts, judgments, penalties, fines, costs, obligations, taxes, expenses and fees, including all reasonable attorneys' fees and court costs, incurred by or asserted against the Buyer resulting from, arising out of, relating to or caused by (i) the breach of any representation, warranty or covenant of Seller; (ii) any obligations, liabilities or indebtedness of Seller in respect or on account of or arising out of the conduct of Seller's business (excluding any and all environmental matters) on or prior to the date of this Agreement, whether due or to become due, absolute or contingent, direct or indirect, asserted or unasserted, known or unknown; (iii) any

UNOFFICIAL COPY

liability from the costs and expenses of defending any action, demand, or claim by any third party against or affecting Buyer or the Property which, if true or successful, would give rise to a breach of any of the representations, warranties or covenants of Seller or would obligate Buyer or cause the Property to be subject to any obligation, liability or indebtedness referred to in the preceding clauses even if such action, demand or claim ultimately proves to untrue or unfounded.

C. Indemnification by Buyer. Buyer hereby agrees to indemnify, defend and hold harmless Seller from and against all losses, liabilities, indebtedness, damages, actions, causes of action, debts, judgments, penalties, fines, costs, obligations, taxes, expenses and fees, including all reasonable attorneys' fees and court costs incurred by or asserted against the Seller resulting from, or arising out of, relating to, or caused by (i) the breach of any representation, warranty, or covenant of Buyer; (ii) any obligations, liabilities or indebtedness of Buyer in respect or on account of or arising out of the conduct of Buyer's business subsequent to the date of this Agreement, whether due or to become due, absolute or contingent, direct or indirect, asserted or unasserted, known or unknown; and (iii) the costs and expenses of defending any action, demand, or claim by any third party against or affecting the Seller, which, if true or successful, would give rise to a breach of any of the representations, warranties or covenants of Buyer or would obligate the Seller to any obligation, liability or indebtedness referred to in the preceding clauses even if such action, demand or claim ultimately proves to be untrue or unfounded.

24. Abandonment. Thirty days absence by Buyer after any installment is unpaid, with the Seller having reason to believe Buyer has vacated the Property with no intent again to take possession thereof shall be conclusively deemed to be an abandonment of the Property by Buyer. In such event, and in addition to the Seller's other remedies, Seller may, but need not, enter upon the Property and act as Buyer's agent to perform necessary decorating and repairs and sell the Property.

25. Condemnation. All awards made to the owners of the Property by any governmental or other lawful authorities for the Property taken or damaged through exercise of eminent domain, or for any easement taken in the Property, including any awards for changes of grade of streets, are assigned to the Buyer after the Initial Closing, who is authorized to collect and receive the proceeds from the authorities and to give proper receipts for those awards. If paid to Seller, the Seller will apply these payments (after deduction of reasonable attorneys' fees and other costs of collecting the funds) toward the payment of the amount owed on this Agreement, even though the amount owed may not then be due and payable. The Buyer agrees, on request, to make any assignments or other instruments needed to assign the awards to the Seller, free and clear of any encumbrances. The Buyer agrees to give the Seller immediate notice of the actual or threatened commencement of any eminent domain proceedings affecting the Property, and will give the Seller copies of any papers served on the Buyer in connection with those proceedings. The Buyer will not make any settlement for damages sustained without the Seller's prior written approval, which approval will not be unreasonably withheld. In the event that Seller has received full payment of all amounts due it pursuant to this Agreement, any excess amount received from a condemnation award shall be paid to Buyer.

26. Notices. All notices given hereunder shall be in writing. Either party may give notice to the other party by mailing or by sending, by an overnight national courier such as

116
BN

UNOFFICIAL COPY

Federal Express or UPS, a notice to the address shown in this Agreement unless another address has been furnished in writing. In the event of a notice of forfeiture, the notice shall be given by certified or registered mail. The affidavit of the sender or its agent shall be evidence of mailing or other delivery.

If to Seller: Bill Loumbardias
226 Autumn Lane
Mt. Prospect, IL 60056
Phone: (847) 630-0323

With a copy to: Kashyap V. Trivedi, Esq.
1450 E. American Lane
Suite 1400
Schaumburg, IL 60173
Fax (847) 619-7158

If to Buyer: Cary Patel and Hemin Patel
4 North Barrington Road
Streamwood, IL 60107
Phone (630) 546-0390

With a copy to: John Conway, Esq.
Sullivan Hincks & Conway
120 West 22nd Street
Suite 100
Oak Brook, IL 60523
Fax (630) 573-5130

27. Miscellaneous.

A. Captions. Captions are for the convenience of the parties and shall not modify or alter the terms and conditions of this Agreement.

B. Entire Agreement. This contract constitutes the entire agreement of the parties, and shall not be modified except in writing signed by both parties. This contract supersedes and cancels any and all agreements, representations, understandings, promises or undertakings by the parties with respect to the Property.

C. Successors and Assigns. All covenants and agreements herein contained shall be binding on, extend to and be and inure to the benefit of the representatives, successors, and assigns (subject to the assignment restrictions set forth herein) of the parties hereto.

D. Attorneys' Fees. In any action or proceeding brought by any party to enforce any of the covenants or provisions of this Agreement, the prevailing party shall be entitled to costs and expenses incurred therein, including reasonable attorneys' fees.

HL
RZ

UNOFFICIAL COPY

E. **Presumption.** Neither this Agreement nor any uncertainty or ambiguity herein shall be construed or resolved against any party whether under any rule of construction or otherwise. Neither party shall be construed as the preparer of this Agreement.

F. **Time of Essence.** Time is of the essence of this Lease and all of its provisions.

G. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Illinois.

H. **Severability.** If any provision in this Agreement shall for any reason be adjudged by any court of competent jurisdiction to be invalid or unenforceable, such judgment shall not affect, impair or invalidate the remainder of this Agreement, but shall be confined in its operation to the provision of this Agreement directly involved in the controversy in which such judgment shall have been rendered.

I. **Waiver.** Any of the terms and conditions of this Agreement may be waived at any time and from time to time, in writing, by such Parties as are entitled to the benefit of such terms and conditions; provided, however, that except as otherwise specifically provided in this Agreement, no failure or delay on the part of either Party in exercising any of its respective rights under this Agreement upon any failure by the other Party to perform or observe any condition, covenant or provision of this Agreement shall operate as a waiver thereof, nor shall any single or partial exercise of any such rights preclude any other or further exercise thereof or the exercise of any other rights under this Agreement. No waiver or release of any of the terms, conditions, or provisions of this Agreement shall be valid or asserted or relied upon by either Party or offered in any judicial proceeding or otherwise, unless the same is in writing, and duly executed by the waiving or releasing Party.

28. **Seller's Default.** In the event of a Default by Seller, then Buyer may, at its sole option, as its exclusive remedy, take the following course of action:

If this Agreement is not consummated because of Seller's Default, terminate this Agreement and (1) Seller shall return all monies previously paid by the Buyer pursuant to this Agreement, or (2) sue for specific performance. The provisions of this Article 28 shall survive the Closing of the sale to Buyer and the delivery of the Deed and any termination of this Agreement prior to Closing.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day first above written.

UNOFFICIAL COPY

Wash Werks Enterprises, LLC (Seller)

By: Bill Loumbardias
Member/Manager

Bill Loumbardias (Seller)

By: Bill Loumbardias

Bharat Ram, Inc. ("Buyer") - AMAR PATEL

By: Amar Patel
President

Gary Patel (Buyer)

By: [Signature]

Hemin Patel (Buyer)

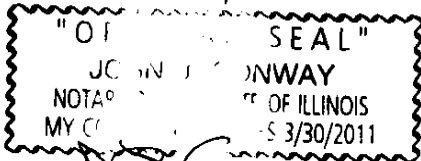
By: Hemin Patel



Stavros Deligiannis
3-23-2010



Stavros Deligiannis
3-23-2010



John J. Conway
3-24-10

CLERK'S OFFICE OF COOK COUNTY

EXHIBIT A
LEGAL DESCRIPTION

14 BL

UNOFFICIAL COPY

EXHIBIT A LEGAL DESCRIPTION

PARCEL 1:

LOT 2 IN STREAMWOOD CAR CARE CENTER RESUBDIVISION OF LOT 2 IN T.H.P. COMMERCIAL PARK, BEING A SUBDIVISION OF PART OF THE SOUTHEAST $\frac{1}{4}$ OF SECTION 13, TOWNSHIP 41 NORTH, RANGE 9, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED SEPTEMBER 11, 1995 AS DOCUMENT 95604386, IN COOK COUNTY, ILLINOIS

PARCEL 2:

A PERPETUAL NON-EXCLUSIVE EASEMENT IN FAVOR OF PARCEL 1 FOR PEDESTRIAN AND VEHICULAR MOVEMENT, INGRESS AND EGRESS FOR PASSAGE OF MOTOR VEHICLES (EXCEPT FOR VEHICLES IN EXCESS OF ONE TON IN GROSS WEIGHT) INTO, OUT OF, ON, OVER AND ACROSS ALL ROADWAYS WITHIN THE COMMON AREA AS DEFINED WITHIN DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS WITH GRANT OF EASEMENTS RECORDED AS DOCUMENT NO. 89340318.

Property of Cook County Clerk's Office

14
15