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**THIS INSTRUMENT PREPARED BY
AND AFTER RECORDING MAILED TO:**

Michael E. Ross
Ruben, Firsell & Ross, LLC
2801 Lakeside Drive, Suite 207
Bannockburn, IL 60015

201312858
8841068



Doc#: 1316322016 Fee: \$68.00
RHSP Fee: \$9.00 RPRF Fee: \$1.00
Karen A. Yarbrough
Cook County Recorder of Deeds
Date: 06/12/2013 08:39 AM Pg: 1 of 16

THE ABOVE SPACE FOR RECORDER'S OFFICE ONLY

DECLARATION OF EASEMENTS FOR PARTY WALL AGREEMENT

THIS DECLARATION OF EASEMENTS FOR PARTY WALL AGREEMENT ("**Declaration**") is made in the Village of Arlington Heights, County of Cook, State of Illinois, by Arlington Devco LLC an Illinois limited liability company ("**Declarant**") on this 23rd day of May, 2013.

RECITALS:

WHEREAS, Declarant is the Owner of the following real estate situated in the Village of Arlington Heights, Cook County, Illinois: a tract of land commonly known as Lot 1 in Arlington Downs Subdivision, in Arlington Heights, Illinois, and which is legally described on **Exhibit A** attached hereto and incorporated herein by reference (the "**LOT 1**"); and

WHEREAS, Declarant is also the Owner of the following real estate situated in the Village of Arlington Heights, Cook County, Illinois: a tract of land commonly known as Lot 2 in Arlington Downs Subdivision, in Arlington Heights, Illinois, and which is legally described on **Exhibit B** attached hereto and incorporated herein by reference (the "**LOT 2**"); and

WHEREAS, LOT 1 and LOT 2 are herein sometimes referred to herein as the "**Lots**", or individually as a "**Lot**". Both Lots are collectively called the "**Property**"; and

WHEREAS, LOT 1 is contiguous to, and generally located to the south and southwest of LOT 2, and has been improved with a building (the "**LOT 1 Building**"); and

WHEREAS, LOT 2 is contiguous to, and located to the north and northeast of LOT 1. LOT 2 is currently improved with a building (the "**LOT 2 Building**"); and

WHEREAS, the LOT 1 Building and the LOT 2 Building are sometimes collectively referred to herein as the "**Building**" and "**Buildings**"; and

WHEREAS, Declarant intends to sell, transfer and convey its interest in the Lots to various purchasers or related entities. Owners of all or any portion of LOT 1 are sometimes referred to herein as "**LOT 1 Owner(s)**." Owners of all or any portion of LOT 2 are sometimes referred to herein as "**LOT 2**

BOX 333-CT

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Owner(s)". Each Owner is also sometimes referred to as "**Owner**" and "**Party**" and collectively referred to as "**Owners**" and "**Parties**"; and

WHEREAS, LOT 1 and LOT 2 share a common wall (hereinafter called "**Party Wall**") approximately 62.5 feet in length, indicated as party wall on *Exhibit C* attached hereto and made a part hereof. The entire Party Wall is located on LOT 1 and the north face of the Party Wall is located on the property line located between LOT 1 and LOT 2; and

WHEREAS, the Declarant desires to enter into this Agreement in order to establish for each Owner's benefit and for the benefit of all existing and future LOT 1 Owners and LOT 2 Owners, agreements concerning easements and maintenance, repair and replacement of the Party Wall, and certain mutually beneficial restrictions and obligations with respect to the use and conduct in connection with the same; and

WHEREAS, LOT 1 Owner and LOT 2 Owner shall have the right to use the Party Wall below and above the surface of the ground and along the whole length or any part of the length thereof for the support of the buildings or structures existing as of the date of this Agreement which are supported by the Party Wall and for the support of any building or structure constructed to replace the same, and shall have the right to maintain, repair, replace and renew in or on the Party Wall any pipes, ducts or conduits originally located therein or thereon, subject to the restrictions hereinafter contained; and

WHEREAS, Declarant wishes to establish certain terms, conditions, covenants and restrictions relating to the Party Wall and the easements granted herein; and

WHEREAS, the Recitals set forth above are incorporated into this Declaration and shall be deemed provisions hereof, the same as if fully set forth in a numbered paragraph.

NOW, THEREFORE, DECLARANTS DECLARE AS FOLLOWS:

1. GRANT OF EASEMENTS: The following easements are hereby granted:
 - A. Non-Exclusive Easement. Declarant, as the Owner of LOT 1, grants (subject to rights of the LOT 1 Owner under Section B below), a non-exclusive easement to the LOT 2 Owner, as an easement appurtenant to LOT 2 to (x) use the Party Wall that is located on LOT 1, including the right to use structural members, foundations, demising walls, expansion joints, expansion joint connections, columns or beams and any other supporting components, which provide support and use of the Party Wall (collectively called "**Party Wall Components**"), and (y) to maintain and repair the Party Wall and Party Wall Components located on LOT 1 in compliance with the terms of this Agreement.
 - B. Since the Party Wall is located on LOT 1, the Declarant, as the Owner of LOT 1, retains the right of the LOT 1 Owner to use the Party Wall and to maintain and repair the Party Wall and Party Wall Components located on LOT 1 in compliance with the terms of this Agreement.

The Easements herein granted and rights herein retained shall exist so long as all or a portion of the Party Wall shall remain standing, or is to be repaired, or restored, or replaced pursuant to Section 2.B.

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2. PARTY WALL.

- A. Repair and Maintenance of Party Wall. Each Owner shall perform maintenance of that portion of the Party Wall that solely benefits that portion of the Party Wall solely used by that Owner, at its sole cost and expense. Any Owner may repair and/or maintain the Party Wall as is necessary to insure that the Party Wall shall remain structurally sound and in compliance with applicable laws and otherwise in good repair. Subject to the terms of this Section, the cost of repair and maintenance to that portion of the Party Wall that benefits both Lots shall be allocated 50% to the LOT 1 Owner on the one hand and 50% to the LOT 2 Owner on the other hand (except to the extent such repairs solely or disproportionately benefits the Owner(s) of one Lot, in which case the costs of such repairs shall be borne exclusively or in proportion to such disproportionate benefit, as the case may be, by the Owner(s) of such Lot).

Except in the case of emergency, the Owner(s) intending to undertake any such repair and/or maintenance shall, not less than fifteen (15) days prior to commencing to undertake such repair and/or maintenance, give written notice to the other Owner(s) of such intent, including a copy of proposed repair/maintenance plans and specifications and an estimated cost to complete the same, and each Owner's share of the cost, and the Owner(s) receiving such notice shall then have fifteen (15) days to either (i) approve such plans and specifications and the cost allocations (and the failure to provide notice of approval or disapproval shall be deemed approval of such plans and specifications and cost allocation), or (ii) provide notice to the Owner(s) of the Lot intending to undertake such repair and/or maintenance detailing specific objections to said plan, in which event the Owner(s) shall discuss any such specific objections in good faith to resolve any open issues.

Each Owner, at its sole cost and expense, shall have the right to paint, decorate, clean and perform other similar activities on the interior surface of the Party Wall facing its respective Lot as well as to undertake any maintenance, repairs and modifications that are solely for its own benefit or the benefit of its own Lot and which do not adversely affect those portions of the Party Wall serving the other Lot without notice to and approval of the Owner(s) of the other Lot. Each Owner, at its sole cost and expense, shall have the obligation to maintain and repair the interior surface of the Party Wall facing its respective Lot to the extent the failure to do so could reasonably be expected to adversely affect those portions of the Party Wall serving the other Owner(s).

- B. Casualty. In the event of damage to or destruction by fire or other casualty of the Party Wall, including the foundation thereof, any Owner(s) of a Lot may, to the extent it is affected by such fire or other casualty, repair or restore the Party Wall, at its cost and expense, and the non-repairing Owner(s) of a Lot shall promptly pay to the repairing Owner(s) of the other Lot fifty percent (50%) of the cost of repair or restoration of the Party Wall (except to the extent such repairs or restoration solely or disproportionately benefits the Owner(s) of one Lot, in which case the costs of such repairs or restoration shall be borne exclusively or in proportion to such disproportionate benefit, as the case may be, by the Owner(s) of such Lot). All such repair and restoration shall be performed in a good and workmanlike manner with materials comparable to those used in the original

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Party Wall and shall conform in all respects with all laws, ordinances, rules and regulations of all applicable governmental authorities. Whenever the Party Wall or any portion thereof shall be so repaired or restored, it shall be erected in the same location, on the same line and be of the same height, width, length and load-bearing capacity as the Party Wall in existence prior to the casualty.

C. Negligence and Intentional Misconduct. The provisions of Section 2.B above or any other provision of this Agreement notwithstanding, the Owner(s) of a Lot shall retain the right to recover a larger contribution from the Owner(s) of the other Lot under any rule or law regarding liability for negligence or intentional misconduct or the indemnification provisions of this Agreement. The right of the Owner(s) of one Lot to contribution from the Owner(s) of the other Lot under this Agreement shall be appurtenant to the land and shall pass to such Owner(s)' or other applicable person's successors in title.

D. Entry Upon Other Lot. As a condition to allowing the entry upon its or their Lot or any portion thereof by the Owner(s) of the other Lot, to perform any maintenance, repairs, replacements or other work allowed herein, the Owner(s) of the Lot or any portion thereof that is to be entered upon may require from time to time reasonable evidence of reasonable liability insurance naming the Owner(s) of the Lot or the portion thereof to be entered upon as additional insured(s), reasonable evidence of applicable workers' compensation insurance and reasonable evidence of the payment of and for all labor and materials comprising part of such work as such work progresses at reasonable intervals during such work, including but not limited to invoices and contractors' statements and partial lien waivers during reasonable intervals of the work and final lien waivers upon completion thereof sufficient to waive all claims for mechanic's liens under the Illinois Mechanic's Lien Act. All work shall be performed in a good and workmanlike manner.

3. MISCELLANEOUS.

A. Indemnification. The Owner(s) of each Lot (the "**Indemnifying Party**") shall, and do(es) hereby agree to, indemnify, defend (with counsel reasonably acceptable to the Owner(s) of the other Lot (the "**Indemnified Party**")) and hold harmless the Indemnified Party from and against any and all claims arising from the negligence or willful misconduct of the Indemnifying Party, and that of their agents, contractors and employees which cause(s) damage to the Party Wall and from and against any and all costs and expenses including, without limitation, reasonable attorneys' fees incurred or arising in the defense of any such claim or any action or proceeding thereon. The Owner(s) of each Lot (the "**Mechanic's Lien Indemnifying Party**") shall, and do hereby agree to, indemnify, defend (with counsel reasonably acceptable to the Owner(s) of the other Lot (the "**Mechanic's Lien Indemnified Party**")) and to hold harmless the Owner(s) of the other Lot from and against any and all claims for mechanic's liens arising from any work (including labor and materials) performed or caused to be performed by the Mechanic's Lien Indemnifying Party hereunder, and that of its contractors and employees against any and all costs and expenses including, without limitation, reasonable attorneys' fees incurred or arising in the defense of any such claim or any action or proceeding thereon, except to the extent the Mechanic's Lien results from monies due from the Mechanic's Lien Indemnified Party.

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Each Owner performing construction shall indemnify and hold harmless the other Owner against any mechanics liens for such work, performed by or on behalf of such Owner. Each Owner shall remove insure, or bond over (to the satisfaction of the Owner of the Property upon which the Lien is filed, if the Lien is filed on another Owner's Property), within fifteen (15) days after the filing thereof, any mechanics', material men's or any other like lien ("Lien") on another Owner's Property, or on its own Property if the existence or foreclosure of such lien on its Property would adversely affect any easement granted hereunder, arising by reason of work or materials ordered or any act taken, suffered or omitted by such Owner. The Owner who performs any work for which a Lien is filed is the "Defaulting Owner"; the non-Defaulting Owner is the "Creditor Owner." In the event the Defaulting Owner fails to insure, bond over (to the satisfaction of the Owner of the Property upon which the Lien is filed, if the Lien is filed on another Owner's Property), or remove any such Lien within the fifteen (15) day period, the Creditor Owner may take such action as the Creditor Owner may deem necessary to remove or bond or insure over such lien. The Creditor Owner shall be entitled to reimbursement from the Defaulting Owner for all costs and expenses incurred by the Creditor Owner in removing, bonding or insuring over a Lien or attempting to do so. Notwithstanding the foregoing, the Defaulting Owner shall not be required to remove a Lien so long as the Defaulting Owner (A) shall in good faith diligently proceed to contest the same by appropriate proceedings and shall give written notice to the Creditor Owner of its intention to contest the validity or amount of such Lien, and (B) shall deliver to the Creditor Owner either: (1) cash or a surety bond from a responsible surety company reasonably acceptable to the Creditor Owner in an aggregate amount equal to one hundred fifty percent (150%) of the lien claim and all interest and penalties then accrued thereon or such greater amount as may reasonably be required to assure payment in full of the amount claimed, plus all penalties, interest and costs which may thereafter accrue by reason of such Lien claim or (2) other security reasonably acceptable to the Creditor Owner, and

- B. Maintenance of the Remainder of the Building. Unless otherwise expressly provided herein, the Owner(s) of each Lot shall be solely responsible for using and maintaining the Building located on its Lot which uses the Party Wall.
- C. Mutual Cooperation. The Owners shall cooperate with each other in good faith in order to resolve other issues which may arise with respect to the rights and obligations contained herein with respect to the Party Wall, which affects LOT 1 and LOT 2.
- D. Breach, Default and Remedy.
- i. If the Owner(s) of a Lot fail to reimburse the Owner(s) of the other Lot for any amounts due to such other Owner(s) pursuant to the applicable provisions of this Agreement within thirty (30) days after demand therefor (and reasonable back-up documentation) detailing such amounts, then the Owner(s) which incurred such expenses shall have the right, in addition to all other rights and remedies set forth in this Agreement, at law or in equity, to declare a default by the non-paying Owner(s) and thereafter to record a lien against the non-performing Owner(s)' Lot or

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portion thereof in the amount of such outstanding expenses, together with all reasonable costs of collection, including attorneys' fees and litigation expenses. Any such lien may be enforced by all methods generally available for the enforcement of liens, including foreclosure by an action brought in the manner similar to the type of action instituted to foreclose the lien of a mortgage or deed of trust. Further, an irrevocable license and easement is hereby granted to the Owner(s) of a Lot, and its tenant, employees and contractors to go upon the Lot of the non-performing Owner(s), to be exercised for the purposes hereinabove provided, to cure any failure of performance, and said license and easement rights shall be exercised only after notice to the non-performing Owner(s) of such failure and the failure of the non-performing Owner(s) to cure the same within a reasonable period of time, and only to the extent and for such period of time as is required to accomplish such cure. No Owner shall be obligated to exercise the rights herein granted except as such Owner shall determine to be in the best interests of such Owner, and no failure to exercise any right herein granted shall be construed as a waiver of that or any other rights. Any lien imposed on a Lot pursuant to this **Section 3.D.i** shall be subject to and subordinate to the lien of any bona fide first or second mortgage(s) or deed(s) of trust or similar security devices of unrelated, independent third parties.

- ii. No breach of this Agreement shall entitle any Owner to cancel, rescind, or otherwise terminate the easement and agreements granted herein; provided, however, that the foregoing limitation shall not affect any other right or remedy an Owner may have with respect to a breach, including the right to restrain by injunction any violation or threatened violation of any of the terms of this Agreement, or to compel performance of any such terms.
- iii. Failure by the Owner(s) of either Lot to insist on performance of an obligation or obligations contained herein shall, in no event, imply a waiver of such obligation or obligations.
- iv. Notwithstanding anything contained in this Agreement to the contrary, no Owner shall be deemed to be in default of its obligations under this Agreement unless such Owner fails to perform any covenant, term or condition upon its part to be performed, and such failure is not cured within a reasonable period of time following the date on which such Owner receives notice of such failure from the other Owner. For the purposes of the foregoing sentence, and as such term may be otherwise used in this Agreement, a failure shall be deemed to be corrected "within a reasonable period of time" after notice if such failure is entirely corrected within ten (10) days after such notice, or, if such failure is such that it cannot reasonably be entirely corrected within such ten (10) day period, such Owner commences correction of such failure within such ten (10) day period and diligently prosecutes the same to completion as soon as reasonably practicable, but in no event later than thirty (30) days after the date of such notice. In the case of an emergency, the ten (10) day period (or any other time period specified in this Agreement for

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notice from the Owner(s) of one Lot to the other before maintenance, repairs, replacements, alterations, modifications, removals or restorations or other work to the Party Wall can be commenced) shall be reduced to that period of time which may be reasonable under all of the attendant circumstances.

- v. If any Owner brings an action (including arbitration) to enforce or interpret this Agreement, the prevailing Party in such action shall be entitled to recover reasonable attorney's fees and court costs from the non-prevailing Party, in addition to any other relief granted.
- vi. Disputes under this Agreement (including, but not limited to other allocations of costs with respect to maintaining and repairing the Party Wall) shall be resolved by arbitration under an "expedited hearing" conducted pursuant to the American Arbitration Association Constructing Industry Rules. There shall be a single arbitrator, who shall be chosen by the American Arbitration Association and who shall be an architect licensed in Illinois. The agreement to arbitrate hereunder shall be specifically enforceable under the prevailing arbitration law. Any demand for arbitration shall be made by written notice within a reasonable time and in no event shall it be made when institution of legal or equitable proceedings based on the unresolved matter in question would be barred by the applicable statute of limitations. The decision of the arbitrator as to the repair/maintenance matters which are subjected by the Owner(s) to arbitration as set forth herein shall be final and subject to appeal only as permitted under the Illinois Arbitration Statute.
- E. Amendment of Agreement. This Agreement may be waived, discharged, terminated, amended and/or supplemented only by a writing signed by the Owners against which the enforcement of such waiver, modification, amendment, discharge for termination is sought, and then only to the extent set forth in such instrument.
- F. Notices. All notices, invoices, consents or other instruments or communications ("**Notices**") provided for under this Agreement shall be in writing, signed by or on behalf of the person giving the same, and shall be deemed properly given and received by the person receiving same (i) when actually delivered and received, if personally delivered, (ii) three (3) business days after mailed, if sent by registered or certified mail, postage prepaid, return receipt requested, or (iii) one (1) business day after being sent by overnight delivery service for next business day delivery, to the following addresses:

LOT 1:

Arlington Downs Residential, LLC
 c/o Stoneleigh Companies LLC
 760 W. Main Street, Suite 140
 Barrington, IL 60010
 Attn: Richard F. Cavanaugh

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WITH A COPY TO:

Ruben, Firsel & Ross, LLC
 2801 Lakeside Drive, Suite 207
 Bannockburn, IL 60015-1200
 Attn: Michael D. Firsel

LOT 2:

Arlington Devco LLC
 505 Sheridan Road
 Winnetka, IL 60093
 Attn: David M. Trandel

WITH A COPY TO:

Much Shelist PC
 191 N. Wacker Dr., Suite 1800
 Chicago, IL 60606
 Attn: Steven L. DeGraff

The address of a Party may be changed by Notice given as provided above at least seven (7) days in advance.

- G. Agreement for Exclusive Benefit of Owners. Except as may otherwise be provided by this Agreement, the provisions of this Agreement are for the exclusive benefit of the Owners. Except as may otherwise be provided in this Agreement, this Agreement shall not be deemed to have conferred any rights, express or implied, upon any third person. Nothing contained in this Agreement shall be deemed to be a gift or dedication of any portion of the Property to the general public or for any public purpose whatsoever.
- H. Successors. This Agreement shall run with the land and be binding upon and shall inure to the benefit of the respective successors, assigns and transferees of the Owners of LOT 1 and LOT 2.
- I. Governing Laws. This Agreement shall be governed by, and enforced in accordance with the internal laws of the State of Illinois.
- J. No Partnership, Joint Venture or Principal-Agent Relationship. Neither anything contained in this Agreement nor any acts to be performed pursuant to this Agreement shall be deemed or construed to create the relationship of principal and agent, or of partnership, or of joint venture, or of any association between the Owners.
- K. Severability. Invalidation of any or the provisions contained in this Agreement, or of the application thereof to either Owner, by judgment or court order, shall in no way affect any of the other provisions of this Agreement or the application thereof to the Owner(s) of the other Lot or any other circumstance and the remainder of this Agreement shall remain in effect; provided, however, that in

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the event such invalidation would render the remaining portions of this Agreement ineffective to carry out the material intentions of the Parties as expressed or implied by this Agreement, then the objectionable provision(s) hereof shall be construed, and this Agreement shall be deemed amended, as if such provision were replaced with an enforceable provision which effectuates, as nearly as possible, the material intentions of the Parties.

- L. Incorporation of Exhibits. The Exhibits to this Agreement are incorporated herein by this reference thereto.
- M. Running of Benefits and Burdens. All provisions of this Agreement, including the benefits and burdens, shall run with the land and are binding upon and inure to the heirs, assigns, successors, tenants and personal representatives of the Owners. Anything to the contrary contained herein notwithstanding, in the event that an Owner conveys all or a portion of LOT 1 or LOT 2, respectively, the grantee and any subsequent Owner ("**Successor Owner**") shall thereafter have the rights and easements and be liable for the duties and obligations of its grantor under this Agreement but only to the extent such rights and easements and duties and obligations benefit or burden the portion of the property conveyed to such Successor Owner. Every person or entity now or hereafter owning or acquiring any right, title or interest in or to any portion of the Property is and shall be conclusively deemed to have consented and agreed to every covenant, condition and restriction contained herein, by reference or otherwise, whether or not reference to this Agreement is contained in the instrument by which such person acquired an interest in the Property.
- N. Termination of Covenant Liability. Whenever a transfer of ownership of any portion of the Property takes place, the transferor shall not be liable for the breach of any covenant or agreement hereunder occurring after such transfer, but such transfer shall not release the transferor from any liability hereunder which arise prior to such transfer.
- O. Entire Understanding. This Agreement constitutes the entire understanding between the parties with respect to the rights and easements granted and obligations imposed hereby, and all prior or contemporaneous agreements, understandings, representations and statements are merged into this Agreement.
- P. Time for Performance. If any date herein set forth for the performance of any obligations hereunder or for the delivery of any instrument or notice as herein provided should be on a Saturday, Sunday or legal holiday, the compliance with such obligations or delivery shall be deemed acceptable on the next business day following such Saturday, Sunday or legal holiday. As used herein, the term "legal holiday" means any state or federal holiday for which financial institutions or post offices are generally closed in the State of Illinois for observance thereof.
- Q. Estoppel Certificates. The Owners shall, from time to time, within fifteen (15) days after receipt of a written request from any of the others, execute, acknowledge and deliver to the requesting Owner or to any existing or prospective purchaser or mortgagee designated by such requesting Party an estoppel certificate stating:

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- i. That the terms and provisions of this Agreement are unmodified and are in full force and effect or, if modified, identifying any such modification;
- ii. Whether, to the best of the knowledge of the Party executing the estoppel certificate, there is any existing default under (or grounds therefor after giving requisite notice hereunder or the passage of time, or both) by the requesting Party and, if so, specifying the nature and extent thereof;
- iii. Whether there are any sums which the Owner executing the estoppel certificate is, to the best of such Owner's knowledge, entitled to receive or demand from the requesting Owner, and if there is any such sum, specifying the nature and amount thereof; and
- iv. Such other facts or conclusions as may be reasonably requested.

The Owner (or prospective purchaser or mortgagee) receiving the same is entitled to rely thereon.

- R. Articles and Section Headings. The Article and Section headings used in this Agreement are inserted for convenience only and are not intended to be a part of this Agreement or in any way to define, limit or describe the scope and intent of the respective Articles or Sections to which they refer.
- S. Default Interest. All payments becoming due under this Agreement and remaining unpaid when due shall bear interest until paid at a rate per annum equal to 3% per annum plus the corporate base rate of interest announced from time to time by JP Morgan Chase Bank, N.A. or its successors, such rate to change when and as such corporate base rate changes (but in no event at a rate which is more than the highest rate which is at the time lawful in the State of Illinois). If the corporate base rate of interest is not announced by JP Morgan Chase Bank, N.A. or its successors at any time or from time to time, a comparable base rate of interest reasonably acceptable to the parties shall be used during such times. Notwithstanding any provision of this Agreement to the contrary, the obligations of the parties under this Section 3.V shall survive the termination of this Agreement.
- T. Condemnation. In the event of a taking by the exercise of the power of eminent domain or deed in lieu of condemnation of all or any part of the Party Wall by any competent authority for any public or quasi-public use, the award, damages or just compensation resulting from any such taking shall be paid to the Owner(s) in proportion to their interest therein and the damages suffered by them from such taking or deed in lieu thereof. At the option of the Owner(s) affected thereby, the Owner(s) receiving the condemnation award, damages or just compensations shall, at its sole cost and expense, to the extent of such award, damages or just compensation given for such purpose, repair and restore if possible those portions of the Party Wall which are affected by such condemnation proceedings (provided that if portions of the Party Wall on both Lots are affected, then only if the Owner(s) of both Lots so elect). Any such repair and restoration shall be commenced and pursued to completion in a timely manner.

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- U. Gender and Number; Certain Terms. As used in this Agreement and unless otherwise required by the context, any pronoun includes the masculine, the feminine, and the neuter; the singular includes the plural and the plural includes the singular. The use of the following terms in this Agreement shall have the following meanings, unless the context requires otherwise: (a) “hereof”, “herein”, “hereunder” and similar terms shall refer to this Agreement as a whole and not to only a paragraph or section of this Agreement; and (b) “including” shall mean “including but not limited to, whether similar or dissimilar”.
- V. Counterparts. This Agreement may be executed in counterparts and shall constitute an agreement binding on both parties notwithstanding that both parties are not signatories to the original or the same counterpart.

[Signatures appear on the next page]

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IN WITNESS WHEREOF, Declarant hereunto set its hand and seal.

ARLINGTON DEVCO LLC,
an Illinois limited liability company

By: Arlington Downs Management LLC, its Manager

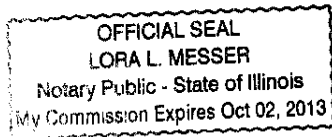
BY: *David M. Trandel*
David M. Trandel, Manager

STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

I, the undersigned, a Notary Public, in and for the County and State aforesaid, DO HEREBY CERTIFY that David M. Trandel, the Manager of Arlington Downs Management LLC, Manager of ARLINGTON DEVCO LLC, and personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he/she signed and delivered the said instrument in the capacity or capacities noted above as his/her free and voluntary act, and as the free and voluntary act and deed of said company, for the uses and purposes therein set forth.

Given under my hand and official seal this 16 of May, 2013.

Lora L. Messer
Notary Public



PIQ 3400 Euclid Ave, Arlington Heights, IL

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EXHIBIT A LOT 1 – LEGAL DESCRIPTION

LOT 1 IN ARLINGTON DOWNS, BEING A PLANNED UNIT DEVELOPMENT OF LOTS 11, 17 AND 18 IN ARLINGTON PARK OFFICE CENTRE, BEING A SUBDIVISION OF PART OF THE NORTHWEST 1/4 OF SECTION 25 AND PART OF THE NORTHEAST 1/4 OF SECTION 26, TOWNSHIP 42 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT OF SAID ARLINGTON DOWNS, RECORDED JANUARY 3, 2013 AS DOCUMENT 1300334039;

--- EXCEPTING THEREFROM ---

THAT PART THEREOF BOUNDED AND DESCRIBED AS COMMENCING AT THE NORTHWEST CORNER OF LOT 2 IN SAID ARLINGTON DOWNS, THENCE SOUTH 00 DEGREES 06 MINUTES 05 SECONDS EAST, 281.80 FEET TO THE SOUTHWEST CORNER OF SAID LOT 2 AND THE NORTHWEST CORNER OF LOT 1; THENCE CONTINUING SOUTH 00 DEGREES 06 MINUTES 05 SECONDS EAST, 93.00 FEET TO THE SOUTHWEST CORNER OF SAID LOT 1; THENCE NORTH 89 DEGREES 53 MINUTES 55 SECONDS EAST, 261.70 FEET TO A CORNER OF SAID LOT 1 AND THE POINT OF BEGINNING OF THIS EXCEPTION TO LOT 1; THENCE CONTINUING NORTH 89 DEGREES 53 MINUTES 55 SECONDS EAST, 28.11 FEET TO A POINT OF CURVATURE; THENCE EASTERLY ALONG A CURVED LINE, CONCAVE SOUTH, HAVING A RADIUS OF 397.50 FEET, AN ARC LENGTH OF 47.53 FEET (THE CHORD TO SAID CURVED LINE BEARS SOUTH 86 DEGREES 40 MINUTES 33 SECONDS EAST, 47.50 FEET); THENCE SOUTH 51 DEGREES 43 MINUTES 17 SECONDS EAST, 400.14 FEET; THENCE NORTH 38 DEGREES 16 MINUTES 43 SECONDS EAST, 9.08 FEET TO A POINT OF CURVATURE; THENCE SOUTHERLY ALONG A NON TANGENT CURVED LINE, CONCAVE WEST, HAVING A RADIUS OF 397.50 FEET, AN ARC LENGTH OF 122.90 FEET (THE CHORD TO SAID CURVED LINE BEARS SOUTH 13 DEGREES 56 MINUTES 06 SECONDS EAST, 122.41 FEET) TO AN INTERSECTION WITH A SOUTH LINE OF LOT 1 AFORESAID; THENCE NORTH 89 DEGREES 59 MINUTES 27 SECONDS WEST ALONG SAID LAST DESCRIBED SOUTH LINE, 201.42 FEET; THENCE NORTH 49 DEGREES 51 MINUTES 27 SECONDS WEST ALONG A SOUTHWESTERLY LINE OF LOT 1, 292.18 FEET; THENCE NORTH 00 DEGREES 00 MINUTES 33 SECONDS EAST ALONG A WEST LINE OF LOT 1, 173.87 FEET TO THE POINT OF BEGINNING, IN COOK COUNTY, ILLINOIS.

--- TOGETHER WITH ---

THAT PART OF LOT 2 IN ARLINGTON DOWNS, BEING A PLANNED UNIT DEVELOPMENT OF LOTS 11, 17 AND 18 IN ARLINGTON PARK OFFICE CENTRE, BEING A SUBDIVISION OF PART OF THE NORTHWEST 1/4 OF SECTION 25 AND PART OF THE NORTHEAST 1/4 OF SECTION 26, TOWNSHIP 42 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT OF SAID

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ARLINGTON DOWNS, RECORDED JANUARY 3, 2013 AS DOCUMENT 1300334039; BOUNDED AND DESCRIBED AS COMMENCING AT THE NORTHWEST CORNER OF LOT 2 IN SAID ARLINGTON DOWNS, THENCE SOUTH 00 DEGREES 06 MINUTES 05 SECONDS EAST, 281.80 FEET TO THE SOUTHWEST CORNER OF SAID LOT; THENCE NORTH 89 DEGREES 53 MINUTES 55 SECONDS EAST ALONG A SOUTH LINE OF SAID LOT, 60.00 FEET; THENCE SOUTH 00 DEGREES 06 MINUTES 05 SECONDS EAST ALONG A WEST LINE OF SAID LOT, 18.00 FEET; THENCE NORTH 89 DEGREES 53 MINUTES 55 SECONDS EAST ALONG A SOUTH LINE OF SAID LOT, 229.81 FEET TO A POINT OF CURVATURE; THENCE EASTERLY, CONTINUING ALONG A SOUTH LINE OF SAID LOT, BEING A CURVED LINE, CONCAVE SOUTH, HAVING A RADIUS OF 472.50 FEET, AN ARC LENGTH OF 77.57 FEET (THE CHORD TO SAID CURVED LINE BEARS SOUTH 85 DEGREES 23 MINUTES 54 SECONDS EAST, 77.48 FEET) TO THE POINT OF BEGINNING OF THIS LEGAL DESCRIPTION; THENCE NORTH 38 DEGREES 16 MINUTES 43 SECONDS EAST, 53.13 FEET; THENCE SOUTH 51 DEGREES 43 MINUTES 17 SECONDS EAST, 51.23 FEET AN INTERSECTION WITH A SOUTHEASTERLY LINE OF SAID LOT 2; THENCE SOUTH 24 DEGREES 50 MINUTES 43 SECONDS WEST ALONG SAID LAST DESCRIBED SOUTHEASTERLY LINE, 26.91 FEET TO AN INTERSECTION WITH A SOUTHERLY LINE OF SAID LOT, BEING A POINT OF CURVATURE; THENCE WESTERLY ALONG SAID LAST DESCRIBED SOUTHERLY LINE, BEING A NON TANGENT CURVED LINE, CONCAVE SOUTH, HAVING A RADIUS OF 472.50 FEET, AN ARC LENGTH OF 63.53 FEET (THE CHORD TO SAID CURVED LINE BEARS NORTH 76 DEGREES 50 MINUTES 37 SECONDS WEST, 63.48 FEET) TO THE POINT OF BEGINNING,

---EXCEPTING THEREFROM---

ANY PART OF SAID LOT 2 LYING ABOVE A HORIZONTAL LEVEL PLANE HAVING AN ELEVATION OF 729.30, NAVD 1988 DATUM, COOK COUNTY, ILLINOIS.

02-25-100-021
 02-25-100-026
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UNOFFICIAL COPY**EXHIBIT B****LEGAL DESCRIPTION (LOT 2)**

LOT 2 IN ARLINGTON DOWNS, BEING A PLANNED UNIT DEVELOPMENT OF LOTS 11, 17 AND 18 IN ARLINGTON PARK OFFICE CENTRE, BEING A SUBDIVISION OF PART OF THE NORTHWEST 1/4 OF SECTION 25 AND PART OF THE NORTHEAST 1/4 OF SECTION 26, TOWNSHIP 42 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT OF SAID ARLINGTON DOWNS, RECORDED JANUARY 3, 2013 AS DOCUMENT 1300334039;

--- EXCEPTING THEREFROM ---

THAT PART OF SAID LOT 2 LYING BELOW A HORIZONTAL LEVEL PLANE HAVING AN ELEVATION OF 729.30, NAVD 1988 DATUM; BOUNDED AND DESCRIBED AS COMMENCING AT THE NORTHWEST CORNER OF LOT 2 IN SAID ARLINGTON DOWNS, THENCE SOUTH 00 DEGREES 06 MINUTES 05 SECONDS EAST, 281.80 FEET TO THE SOUTHWEST CORNER OF SAID LOT; THENCE NORTH 89 DEGREES 53 MINUTES 55 SECONDS EAST ALONG A SOUTH LINE OF SAID LOT, 60.00 FEET; THENCE SOUTH 00 DEGREES 06 MINUTES 05 SECONDS EAST ALONG A WEST LINE OF SAID LOT, 18.00 FEET; THENCE NORTH 89 DEGREES 53 MINUTES 55 SECONDS EAST ALONG A SOUTH LINE OF SAID LOT, 229.81 FEET TO A POINT OF CURVATURE; THENCE EASTERLY, CONTINUING ALONG A SOUTH LINE OF SAID LOT, BEING A CURVED LINE, CONCAVE SOUTH, HAVING A RADIUS OF 472.50 FEET, AN ARC LENGTH OF 77.57 FEET (THE CHORD TO SAID CURVED LINE BEARS SOUTH 85 DEGREES 23 MINUTES 54 SECONDS EAST 77.48 FEET) TO THE POINT OF BEGINNING OF THIS LEGAL DESCRIPTION; THENCE NORTH 38 DEGREES 16 MINUTES 43 SECONDS EAST, 53.13 FEET; THENCE SOUTH 51 DEGREES 43 MINUTES 17 SECONDS EAST, 51.23 FEET AN INTERSECTION WITH A SOUTHEASTERLY LINE OF SAID LOT 2; THENCE SOUTH 24 DEGREES 50 MINUTES 43 SECONDS WEST ALONG SAID LAST DESCRIBED SOUTHEASTERLY LINE, 26.91 FEET TO AN INTERSECTION WITH A SOUTHERLY LINE OF SAID LOT, BEING A POINT OF CURVATURE; THENCE WESTERLY ALONG SAID LAST DESCRIBED SOUTHERLY LINE, BEING A NON TANGENT CURVED LINE, CONCAVE SOUTH, HAVING A RADIUS OF 472.50 FEET, AN ARC LENGTH OF 63.53 FEET (THE CHORD TO SAID CURVED LINE BEARS NORTH 76 DEGREES 50 MINUTES 37 SECONDS WEST, 63.48 FEET) TO THE POINT OF BEGINNING, ALL IN COOK COUNTY, ILLINOIS.

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EXHIBIT C SITE PLAN

