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Illinois Anti-Predatory Lending Database Program

Certificate of Exemption



Doc#: 1413933009 Fee: \$116.00
RHSP Fee: \$9.00 RPRF Fee: \$1.00
Karen A. Yarbrough
Cook County Recorder of Deeds
Date: 05/19/2014 09:47 AM Pg: 1 of 40

Report Mortgage Fraud
800-532-8785

The property identified as: **PIN:** 17-03-217-016-0000

Address:

Street: 871 N. RUSH STREET

Street line 2:

City: CHICAGO

State: IL

ZIP Code: 60611

Lender: BHC RUSH LLC

Borrower: 871 RUSH PROPERTY LLC

Loan / Mortgage Amount: \$4,000,000.00

This property is located within the program area and is exempt from the requirements of 765 ILCS 77/70 et seq. because it is commercial property.

Box 400-CTCC

Certificate number: 08FAE95F-F199-4BD3-B893-615F271C883E

Execution date: 05/03/2014

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87627740212

Property of Cook County Clerk's Office

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PREPARED BY AND)
 RECORDING REQUESTED BY)
 AND WHEN RECORDED MAIL TO:)
)
 Greenberg Traurig, LLP)
 77 West Wacker Drive)
 Suite 3100)
 Chicago, Illinois 60601)
 Attn: Michael J. Baum)

Space Above for Recorder's Use

**MORTGAGE, ASSIGNMENT OF LEASES AND RENTS,
 SECURITY AGREEMENT AND FIXTURE FILING**

from

871 RUSH PROPERTY LLC, a Delaware limited liability company, as Mortgagor
 ("Mortgagor")

to

BHC RUSH LLC, a Delaware limited liability company, as Mortgagee
 ("Mortgagee")

May 6, 2014

THIS MORTGAGE IS ALSO TO BE FILED FOR RECORD IN THE REAL ESTATE RECORDS AS A FIXTURE FILING IN ACCORDANCE WITH THE UNIFORM COMMERCIAL CODE OF THE STATE. THIS MORTGAGE COVERS GOODS WHICH ARE OR ARE TO BECOME FIXTURES.

THE NAMES OF THE DEBTOR AND THE SECURED PARTY, THE MAILING ADDRESS OF THE SECURED PARTY FROM WHICH INFORMATION CONCERNING THE SECURITY INTEREST MAY BE OBTAINED, THE MAILING ADDRESS OF THE DEBTOR AND A STATEMENT INDICATING THE TYPES, OR DESCRIBING THE ITEMS, OF COLLATERAL, ARE AS DESCRIBED IN SECTION 4 HEREOF.

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THIS MORTGAGE, ASSIGNMENT OF LEASES AND RENTS, SECURITY AGREEMENT AND FIXTURE FILING (this "Mortgage"), is made as of May 6, 2014, by 871 RUSH PROPERTY LLC, a Delaware limited liability company, having an address of 1023 Ashland Avenue, River Forest, Illinois 60305 ("Mortgagor"), to BHC RUSH LLC, a Delaware limited liability company (together with its successors and assigns, including each and every holder from time to time of the Note described below, to be indexed as grantee and to be referred to hereinafter as "Mortgagee").

BACKGROUND:

A. Mortgagee made a loan to Mortgagor in the original principal amount of \$4,000,000.00 (the "Loan") evidenced by that certain Promissory Note, dated of even date, in the original principal amount of \$4,000,000.00 made by Mortgagor and payable to Mortgagee (the "Note").

B. Mortgagor holds fee simple title to the real estate legally described on Exhibit A attached to and made a part of this Mortgage (the "Land").

C. As a condition precedent to the making of the Loan to Mortgagor, Mortgagee has required, among other things, that Mortgagor enter into this Mortgage and grant to Mortgagee a first priority lien and security interest in and to the Land and other Mortgaged Property now or hereafter owned by Mortgagor, subject only to the Permitted Exceptions to secure all of the following (all of which may be referred to collectively as the "Obligations"): (i) payment of the principal amount of the Loan evidenced by the Note and any amendments, restatements, modifications and supplements thereof, together with the interest thereon at the rate specified in the Note, and all fees, charges, and prepayment fees, if any, as provided in the Note or any other Loan Document (defined below), (ii) payment of all other monies or sums provided to be paid by Mortgagor pursuant to the terms, provisions and conditions of the Loan Documents, including, without limitation, this Mortgage, and (iii) performance of each and every obligation, agreement, promise, covenant, warranty, and representation now or hereafter due and owing, made or undertaken by Mortgagor as set forth in the Note, this Mortgage, and all other documents or instruments given or made by Mortgagor to evidence or to secure the Loan, and in any renewal, modification, restatement or extension of any of the foregoing (the Note, this Mortgage, and such other documents and instruments, collectively, the "Loan Documents").

Statement of Agreement:

NOW, THEREFORE, Mortgagor agrees with Mortgagee as follows:

1. Definitions: As used in this Mortgage, the following terms shall have the meanings indicated below:

"Agreements" shall mean all contracts, agreements, warranties, representations, service agreements, maintenance contracts and agreements relating to the use, occupancy, operation, management, leasing, repair and service of the Real Estate or any part thereof, whether presently existing or entered into after the date hereof.

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“Bankruptcy Code” shall mean Title 11 of the United States Code entitled “Bankruptcy” as now or hereafter in effect or any successor code thereto.

“Fixtures” shall mean all furniture, furnishings, fixtures, appliances, machinery or equipment which are now or at anytime hereafter may be attached to or situated upon or affixed to the Real Estate, including, but not limited to, all signs, artwork, office furnishings and equipment, all partitions, screens, awnings, shades, blinds, floor coverings, hall and lobby equipment, heating, lighting, plumbing, ventilating, refrigerating, incinerating, elevator, escalator, air conditioning and communication plants or systems with appurtenant fixtures, vacuum cleaning systems, call systems, security systems, sprinkler systems and other fire prevention and extinguishing apparatus and materials; all equipment, manual, mechanical or motorized, for the construction, maintenance, repair and cleaning of, any parking areas, walks, underground ways, truck ways, driveways, common areas, roadways, highways and streets; and all other items of personal property now or hereafter owned by Mortgagor located in or on the Real Estate and used or useful in the present or future occupancy, operation, maintenance and leasing thereof (but excluding any of the foregoing that is not owned by Mortgagor).

“Guaranty” shall mean that certain Carve-Out Guaranty, dated of even date herewith, executed by Richard Smith, individually.

“Improvements” shall mean all other buildings, structures, fixtures, personalty, appurtenances and improvements now or hereafter on the Land.

“Intangibles” shall mean all the records and books of account now or hereafter maintained by Mortgagor in connection with the operation of the Real Estate or otherwise; all contract rights, rights to the payment of money including tax refund claims, insurance proceeds and tort claims, chattel paper, documents, instruments, general intangibles, together with all income therefrom, increases thereunder and proceeds thereon; and all judgments, awards of damages and settlements hereafter made resulting from condemnation proceedings or the taking of any of the Real Estate or any portion thereof under the power of eminent domain, any proceeds of any policies of insurance maintained with respect to any of the Real Estate and proceeds of any sale, option or contract to sell the Real Estate or any portion thereof.

“JV Agreement” shall mean that certain Limited Liability Company Agreement of 871 Rush Property LLC, dated of even date herewith.

“Land” shall mean the land legally described in Exhibit A hereto, together with all easements, air rights, servitudes, rights of way, gores of land, streets, ways, alleys, passages, sewer rights, waters, water courses, water rights and powers, and all estates, rights, titles, interests, privileges, liberties, tenements, hereditaments and appurtenances whatsoever, in any way now or hereafter belonging, relating or appertaining to the Land, and the reversions, remainder, rents, issues and profits thereof, and all the estate, right, title, interest, property, possession, claim and demand whatsoever, at law as well as in equity, of Mortgagor, in and to the same.

“Leases” shall mean all leases, subleases, licenses, rental agreements, franchise and occupancy agreements, concession agreements and other agreements, whether or not in writing,

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for the use or occupancy of all or any portion of the Real Estate affecting the use, enjoyment or occupancy of the Real Estate or any portion thereof now or hereafter made, whether made before or after the filing by or against Mortgagor of any petition for relief under Bankruptcy Code, together with any extension, renewal or replacement of the same.

“Mortgaged Property” shall mean all of Mortgagor’s right, title and interest in and to all of the Land, the Improvements, the Fixtures, the Agreements, the Plans, the Permits, the Intangibles, the Leases and the Rents, together with any and all proceeds of any and all of the foregoing, including, without limitation, any and all cash and non-cash consideration received from the sale, exchange, lease, collection or other disposition of any and all of the foregoing, any value received as a consequence of the possession of any of the foregoing, any payment received from any insurer or other person or entity as a result of the destruction, loss, theft, damage or other involuntary conversion of whatever nature of any of the foregoing, and all equipment, machinery, furniture, inventory, other goods, fixtures, general intangibles, instruments, chattel paper, documents, accounts and all other property of any kind or nature which are acquired with any proceeds of any of the foregoing. Mortgaged Property shall also include all renewals, substitutions, improvements, accessions, attachments, additions, remainders, reversions, replacements and all proceeds to or of each of the foregoing, any greater estate in the Real Estate or any portion thereof that may be acquired by Mortgagor; and all conversions of the security constituted thereby so that, immediately upon such acquisition, construction, assemblage, placement or conversion, as the case may be, and in each such case, the foregoing shall be deemed a part of the Mortgaged Property and shall automatically become subject to the lien of this Mortgage as full and completely and with the same priority and effect as though now owned by Mortgagor and specifically described herein, without any further mortgage, assignment or conveyance by Mortgagor.

“Permits” shall mean all building permits, certificates of occupancy and other assignable governmental permits, licenses and authorizations, including, without limitation, all state, county and local occupancy certificates, and other licenses, in any way applicable to the Real Estate or any part thereof or to the development, construction, ownership, use, occupancy, operation, maintenance, and leasing of the Real Estate.

“Personal Property” shall mean such of the Mortgaged Property which constitutes personal property under the Laws of the State, including the Intangibles and any and all proceeds of any and all of the foregoing, including, without limitation, any and all cash and non-cash consideration received from the sale, exchange, lease, collection or other disposition of any and all of the foregoing, any value received as a consequence of the possession of any of the foregoing, any payment received from any insurer or other person or entity as a result of the destruction, loss, theft, damage or other involuntary conversion of whatever nature of any of the foregoing, and all equipment, machinery, furniture, inventory, other goods, fixtures, general intangibles, instruments, chattel paper, documents, accounts and all other property of any kind or nature which are acquired with any proceeds of any of the foregoing.

“Plans” shall mean all plans and specifications relating to the development and construction of the Real Estate.

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“Real Estate” shall mean the Land, the Improvements and such other of the Mortgaged Property as constitutes real property under the Laws of the State, together with any and all proceeds of any and all of the foregoing, including, without limitation, any and all cash and non-cash consideration received from the sale, exchange, lease, collection or other disposition of any and all of the foregoing, any value received as a consequence of the possession of any of the foregoing (including, without limiting the generality of the foregoing, any and all real estate tax abatements now or in the future accruing to the Real Estate), any payment received from any insurer or other person or entity as a result of the destruction, loss, theft, damage or other involuntary conversion of whatever nature of any of the foregoing, and all equipment, machinery, furniture, inventory, other goods, fixtures, general intangibles, instruments, chattel paper, documents, accounts and all other property of any kind or nature which are acquired with any proceeds of any of the foregoing.

“Rents” shall mean absolutely and presently all rents, additional rents, revenues, income, issues and profits arising from the Leases and renewals and replacements thereof and any cash or security deposited in connection therewith, and together with all avails, rents, issues, cash collateral and profits arising from or accruing at anytime hereafter by virtue of any agreement for the use or occupancy of the Real Estate or any portion thereof, and all of the foregoing whether paid or accruing before or after the filing by or against Mortgagor of any petition for relief under the Bankruptcy Code.

“State” shall mean the State of Illinois.

“Uniform Commercial Code” shall mean the Uniform Commercial Code in effect in the State.

2. **Grant:** As security for the Obligations, Mortgagor does hereby irrevocably grant, bargain, sell, mortgage, pledge, assign, warrant, transfer and convey the Mortgaged Property to Mortgagee, its successors and assigns, and grant a security interest to Mortgagee in, and a lien upon, all of the Mortgaged Property, provided, however, that notwithstanding anything hereinabove to the contrary the maximum principal amount of the obligations secured hereby at any one time (the “Maximum Secured Amount”) shall not exceed an amount equal to \$8,000,000.00, plus all costs of enforcement and collection of this Mortgage, the Note, and the other Loan Documents, plus the total amount of any advances made pursuant to the Loan Documents to protect the Mortgaged Property and the security interest and lien created hereby; together with interest on all of the foregoing as provided in the Note.

3. **Assignment of Leases and Rents:** Mortgagor hereby absolutely and unconditionally sells, assigns and transfers unto Mortgagee all the Rents, now due and which may hereafter become due under or by virtue of any of the Leases, whether written or verbal, or any letting of, or of any agreement, whether written or oral, for the use or occupancy of the Mortgaged Property or any part thereof, which may be hereafter made or agreed to by Mortgagee under the powers herein granted, it being the intention hereby to establish an absolute transfer and assignment of all such Leases, and all the Rents, to Mortgagee, and not merely the passing of a security interest. Mortgagor hereby constitutes and appoints Mortgagee as its true and lawful attorney-in-fact, coupled with an interest, of Mortgagor, empowered and authorized in the name, place and stead (with or without taking possession of the Mortgaged Property as provided in this

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Mortgage) of Mortgagor, (i) to demand, sue for, attach, levy, recover, and receive all Rents and give proper receipts, releases, and acquittances therefor and after deducting expenses of collection, to the extent permitted by Law, to apply the net proceeds as a credit upon any portion of the Obligations selected by Mortgagee notwithstanding the fact that such portion of the Obligations may not then be due and payable or that such portion of the Obligations is otherwise adequately secured, and Mortgagor does hereby authorize and direct any such lessee or purchaser to deliver such payment to Mortgagee and (ii) to rent, lease, let or sell all or any portion of the Mortgaged Property to any party or parties at such rental or sale and upon such terms as said Mortgagee shall, in its discretion, determine, and to collect all of said Rents arising from or accruing at any time hereafter, and now due or that may hereafter become due under each and every of the Leases or otherwise, with the same rights and powers and subject to the same immunities, exoneration of liability and rights of recourse and indemnity as Mortgagee would have upon taking possession pursuant to the provisions of this Mortgage. The foregoing appointment is irrevocable and continuing and such rights, powers, and privileges shall be exclusive in Mortgagee, its successors and assigns. It is the intention of Mortgagor and Mortgagee that the assignment contained in this Section 3 be a present, unconditional, irrevocable and absolute assignment; neither obtaining possession of the Rents nor the appointment of a receiver shall be required for perfection.

(a) Nothing contained herein shall be construed as constituting Mortgagee a "mortgagee-in-possession" in the absence of the taking of actual possession of the Mortgaged Property by Mortgagee pursuant to this Mortgage. In the exercise of the powers herein granted Mortgagee, no liability shall be asserted or enforced against Mortgagee, all such liability being expressly waived and released by Mortgagor.

(b) Although it is the intention of the parties that the assignment contained in this Section 3 shall be a present absolute assignment, it is expressly understood and agreed, anything contained herein to the contrary notwithstanding, that Mortgagor shall have a license to collect such Rents until, and Mortgagee shall not exercise any of the rights or powers conferred upon it by this Section 3 until, an Event of Default shall have occurred and be continuing under this Mortgage, the Note, the Loan Documents or any other instrument evidencing or securing the indebtedness secured hereby or delivered pursuant to any of the Loan Documents.

4. Security Agreement: This Mortgage is both a real property Mortgage and, a "security agreement" within the meaning of the Uniform Commercial Code, and a "financing statement" within the meaning of the Uniform Commercial Code. The Mortgaged Property includes both real and personal property and all other rights and interests, whether tangible or intangible in nature, of Mortgagor in the Mortgaged Property. By executing and delivering this Mortgage, Mortgagor hereby grants to Mortgagee, as security for the Obligations, a security interest in the Personal Property to the full extent that the Personal Property may be subject to the Uniform Commercial Code. The beneficial owner and holder of such security interest is Mortgagee, Mortgagee will be deemed the "secured party" with respect to such security interest for all purposes of the Uniform Commercial Code and will be so identified on all financing statements filed in connection therewith, and Mortgagee shall be entitled upon the occurrence of an Event of Default to exercise all the remedies of a secured party under the Uniform

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Commercial Code as well as all other rights and remedies available at law or in equity. The information contained in this Section 4 is provided in order that this Mortgage shall comply with the requirements of the Uniform Commercial Code for mortgages to be effective as financing statements filed as a fixture filing. The name of the "debtor" is 871 Rush Property LLC, a Delaware limited liability company; and the name of the "secured party" is BHC Rush LLC, a Delaware limited liability company; the mailing address of the "secured party" from which information concerning the security interest may be obtained and the mailing address of the "debtor" are as set forth in Section 43 below. The debtor's organizational number is 5505760. The types, or the items, of collateral covered hereby consist of the Personal Property and all other items set forth herein above in Section 1 which constitute fixtures or personal property. Grantor is the record owner of the Real Estate.

5. Conditions to Grant. TO HAVE AND TO HOLD the above granted and described Mortgaged Property unto Mortgagee, and the successors and assigns of Mortgagee, forever; to secure payment to Mortgagee of the Obligations at the time and in the manner provided for its payment in the Note and in this Mortgage, hereby expressly waiving and releasing any and all right, benefit, privilege, advantage or exemption under and by virtue of any and all statutes and laws of the state or other jurisdiction where the Mortgaged Property is located providing for the exemption of homesteads from sale on execution or otherwise; PROVIDED, HOWEVER, these presents are upon the express condition that, if Mortgagor shall well and truly pay to Mortgagee the Obligations (excluding those that are of an indemnity nature and are intended to survive the release of this Mortgage) at the time and in the manner provided in the Note, this Mortgage and the other Loan Documents, shall well and truly perform the Obligations (excluding those that are of an indemnity nature and are intended to survive the release of this Mortgage) as set forth in this Mortgage and the other Loan Documents and shall well and truly abide by and comply with each and every covenant and condition set forth herein and in the Note and the other Loan Documents, these presents and the estate hereby granted shall cease, terminate and be void.

6. Payment and Performance of Obligations. Mortgagor shall pay when due, and shall duly and punctually perform and observe, all of the Obligations, including without limitation, all terms, provisions, conditions, covenants and agreements on Mortgagor's part to be performed or observed as provided in this Mortgage and in the other Loan Documents; and this Mortgage shall secure such payment, performance and observance.

7. Title to Mortgaged Property and the Lien of this Mortgage. Mortgagor covenants and represents that: (a) Mortgagor has indefeasible fee simple title to all of the Real Estate free and clear of any liens, charges, encumbrances, security interests and adverse claims whatsoever, except the Permitted Exceptions (as defined below); (b) Mortgagor is the sole owner with good and indefeasible title to all of the Personal Property, free and clear of any liens, charges, encumbrances, security interests and adverse claims whatsoever, except the Permitted Exceptions; (c) Mortgagor has lawful authority to sell, assign, convey and mortgage the Mortgaged Property, and does hereby warrant generally, and agrees to defend, the Mortgaged Property and the title thereto, whether now leased or hereafter acquired, against all claims of any person; (d) this Mortgage constitutes a valid, enforceable, first lien against the Real Estate, and a valid, enforceable, first lien and security interest in and to the Personal Property, subject only to

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the Permitted Exceptions; and (e) all representations and warranties made by Mortgagor under this Mortgage shall be true and correct in all material respects at all times during the Loan Term (as defined in the Note). As used herein the term "Permitted Exceptions" shall mean those matters listed in Exhibit B hereto to which the interest of Mortgagor's interest in the Mortgaged Property may be subject as of the date hereof, and any such other title exceptions or objections, if any, as Mortgagee may approve in advance in writing.

8. Maintenance, Repair and Restoration. Mortgagor shall place and thereafter keep the Mortgaged Property in good condition, order and repair and as may be necessary to protect and preserve the value of the Mortgaged Property, causing all reasonably necessary repairs, alterations, renewals, replacement, additions, betterments and improvements to be made promptly thereto. Subject to the terms of this Mortgage and the Loan Documents, Mortgagor shall promptly repair, restore or rebuild (or cause the same to be done) any of the Mortgaged Property which may become damaged or be destroyed from any cause whatsoever and pay when due all claims for labor performed and materials furnished therefor. Nothing herein is intended to limit any right Mortgagor may have to the use of insurance proceeds or condemnation awards to the extent set forth herein.

9. Use Violations or Alterations. Mortgagor shall not use, maintain, operate or occupy, or allow the use, maintenance, operation or occupancy of the Mortgaged Property in any manner which (a) violates any Laws; (b) creates a reasonable likelihood of danger unless safeguarded as required by Laws; (c) constitutes a public or private nuisance; (d) will increase the risk of fire or other hazard to the Mortgaged Property or any part thereof, or will wholly or partially invalidate any insurance coverage required to be carried hereunder. Mortgagor shall not commit or permit any waste of the Mortgaged Property or any part thereof, whether commissive or permissive, and will not make or permit to be made any material alterations or additions to the Mortgaged Property. Mortgagor shall not abandon the Mortgaged Property or leave the Mortgaged Property unprotected, unguarded, vacant or deserted, and shall not allow any of the Mortgaged Property to be misused, abused or wasted, or to deteriorate.

10. Platting, Replatting, Subdivision and Resubdivision. Mortgagor shall not, without the consent of Mortgagee, impose any restrictions, agreements or covenants which run with the land upon the Land or the Improvements or any part thereof, nor plat, replat, subdivide, resubdivide or record condominium documents against the Land or any part thereof.

11. Permitted Exceptions; Compliance. With respect to the Permitted Exceptions, Mortgagor shall (a) timely observe and perform all covenants and obligations contained therein in all material respects; (b) not take any action or fail to take any action if the taking of such action or failure to take such action would cause a default by Mortgagor thereunder, and (c) not exercise any rights or remedies under any Permitted Exception which would be adverse to Mortgagee's interests, without the prior written consent of Mortgagee.

12. Omitted.

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13. Insurance Coverage.

(a) Mortgagor shall obtain or cause to be obtained, and shall maintain or cause to be maintained at all times during the term of the Loan, reasonable insurance, which shall be subject to Mortgagee's prior written consent, which shall not be unreasonably withheld. Mortgagee shall be added to all insurance policies as an additional insured or loss payee, as applicable.

(b) The following notice is provided pursuant to paragraph (3) of 815 ILCS 180/10: Unless the Mortgagor provides evidence of the insurance coverage required by the Loan Documents, the Mortgagee may purchase such insurance at the Mortgagor's expense to protect the Mortgagee's interests in the Mortgagor's collateral. This insurance may, but need not, protect the Mortgagor's interests. The coverage that the Mortgagee purchases may not pay any claim that the Mortgagor may make or any claim that is made against the Mortgagor in connection with the collateral. The Mortgagor may later cancel any insurance purchased by the Mortgagee, but only after providing evidence that the Mortgagor has obtained insurance as required by the Loan Documents. If the Mortgagee purchases insurance for the collateral, the Mortgagor will be responsible for the costs of that insurance, including the insurance premium, interest and any other charges that the Mortgagee may impose in connection with the placement of the insurance, until the effective date of the cancellation or expiration of the insurance. The costs of the insurance may be added to the Obligations of the Mortgagor. The costs of the insurance may be more than the cost of insurance that the Mortgagor may be able to obtain on the Mortgagor's own.

14. Stamp Tax. If, by the Laws of the United States of America, or of any state, county, or municipality having jurisdiction over Mortgagor or the Mortgaged Property or any part thereof, any tax is assessed or becomes due in respect of the issuance of the Note, or the granting or recording of this Mortgage or otherwise in connection with any of the other Loan Documents, Mortgagor shall pay such tax in the manner required by such Law.

15. Prepayment Privilege. Mortgagor may prepay the Note, as provided in the Note.

16. Effect of Extensions of Time and Amendments on Junior Liens and Others. If the payment of the Obligations, or any part thereof, be extended or varied or if any part of the security therefor be released, all persons now or at any time hereafter liable therefor, or interested in the Mortgaged Property or any part thereof, shall be held to assent to such extension, variation or release; and their liability and the lien and all provisions hereof shall continue in full force and effect, the right of recourse against all such persons being expressly reserved by Mortgagee, notwithstanding any such extension, variation or release. Any person who, upon consent by Mortgagee shall take a junior mortgage, or other junior lien upon the Mortgaged Property or any part thereof or any interest therein, shall take such lien subject to the rights of Mortgagee to supplement, amend, modify, restate and extend the Loan Documents or any of them, and to extend the maturity of the Obligations, in each and every case without obtaining the consent of the holder of such junior lien and without the lien of this Mortgage or the lien of any other Loan Documents losing priority over the rights of any such junior lien.

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17. Inspection of Premises. Mortgagee, its employees and agents, shall have the right to inspect the Mortgaged Property and every part thereof, during normal business hours upon reasonable prior notice, and Mortgagor will cooperate (and will use commercially reasonable efforts to cause its agents and independent contractors to cooperate) with Mortgagee in arranging the inspections of the Mortgaged Property or any part thereof or any of the other Personal Property by Mortgagee and its agents and representatives, at such times as Mortgagee shall determine in its reasonable discretion, during normal business hours upon reasonable prior notice. Mortgagee shall have the right to inspect and make copies of all books, records and documents relating to the Mortgaged Property as Mortgagee shall determine in its reasonable discretion, during normal business hours upon reasonable prior notice.

18. Uniform Commercial Code. Mortgagor (as debtor) and Mortgagee (as secured party) agree: (i) that this Mortgage shall constitute a Security Agreement within the meaning of the Uniform Commercial Code with respect to the Personal Property; (ii) that a security interest in and to the Personal Property is hereby granted to Mortgagee; and (iii) that all of Mortgagor's right, title and interest therein are hereby assigned to Mortgagee; all to secure payment of the Obligations and to secure performance by Mortgagor of the terms, covenants and provisions hereof.

(a) Upon the occurrence and during the continuance of an Event of Default under this Mortgage, Mortgagee, pursuant to the appropriate provisions of the Uniform Commercial Code, shall have an option to proceed with respect to both the Real Estate and the Personal Property in accordance with its rights, powers and remedies with respect to the Real Estate, in which event the default provisions of the Uniform Commercial Code shall not apply. The parties agree that if Mortgagee shall elect to proceed with respect to the Personal Property separately from the Real Estate, Mortgagee shall have all remedies available to a secured party under the Uniform Commercial Code and ten (10) days notice of the sale of the Personal Property shall be reasonable notice. The reasonable expenses of retaking, holding, preparing for sale, selling and the like incurred by Mortgagee shall include, but not be limited to, reasonable attorneys' fees and legal expenses incurred by Mortgagee. Mortgagor agrees that Mortgagor shall not, without the written consent of Mortgagee, which consent shall not be unreasonably withheld, conditioned or delayed, dispose of, remove or permit to be removed from the Mortgaged Property any of the Personal Property, and that all replacements for each and every item of Personal Property shall be at least equal in value and utility to the initial value and utility of that disposed of and in such a manner that said replacement or substituted Personal Property shall be subject to the security interest created hereby and that the security interest of Mortgagee shall be perfected and first in priority, other than as to the Permitted Exceptions, it being expressly understood and agreed that all replacements, substitutions and additions to the Personal Property shall be and become immediately subject to the security interest of this Mortgage and covered hereby. Mortgagor covenants and represents that all Personal Property now is, and that all replacements thereof, substitutions therefor or additions thereto, unless Mortgagee otherwise consents, shall be free and clear of liens, encumbrances, title retention devices and security interests of others, other than as to the Permitted Exceptions.

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(b) Mortgagor and Mortgagee agree, to the extent permitted by Law, that: (i) all of the goods described within the definition of the words "Improvements" and "Fixtures" herein are or are to become fixtures on the Land, (ii) this Mortgage constitutes a financing statement filed as a fixture filing under the Uniform Commercial Code of the State, as amended or recodified from time to time, covering any Mortgaged Property which now is or later may become fixtures attached to the Land or Improvements; and (iii) Mortgagor is the owner of the Land. The address of Mortgagor as "debtor", and the address of Mortgagee as "secured party" are as set forth in Section 43 of this Mortgage. Mortgagor agrees that the filing of a financing statement in the records normally having to do with personal Mortgaged Property shall never be construed as in any way derogating from or impairing the express declaration and intention of the parties hereto, herein above stated, that everything used in connection with the production of income from the Mortgaged Property and/or adapted for use therein and/or which is described or reflected in this Mortgage is, and at all times and for all purposes and in all proceedings, legal or equitable, shall be regarded as part of the Real Estate irrespective of whether (i) any such item is physically attached to the Land or Improvements, (ii) serial numbers are used for the better identification of certain equipment items capable of being thus identified in a recital contained herein or in any list filed with Mortgagee, or (iii) any such item is referred to or reflected in any such financing statement so filed at any time. Similarly, the mention in any such financing statement of (1) rights in or to the proceeds of any fire and/or hazard insurance policy, (2) any award in eminent domain proceedings for a taking or for loss of value, or (3) Mortgagor's interest as lessor in any present or future Leases or subleases or rights to Rents growing out of the use and/or occupancy of the Mortgaged Property, whether pursuant to a lease or otherwise, shall never be construed as in any way altering any of the rights of Mortgagee as determined by this instrument or impugning the priority of Mortgagee's lien granted hereby or by any other recorded document, but such mention in the financing statement is declared to be for the protection of Mortgagee in the event any court or judge shall at any time hold with respect to (1), (2) or (3) that notice of Mortgagee's priority of interest to be effective against a particular class of persons, including, but not limited to, the federal government and any subdivision or entity of the federal government, must be filed in the Uniform Commercial Code records.

(c) Mortgagor, upon the reasonable request by Mortgagee from time to time, shall execute, acknowledge and deliver to Mortgagee, a separate Security Agreement, Financing Statement or other similar security instruments, in form reasonably satisfactory to Mortgagee, covering all Mortgaged Property of any kind whatsoever owned by Mortgagor which in the sole and exclusive opinion of Mortgagee is essential to the operation of the Mortgaged Property and which constitutes goods within the meaning of the Uniform Commercial Code or concerning which there may be any doubt whether the title to same has been conveyed by or security interest perfected by this Mortgage under the Laws of the State, and shall further execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, any financing statement, affidavit, continuation statement or certificate or other document as Mortgagee may reasonably request in order to perfect, preserve, maintain, continue and extend the security interest under and the priority of this Mortgage and such security instrument. Mortgagor further agrees to pay to

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Mortgagee on demand all reasonable costs and expenses incurred by Mortgagee in connection with the preparation, execution, recording, filing and re-filing of any such documents. Mortgagor shall from time to time, on the reasonable request of Mortgagee, deliver to Mortgagee an inventory of the Personal Property in reasonable detail.

19. Mortgagee's Right of Possession in Case of Event of Default. Upon and during the continuance of an Event of Default in any case in which under the provisions of this Mortgage, whether before or after the entire Obligations are declared to be immediately due as aforesaid, or whether before or after the institution of legal proceedings to foreclose the lien hereof or before or after sale thereunder, Mortgagor shall forthwith, upon demand of Mortgagee, surrender to Mortgagee and Mortgagee shall be entitled to take actual possession of, the Mortgaged Property or any part thereof, personally, or by its agent or attorneys. In such event Mortgagee in its discretion may, as permitted by Law, enter upon and take and maintain possession of all or any part of said Mortgaged Property, together with all documents, books, records, papers and accounts of Mortgagor or the then owner of the Mortgaged Property relating thereto, and may exclude Mortgagor, and each of their agents or servants, wholly therefrom and may, as attorney-in-fact or agent of Mortgagor, or in its own name as Mortgagee and under the powers herein granted, hold, operate, manage and control the Mortgaged Property and conduct the business, if any, thereof, either personally or by its agents, and with full power to use such measures, legal or equitable, as in its discretion or in the discretion of its successors or assigns may be deemed proper or necessary to enforce the payment or security of the Rents, including actions for the recovery of rent, actions in forcible detainer and actions in distress for rent, and with full power: (a) to cancel or terminate any Lease for any cause or on any ground which would entitle Mortgagor to cancel the same; (b) to elect to disaffirm any Lease which is then subordinate to the lien hereof; (c) to extend or modify any then existing Leases and to make new Leases, which extensions, modifications and new Leases may provide for terms to expire, or for options to lessees to extend or renew terms to expire, beyond the maturity date of the Obligations and beyond the date of the issuance of a deed or deeds to a purchaser or purchasers at a foreclosure sale, it being understood and agreed that any such Leases, and the options or other such provisions to be contained therein, shall be binding upon Mortgagor and all persons whose interests in the Mortgaged Property are subject to the lien hereof and upon the purchaser or purchasers at any foreclosure sale, notwithstanding any redemption from sale, discharge of the Obligations, satisfaction of any foreclosure decree, or issuance of any certificate of sale or deed to any purchaser; (d) to enter into any management, leasing or brokerage agreements covering the Mortgaged Property; (e) to make all reasonably necessary or proper repairs, decorating, renewals, replacements, alterations, additions, betterments and improvements to the Mortgaged Property as to it may seem judicious; (f) to insure and reinsure the same and all risks incidental to Mortgagee's possession, operation and management thereof; and (g) to receive all of such Rents; hereby granting full power and authority to exercise each and every of the rights, privileges and powers herein granted at any and all times hereafter, without notice to Mortgagor.

Mortgagee shall not be obligated to perform or discharge, nor does it hereby undertake to perform or discharge, any obligation, duty or liability under any Leases. Mortgagor shall and does hereby agree to indemnify and hold Mortgagee harmless of and from any and all liability, loss or damage which it may or might incur by reason of its performance of any action authorized under this Section 19 and of and from any and all claims and demands whatsoever

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which may be asserted against it by reason of any alleged obligations or undertakings on its part to perform or discharge any of the terms, covenants or agreements of Mortgagor except liability, loss and damage arising solely and directly from Mortgagee's willful misconduct or negligence. Should Mortgagee incur any such liability, loss or damage, by its performance or nonperformance of actions authorized by this Section 19, or in the defense of any claims or demands, the amount thereof, including costs, expenses and reasonable attorneys' fees, together with interest on any such amount at the Default Rate shall be secured hereby, and Mortgagor shall reimburse Mortgagee therefor immediately upon demand.

20. Restrictions on Transfer. Subject to Section 33(c) below, Mortgagor shall not, without Mortgagee's consent, which consent shall not be unreasonably withheld, conditioned or delayed, create, effect, contract for, consent to or permit any conveyance, sale, assignment, transfer, lease, pledge, mortgage, security interest or other voluntary lien, encumbrance or alienation (each a "Transfer") of the Mortgaged Property or any part thereof or interest therein, whether any such conveyance, sale, contract, assignment, transfer, pledge, mortgage, security interest, or other voluntary lien, encumbrance or alienation is effected directly or affected indirectly through any transfer or sale of any direct or indirect interests in Mortgagor.

21. Events of Default. The following shall constitute an "Event of Default" under this Mortgage:

(a) Option Agreement. Mortgagor materially breaches or defaults on its obligations under that certain Option Agreement, dated of even date herewith, between JBS and Mortgagee, which breach or default has a material adverse effect on Mortgagee's ability to exercise its option thereunder;

(b) Representations. Any representation, warranty or certification made by Mortgagor or any affiliate of Mortgagor in or pursuant to any of Loan Documents is or becomes materially false or misleading at any time when such representation, warranty, or certification is required to be operative, and continues to be materially false or misleading for thirty (30) days after receipt of notice thereof by the Mortgagee;

(c) Other Events of Default. The occurrence of any other matter designated as an Event of Default by Mortgagor under any other provision of this Mortgage or any other Loan Document (Note and Guaranty) after the lapse of any applicable cure period without cure;

(d) Bankruptcy, Insolvency, etc. The Mortgagor shall:

(i) become insolvent or generally fail to pay, or admit in writing its inability or unwillingness to pay, debts as they become due;

(ii) apply for, consent to, or acquiesce in, the appointment of a trustee, receiver, sequestrator or other custodian for itself or a substantial part of its property, or make a general assignment for the benefit of creditors;

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(iii) in the absence of such application, consent or acquiescence, permit or suffer to exist the appointment of a trustee, receiver, sequestrator or other custodian for itself or for a substantial part of its property, and such trustee, receiver, sequestrator or other custodian shall not be discharged within 60 days, provided that the Mortgagee is hereby expressly authorized to appear in any court conducting any relevant proceeding during such 60-day period to preserve, protect and defend its rights under the Loan Documents;

(iv) permit or suffer to exist the commencement of any bankruptcy, reorganization, debt arrangement or other case or proceeding under any bankruptcy or insolvency law, or any dissolution, winding up or liquidation proceeding, in respect of Mortgagor, and, if any such case or proceeding is not commenced by Mortgagor, such case or proceeding shall be consented to or acquiesced in by Mortgagor, or shall result in the entry of an order for relief or shall remain for 60 days undismissed, provided that the Mortgagee is hereby expressly authorized to appear in any court conducting any such case or proceeding during such 60-day period to preserve, protect and defend its rights under the Loan Documents; or

(v) take any corporate, partnership, trust or other similar action authorizing or in furtherance of any of the foregoing;

(e) Attachment. There is an attachment, execution or other judicial seizure of any portion of the Mortgagor's assets and such seizure is not discharged within sixty (60) days of such attachment, execution or other judicial seizure, as the case may be;

(f) Suspension of Business; Death; Dissolution. Mortgagor suspends the transaction of business, dissolves, terminates its existence, or (if a natural person) dies;

(g) Material Adverse Change. There is a material adverse change in the financial position of Mortgagor;

(h) Specified Provisions. Mortgagor breaches or defaults under Section 13 (regarding insurance) (however, Mortgagor shall have the one-time right to cure such default, within twenty (20) days thereafter, if it cures such matter and no insurance claim or other adverse matter arose during any period in which the applicable insurance was not in effect) or Section 20 (regarding Transfers) of this Mortgage;

(i) For Cause under JV Agreement. Mortgagor or Guarantor (A) is convicted of a felony or other crime that has a material adverse effect on the Property or the Mortgagor, (B) commits fraud, intentional material misrepresentation, gross negligence, or willful misconduct with respect to the Property or the Borrower, (C) intentionally breaches a material term, condition or obligation contained in JV Agreement or Option Agreement.

(j) Lien. Any lien or notice of lien of any kind (whether for the performance of work, the supplying of materials, a judgment lien, a tax lien, or otherwise) is filed or served against any part of the Land, and the Mortgagor fails either to satisfy such lien or

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to adequately insure over such lien within the earlier of the time necessary to stay enforcement of the lien or thirty (30) days after the date of filing or serving of such lien or notice of lien;

(k) Judgments. Any judgment or order for the payment of money in excess of \$100,000.00 shall be rendered against Mortgagor, if such judgment is not satisfied within thirty (30) days;

(l) Impairment of Security, etc. Any Loan Document, or any lien granted thereunder, shall (except in accordance with its terms), in whole or in part, terminate, cease to be effective or cease to be the legally valid, binding and enforceable obligation of any obligor party thereto; or Mortgagor, shall, directly or indirectly, contest in any manner such effectiveness, validity, binding nature or enforceability; or any lien securing the Loan shall, in whole or in part, cease to be a perfected first Lien, subject only to the Permitted Exceptions; or

(m) Other Breaches. Mortgagor breaches or defaults under any other term or provision in any of the Loan Documents (other than any default or breach described in any of Sections 21(a) through (l) (inclusive)), and such breach or default continues for thirty (30) days after receipt of notice thereof by the Mortgagor.

22. Remedies. Upon the occurrence of any Event of Default, the Mortgagee shall also have the right immediately to foreclose this Mortgage. Upon the filing of any complaint for that purpose, the court in which such complaint is filed may, upon application of the Mortgagee or at any time thereafter, either before or after foreclosure sale, and without regard to the solvency or insolvency at the time of such application of any person then liable for the payment of any of the Obligations, without regard to the then value of the Mortgaged Property or whether the same shall then be occupied, in whole or in part, as a homestead, by the owner of the equity of redemption, and without regarding any bond from the complainant in such proceedings, appoint or seek to have appointed a receiver for the Mortgaged Property, or any part thereof as it may designate, for the benefit of the Mortgagee, with power to take possession, charge, and control of the Mortgaged Property, to lease the same, to keep the buildings thereon insured and in good repair, and to collect all Rents during the pendency of such foreclosure suit, and, in case of foreclosure sale and a deficiency, during any period of redemption.

The court may, from time to time, authorize said receiver to apply the net amounts remaining in its hands, after deducting reasonable compensation for the receiver and its counsel as allowed by the court, in payment (in whole or in part) of any or all of the Obligations, including without limitation the following, in such order of application as the Mortgagee may elect: (i) amounts due under the Loan Documents, (ii) amounts due upon any decree entered in any suit foreclosing this Mortgage, (iii) costs and expenses of foreclosure and litigation upon the Land, (iv) insurance premiums, repairs, taxes, special assessments, water charges and interest, penalties and costs, in connection with the Land, (v) any other lien or charge upon the Mortgaged Property that may be or become superior to the lien of this Mortgage, or of any decree foreclosing the same and (vi) all moneys advanced by the Mortgagee in accordance with the Loan Documents to cure or attempt to cure any Event of Default by the Mortgagor in the performance of any obligation or condition contained in any Loan Documents or this Mortgage

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or otherwise, to protect the security hereof provided herein, or in any Loan Documents, with interest on such advances at the Default Rate. The overplus of the proceeds of sale, if any, shall then be paid to the Mortgagor. This Mortgage may be foreclosed once against all, or successively against any portion or portions, of the Mortgaged Property, as the Mortgagee may elect, until all of the Mortgaged Property has been foreclosed against and sold. As part of the foreclosure, the Mortgagee in its discretion may, with or without entry, personally or by attorney, sell to the highest bidder all or any part of the Mortgaged Property, and all right, title, interest, claim and demand therein, and the right of redemption thereof, as an entirety, or in separate lots, as Mortgagee may elect, and in one sale or in any number of separate sales held at one time or at any number of times, all in any manner and upon such notice as provided by applicable Law. Upon the completion of any such sale or sales, Mortgagee shall transfer and deliver, or cause to be transferred and delivered, to the purchaser or purchasers the property so sold, in the manner and form as provided by applicable law, and Mortgagee is hereby irrevocably appointed the true and lawful attorney-in-fact of Mortgagor, in its name and stead, to make all necessary transfers of property thus sold, and for that purpose Mortgagee may execute and deliver, for and in the name of Mortgagor, all necessary instruments of assignment and transfer, Mortgagor hereby ratifying and confirming all that said attorney-in-fact shall lawfully do by virtue hereof. In the case of any sale of the Mortgaged Property pursuant to any judgment or decree of any court at public auction or otherwise, Mortgagee may become the purchaser, and for the purpose of making settlement for or payment of the purchase price, shall be entitled to credit bid in all or any portion of the Obligations. In case of any foreclosure of this Mortgage (or the commencement of or preparation therefor) in any court, all expenses of every kind reasonably paid or incurred by the Mortgagee for the enforcement, protection or collection of this security, including court costs, reasonable attorneys' fees, stenographers' fees, costs of advertising, and costs of title insurance and any other documentary evidence of title, shall be paid by the Mortgagor.

23. Waivers and Agreements Regarding Remedies. To the full extent Mortgagor may do so, Mortgagor hereby:

(a) agrees that it will not at any time plead, claim or take advantage of any Laws now or hereafter in force providing for any appraisalment, valuation, stay, extension or redemption, and waives and releases all rights of redemption, valuation appraisalment, stay of execution, extension and notice of election to accelerate the Obligations.

(b) waives all rights to a marshaling of the assets of Mortgagor, including without limitation, the Mortgaged Property, or to a sale in the inverse order of alienation in the event of a foreclosure of the Mortgaged Property, and agrees not to assert any right under any Laws pertaining to the marshaling of assets, the sale in inverse order of alienation, the exemption of homestead, the administration of estates of decedents, or other matters whatsoever, to defeat, reduce or affect the right of Mortgagee under the terms of this Mortgage to a sale of the Mortgaged Property without any prior or different resort for collection, or the right of Mortgagee to the payment of the Obligations out of the proceeds of sale of the Mortgaged Property in preference to every other claimant whatsoever.

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(c) waives and relinquishes any and all rights and remedies which Mortgagor may have or be able to assert by reason of the provisions of any Laws pertaining to the rights and remedies of sureties.

24. Suits to Protect the Mortgaged Property. Mortgagee shall have the power and authority (but not the duty) to institute and maintain any suits and proceedings as Mortgagee may deem advisable (a) to prevent any impairment of the Mortgaged Property by any acts which may be unlawful or which violate the terms of this Mortgage, (b) to preserve or protect its interest in the Mortgaged Property, or (c) to restrain the enforcement of or compliance with any legislation or other governmental enactment, rule or order that may be unconstitutional or otherwise invalid, if the enforcement of or compliance with such enactment, rule or order might impair the security hereunder or be prejudicial to Mortgagee's interest.

25. Proofs of Claim. In the case of any receivership, insolvency, bankruptcy, reorganization, arrangement, adjustment, composition or other judicial proceeding affecting Mortgagor, or any constituent member of Mortgagor, to the extent permitted by Law, Mortgagee shall be entitled to file such proofs of claim and other documents as may be necessary or advisable in order to have its claim allowed in such proceedings for the entire amount due and payable by Mortgagor under the Loan Documents, at the date of the institution of such proceedings, and for any amounts which may become due and payable by Mortgagor after such date.

26. Discontinuance of Proceedings Position of Parties Restored. If Mortgagee shall have proceeded to enforce any right or remedy under this Mortgage by foreclosure, entry or otherwise, and such proceeding shall have been discontinued or abandoned for any reason, then and in every such case Mortgagee and Mortgagor shall be restored to their respective former positions and rights hereunder, and all rights, powers and remedies of Mortgagee shall continue as if no such proceedings had occurred or had been taken.

27. Rights Cumulative. Each right, power and remedy herein conferred upon Mortgagee is cumulative and in addition to every other right, power or remedy, express or implied, given now or hereafter existing, at law or in equity, and each and every right, power and remedy herein set forth or otherwise so existing may be exercised from time to time as often and in such order as may be deemed expedient to Mortgagee and the exercise or the beginning of the exercise of one right, power or remedy shall not be a waiver of the right to exercise at the same time or thereafter any other right, power or remedy; and no delay or omission of Mortgagee in the exercise of any right, power or remedy accruing hereunder or arising otherwise shall impair any such right, power or remedy, or be construed to be a waiver of any default or acquiescence therein. No act of Mortgagee shall be construed as an election to proceed under any one provision of this Mortgage to the exclusion of any other provision. Mortgagee shall have the right from time to time to take action to recover any sum or sums which constitute a part of the Obligations as same shall become due, without regard to whether or not the balance of the Obligations shall then be due, and without prejudice to the right of Mortgagee thereafter to bring an action of foreclosure or any other action by reason of any other default or defaults by Mortgagor existing at the time such earlier action was commenced.

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28. No Liability on Mortgagee. Notwithstanding anything contained herein to the contrary, Mortgagee shall not be obligated to perform or discharge, any Obligation, duty or liability of Mortgagor, whether under any of the Leases or otherwise, and Mortgagor shall and does hereby agree to indemnify and hold Mortgagee harmless of and from any and all liability, claim expense, loss or damage which Mortgagee may or might incur with respect to the Mortgaged Property, or under or by reason of its exercise of rights hereunder, and of and from any and all claims and demands whatsoever which may be asserted against Mortgagee by reason of any alleged obligations or undertakings on its part to be performed or discharged except any liability, claim expense, loss or damage arising solely and directly from Mortgagee's willful misconduct or negligence. Mortgagee shall not have responsibility for the control, care, management or repair of the Mortgaged Property, or be responsible or liable for any negligence in the management, operation, upkeep, repair or control of the Mortgaged Property resulting in loss or injury or death to any tenant, licensee, employee or stranger. Unless otherwise provided for herein, no liability shall be enforced or asserted against Mortgagee in its exercise of the powers herein granted, and Mortgagor expressly waives and releases any such liability. Should Mortgagee incur any such liability, loss or damage, under any of the Leases or under or by reason hereof, or in the defense of any claims or demands, Mortgagor agrees to reimburse Mortgagee immediately upon demand for the amount thereof, including costs, expenses and reasonable attorneys' fees, together with interest thereon from date of such payment at the interest rate set forth in the Note.

29. Representations and Warranties by Mortgagor. Mortgagor represents and warrants to the Mortgagee that the statements contained in this Article 29 are correct and complete as of the date of this Mortgage:

- (i) Mortgagor is a Delaware limited liability company and is in good standing under the laws of the State of Illinois
- (ii) This Mortgage, the Note and the other Loan Documents are legal, valid, and binding obligations of Mortgagor, and do not violate any provisions of any agreement to which Mortgagor is a party or to which it is subject.
- (iii) No litigation or proceedings are pending or, to the best of Mortgagor's knowledge and except for the claims of Lakeside Bank, threatened relating to Mortgagor or the Mortgaged Property or any part thereof.
- (iv) There are no condemnation, environmental, zoning or other land-use regulation proceedings, either instituted, or to Mortgagor's knowledge, planned to be instituted, which would affect the use and operation of the Mortgaged Property for its intended purpose or the value of the Mortgaged Property, nor has Mortgagor received notice of any special assessment proceedings affecting the Mortgaged Property.
- (v) There are no leases or other occupancy agreements at the Mortgaged Property.

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- (vi) No condominium or other assessments, real estate taxes or other charges affecting the Mortgaged Property that are due and payable are currently outstanding.
- (vii) Mortgagor has not received any written notice of default under the terms of any of the service contracts, in each instance that has not been resolved to the satisfaction of the issuer of the notice prior to the date of this Mortgage.
- (viii) To Mortgagor's knowledge, the Mortgaged Property is not contaminated with and does not contain any toxic or hazardous materials, including, but not limited to asbestos, mold, mildew, PCBs, other fungicidal, toxic, hazardous or contaminated substances, or underground storage tanks, in violation of applicable environmental laws.
- (ix) Mortgagor has not received written notice from any governmental authority or any agency, body or subdivision having any jurisdiction over the Mortgaged Property that the use thereof violates any codes, statutes, laws, rules or regulations of any federal, state, city or county government or any agency, body, or subdivision thereof having any jurisdiction over the Mortgaged Property that has not been resolved to the satisfaction of the issuer of the notice prior to date hereof.
- (xi) Mortgagor has not engaged any broker, finder or other agent in connection with this Mortgage or the transactions contemplated hereby.

30. Use of Loan Proceeds. The proceeds of the Loan shall be used initially for the repayment of the outstanding indebtedness to Lakeside Bank, and, except for the "Project Escrow" (defined below), any balance may be used in the sole discretion of JBS Properties, LLC, an Illinois limited liability company ("JBS"), the member of Mortgagor. Mortgagor hereby agrees that a portion of the Loan in an amount equal to Fifty Thousand and No/100 Dollars (\$50,000.00) shall be held by Mortgagee in a separate bank account at a financial institution selected by Mortgagee, which Loan funds shall be available to Mortgagor, from time to time upon written request, to pay for costs and expenses relating to the equipping, operation, leasing and maintenance of the Property, all pursuant to the Project Budget attached as Exhibit C to this Agreement. All funds held by Mortgagee under this Section 30 shall be deemed fully disbursed on the date of this Mortgage, regardless of when such amounts are actually provided to Borrower to pay for Property costs and expenses. Any changes to the Project Budget shall be subject to the approval of Mortgagee, not to be unreasonably withheld.

31. Real Estate Taxes. In the event that Mortgagor shall be delinquent or late in the payment of any real estate taxes and assessments and similar charges respecting the Mortgaged Property (the "Real Estate Taxes"), or if any Event of Default shall have occurred and is continuing, then, until such Event of Default is cured, Mortgagor shall thereafter on the first (1st) day of each and every month during the term of the Loan deposit an amount equal to one-twelfth (1/12) of 100% of the annual Real Estate Taxes next to become due upon the Real Estate; provided that in the case of the first such deposit, there shall be deposited, in addition, an

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amount which, when added to the aggregate amount of monthly sums next payable under this Section, will result in a sufficient reserve to pay the Real Estate Taxes next becoming due one month prior to the date when such Real Estate Taxes are, in fact, due and payable pursuant to applicable law. The amount of such deposits (herein generally called "Real Estate Tax Deposits") shall be based upon Mortgagee's reasonable estimate as to the amount of Real Estate Taxes next to be payable. It shall be the responsibility of Mortgagor to furnish Mortgagee with the bills for the Real Estate Taxes not later than thirty (30) days prior to the date on which the same are due and payable without penalty or premium of any kind. Mortgagee shall remit the Real Estate Tax Deposits on hand for the payment of the Real Estate Taxes due. If the total Real Estate Tax Deposit on hand shall not be sufficient to pay all of the Real Estate Taxes when the same shall become due, then Mortgagor shall deliver to Mortgagee at the time of the submission of the bills to Mortgagee as above an amount equal to the deficiency. If the total of such Real Estate Tax Deposit exceeds the amount required to pay the Real Estate Taxes, such excess shall be credited against subsequent payments to be made for such deposits. Upon and during the occurrence of an Event of Default hereunder, and in addition to all other rights, powers and remedies of Mortgagee under this Mortgage or under any other Loan Document, Mortgagee may, at its option, without being required do to so and to the extent permitted by Law, apply any Real Estate Tax Deposits on hand to any of the Obligations, in such order and manner as Mortgagee may elect in its discretion. When the Obligations have been fully paid and performed, as the case may be, any remaining Real Estate Tax Deposits shall be paid to Mortgagor.

32. Inspection; Access to Books and Records. Mortgagor will permit Mortgagee and Mortgagee's consultants to inspect the Mortgaged Property and all matters relating to the development and operation of the Mortgaged Property. Mortgagor will cooperate and will cause its agents and contractors to cooperate to give Mortgagee and its consultants full access to the Mortgaged Property. Mortgagee will endeavor to minimize interference with the activities at the Mortgaged Property in connection with any such inspection. All inspections by the Mortgagee and its consultants shall be for the sole benefit of the Mortgagee for its Loan administration purposes only. Neither Mortgagee nor its consultants assumes any liability to Mortgagor or any other person by reason of Mortgagee's or its consultant's inspections. Mortgagor shall keep books and records fairly reflecting all of its business affairs and transactions. The Mortgagor shall grant the Mortgagee during normal business hours, and upon at least 24 hours' advance written notice, access to and will permit the Mortgagee to make copies of Mortgagor's books and records.

33. Certain Covenants By Mortgagor.

(a) Mechanics' Liens and Real Estate Taxes. Mortgagor shall keep the Mortgaged Property free from all liens including mechanics' and materialmen's liens. Mortgagor shall pay before delinquent all Real Estate Taxes against the Real Estate. Upon request, Mortgagor will furnish Mortgagee with receipts indicating that all Real Estate Taxes have been paid currently. Notwithstanding the foregoing, provided that no Event of Default exists, Mortgagor may elect not to satisfy any claims for mechanic's or materialmen's liens or pay any such taxes, assessments or other similar charges provided that (a) Mortgagor contests such unpaid item by appropriate proceedings diligently and in

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good faith and procures and maintains a stay of any proceedings to enforce any judgment for collection of the Real Estate Taxes or mechanic's or materialmen's lien and (b) Mortgagor furnishes Mortgagee with a title indemnity from the title insurer, or a bond, in form satisfactory to the Mortgagee insuring Mortgagee fully against any loss caused by the existence or enforcement of the item being contested. In lieu of the title indemnity, Mortgagor may pay any Real Estate Taxes under protest or furnish Mortgagee with such other security or assurances as may be approved by the Mortgagee.

(b) Compliance; Operation. Mortgagor shall comply with all governmental approvals pertaining to the Mortgaged Property and the use and operation thereof. The Mortgagor shall perform, in all material respects, all of its obligations under the all contracts, agreements, leases or other documents, including all covenants, conditions and restrictions of record, and all other material agreements affecting the Mortgaged Property. Except as otherwise provided elsewhere in this Mortgage, Mortgagor shall not make or permit any material modification to or termination of any such agreements without Mortgagee's consent, which consent shall not be unreasonably withheld, conditioned or delayed. So long as the Loan remains outstanding, the Mortgaged Property shall be operated, or held for operation, in a first-class manner as a retail or restaurant use. Mortgagor shall not apply for or permit to occur any material zoning or use change respecting the Mortgaged Property.

(c) Transfers. Mortgagor shall not violate the restrictions on Transfers as set forth in Section 20 above. Mortgagee's consent shall not be required for a voluntary transfer of an interest in a member (direct or indirect) in Mortgagor that is made for estate planning purposes to such equity holder's family members or trusts for such equity holder or his family members (a "Permitted Transfer"). Mortgagor shall not make, nor shall Mortgagor permit any member of Mortgagor to make, any material amendments to its respective organizational documents without Mortgagee's consent, which consent shall not be unreasonably withheld, conditioned or delayed.

(d) Leases. Mortgagor shall not enter into any leases or other occupancy agreements, with respect to any portion of the Property without the prior written consent of Mortgagee, such consent to be in Mortgagee's reasonable discretion. For all leases of space, upon Mortgagee's request, Mortgagor will obtain from the tenant a subordination, attornment and non-disturbance agreement in form and substance reasonably acceptable to Mortgagee. From time to time, upon Mortgagee's request, Mortgagor will obtain estoppel letters in form and substance reasonably acceptable to Mortgagee from such tenants as Mortgagee may specify. Copies of all executed leases and amendments to such leases shall be furnished to Mortgagee. Mortgagor shall promptly furnish Mortgagee with copies of any notices which may be given or received by Mortgagor pertaining to any material default under any lease.

(e) Financial Covenants. Until repayment and satisfaction of the Loan in full:

(i) Activities. Mortgagor shall engage only in those activities which are necessary for or incidental to the development, financing, construction, marketing and operation of the Mortgaged Property.

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(ii) Distributions. Mortgagor will not make or permit any payment or distribution of any kind whatsoever (whether in the nature of a dividend, interest, payment of principal, return of capital, liquidating distribution, distribution of cash flow, distribution with respect to stock or capital, payment for goods sold or services rendered, or otherwise) to any member or partner of Mortgagor, except as expressly permitted pursuant to this Mortgage (including Section 30 above regarding use of the Loan proceeds by JBS) or the other Loan Documents.

(iii) Indebtedness. Mortgagor will not (and will not permit any member or partner with respect to its interest in Mortgagor) create, incur or suffer to exist any indebtedness, whether secured by the Mortgaged Property or any member's or partner's interest in Mortgagor, other than this Loan and customary unsecured trade payables incurred in the ordinary course of the business of operating the Mortgaged Property.

(iv) Guaranty. Mortgagor will not (and will not permit any member or partner with respect to its interest in Mortgagor) issue any guaranties of any kind, except for any guaranty of the Loan, and except for endorsement of checks for collection or deposit in the ordinary course of business of operating the Mortgaged Property.

(v) Single Purpose Entity. Mortgagor will at all times remain a single purpose entity.

34. Further Assurances. Mortgagor will do, execute, acknowledge and deliver all and every further acts, deeds, conveyances, transfers and assurances necessary or proper for the better assuring, conveying, mortgaging, assigning and confirming unto Mortgagee, as the case may be, all Mortgaged Property mortgaged hereby or Mortgaged Property intended so to be, whether now owned by Mortgagor or hereafter acquired. Upon any failure by Mortgagor to do so after ten (10) days after written request therefor, Mortgagee may make, execute and record any and all such documents for and in the name of Mortgagor, and Mortgagor hereby irrevocably appoints Mortgagee its agent and attorney-in-fact for that purpose. Mortgagor will reimburse Mortgagee for any and all reasonable sums expended by Mortgagee in making, executing and recording such documents.

35. Mortgagee's Performance of Mortgagor's Obligations. Upon the occurrence and during the continuance of an Event of Default, or upon the occurrence and during the continuance of any emergency (which in Mortgagee's commercially reasonable opinion would or could reasonably be anticipated to endanger, impair or otherwise harm the Mortgaged Property or any part thereof and, in Mortgagee's reasonable opinion, is not being adequately addressed by Mortgagor), Mortgagee, either before or after acceleration of the Obligations or the foreclosure of this Mortgage and during the period of redemption, if any, may, but shall not be required to, make any payment or perform any act herein required of Mortgagor (whether or not Mortgagor is personally liable therefor) in any form and manner deemed expedient to Mortgagee; and Mortgagee may, but shall not be required to, make full or partial payments with respect to any Permitted Exception and any other 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 the Mortgaged Property or any part thereof or contest any tax or assessment, and may, but shall not be required to rent and operate the Mortgaged Property, and pay operating costs and expenses (including without limitation reasonable management fees) of every kind and nature in connection therewith, so that the Mortgaged Property shall be

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operational and usable for its intended purposes. All monies paid for any of the purposes herein authorized, and all reasonable expenses paid or incurred in connection therewith, including without limitation reasonable attorneys' fees and all costs of litigation through and including post judgment and appellate proceedings, if any, and other monies advanced by Mortgagee to protect the Mortgaged Property or any part thereof, and the interest created by this Mortgage, or to pay any operating costs and expenses thereof or to keep the Mortgaged Property operational and usable for its intended purpose shall be included within the term "Obligations" as used in this Mortgage, and shall become immediately due and payable without notice, and with interest thereon at the Default Rate. Inaction of Mortgagee shall never be considered as a waiver of any right accruing to it on account of any default on the part of Mortgagor. Mortgagee, in making any payment hereby authorized (a) relating to Real Estate Taxes, may do so according to any bill, statement or estimate, without inquiry into the validity of any Real Estate Tax, assessment, sale, forfeiture, tax lien or title or claim thereof; (b) for the purchase, payment, discharge, compromise or settlement of any other lien or Permitted Exception, may do so without inquiry as to the validity or amount of any claim for lien which may be asserted; or (c) in connection with the completion of construction, furnishing or equipping of the improvements or the Mortgaged Property or the rental, operation or management of the Mortgaged Property or the payment of operating costs and expenses thereof Mortgagee may do so in such amounts and to such persons as are commercially reasonable and may enter into such contracts therefor as Mortgagee may deem appropriate and are commercially reasonable or may perform the same itself.

36. Commercial Loan. Mortgagor hereby represents and warrants that it is a business or commercial organization and further represents and warrants that the loan secured by this Mortgage was made and transacted solely for the purpose of carrying on or acquiring a business, professional, commercial or investment activity.

37. Future Advances. This Mortgage is given for the purpose of securing loan advances and other extensions of credit which Mortgagee has made and may make to or for the benefit of Mortgagor pursuant and subject to the terms and provisions of the other Loan Documents. The parties hereto intend that, in addition to any other debt or obligation secured hereby, this Mortgage shall secure unpaid balances of loan advances and other extensions of credit made after this Mortgage is recorded, whether made pursuant to an obligation of Mortgagee or otherwise, and in such event, such advances shall be secured to the same extent as if such future advances were made on the date hereof, although there may be no advance made at the time of execution hereof, although there may be no indebtedness outstanding at the time any advance is made and although such advances may from time to time be repaid to a zero balance and thereafter readvanced, provided, however, that the amount of the Obligations secured hereby shall not at any time exceed the Maximum Secured Amount. Such loan advances may or may not be evidenced by guarantees or notes executed pursuant to the other Loan Documents. This Mortgage secures all future advances made by Mortgagee with respect to the Mortgaged Property for the payment of Real Estate Taxes, insurance premiums, costs incurred for the protection of the Mortgaged Property and as otherwise provided in this Mortgage.

38. Mortgagor's Successors. In the event that the ownership of Mortgaged Property, or any part thereof, becomes vested in a person or persons other than Mortgagor, Mortgagee may, without notice to Mortgagor, deal with such successor or successors in interest

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of Mortgagor with reference to this Mortgage and the Obligations in the same manner as with Mortgagor; provided, however, that nothing contained in this Section 38 shall modify, limit or otherwise abrogate the restrictions on transfer set forth in Section 20.

39. Successors and Assigns. This Mortgage and each and every covenant, agreement and other provision hereof shall be binding upon Mortgagor and its successors and assigns (including, without limitation, each and every record owner from time to time of the Mortgaged Property or any other person having an interest therein), and shall inure to the benefit of Mortgagee and its successors and assigns. Wherever herein Mortgagee is referred to, such reference shall be deemed to include the holder from time to time of the Note, whether so expressed or not, and each such holder of the Note shall have and enjoy all of the rights, privileges, powers, options and benefits afforded hereby and hereunder, and may enforce each and every term and provision hereof as fully and to the same extent and with the same effect as if such holder were herein by name specifically granted such rights, privileges, powers, options and benefits and was herein by name designated Mortgagee.

40. Provisions Severable. If fulfillment of any provision of this Mortgage or any transaction related hereto shall at any time involve transcending the limit of validity prescribed by Law, then ipso facto, the obligation to be fulfilled shall be reduced to the limit of such validity; and if any clause or provision herein contained, other than the provisions requiring Mortgagor to pay the Obligations, operates or would prospectively operate to invalidate this Mortgage in whole or in part, then such clause or provision only shall be void, as though not herein contained, and the remainder of this Mortgage shall remain operative and in full force and effect; and if such clause or provision requires Mortgagor to pay any of the Obligations, then at the sole option of Mortgagee, all of the Obligations shall become due and payable.

41. Time of the Essence. Time is of the essence of each covenant, condition and provision of this Mortgage to be performed by Mortgagor.

42. Captions and Pronouns. The captions and headings of the various sections of this Mortgage are for convenience only, and are not to be construed as confining or limiting in any way the scope or intent of the provisions hereof. Whenever the context requires or permits, the singular shall include the plural, the plural shall include the singular and the masculine, feminine and neuter shall be freely interchangeable.

43. Notices. Any notice, demand, request or other communication which any party hereto may be required or may desire to give hereunder shall be in writing, addressed as follows and shall be deemed to have been properly given if hand delivered, if sent by reputable overnight courier (effective the business day following delivery to such courier) or if mailed (effective three business days after mailing) by United States registered or certified mail, postage prepaid, return receipt requested:

If to Mortgagor: 871 Rush Property LLC
 1023 Ashland Avenue
 River Forest, Illinois 60305
 Attn: Richard Smith

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with a copy to: Drinker Biddle & Reath LLP
191 North Wacker Drive, Suite 3700
Chicago, Illinois 60606
Attn: Crystal Pruess Bush

If to Mortgagee: BHC Rush LLC
c/o Maxwelle Real Estate Group
3050 Aventura Boulevard, 3rd Floor
Aventura, Florida 33180

with a copy to: Greenberg Traurig, LLP
77 West Wacker Drive, Suite 3100
Chicago, Illinois 60601
Attn: Michael J. Baum

or at such other address as the party to be served with notice may have furnished in writing to the party seeking or desiring to serve notice as a place for the service of notice. Notices given in any other fashion shall be deemed effective only upon receipt.

44. Casualty and Condemnation.

(a) Mortgagor shall give Mortgagee prompt written notice of the occurrence of any casualty affecting any or all of the Real Estate, or any portion thereof. All insurance proceeds on the Real Estate and all causes of action, claims, compensation, awards and recoveries for any damage to any part of the Real Estate or for any damage or injury to the Real Estate, for any loss or diminution in value of the same or any part thereof, are hereby assigned to and shall be paid to Mortgagee. Mortgagee may participate in any suits or proceedings relating to any such proceeds, causes of action, claims, compensation, awards or recoveries and Mortgagee is hereby authorized, in its own name or in Mortgagor's name, to adjust any loss covered by insurance claim or cause of action, and to settle or compromise any claim or cause of action in connection therewith, and Mortgagor shall from time to time deliver to Mortgagee any instruments required to permit such participation. Mortgagee shall apply any sums received by it under this Section 44 first to the payment of all of its out of pocket costs and expenses (including, but not limited to, reasonable legal fees and disbursements) incurred in obtaining those sums, and then, Mortgagee may elect, in Mortgagee's absolute discretion and without regard to the adequacy of Mortgagee's security, to apply the remainder of such sums received pursuant to this Section 44 to the payment of the Obligations in whatever order Mortgagee directs in its sole and absolute discretion. Notwithstanding the foregoing, Mortgagee shall make such insurance proceeds available to Mortgagor and grant Mortgagor the right to settle and adjust any claim respecting a loss or casualty that is covered by Mortgagor's "builder's risk" or other "property" insurance policy if such claim is less than or equal to \$1,550,000.00

(b) If the Real Estate or any portion thereof is taken or damaged by eminent domain powers of any governmental authority, the award shall be paid to Mortgagee (and all awards and proceeds on the Real Estate and all causes of action,

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claims, compensation, awards and recoveries for any such taking, or for any damage or injury to the Real Estate for any loss or diminution in value of the same or any part thereof, is hereby assigned to Mortgagee) and applied to the payment of the Obligations, after deducting any costs incurred by Mortgagee in connection therewith, in whatever order Mortgagee directs in its sole and absolute discretion. Notwithstanding the foregoing, Mortgagee shall make such condemnation proceeds available to Mortgagor for the sole purpose of restoring the portion of the Real Estate affected by such taking if the award is less than or equal to \$1,550,000.00

45. Parties Not Partners. Nothing contained in this Mortgage shall constitute Mortgagor and Mortgagee as joint venturers or partners with one another or agents for one another or render either of them liable for and debts or obligations of the other.

46. Estoppel Letters. Mortgagor, upon ten (10) Business Days' prior written notice, shall furnish Mortgagee with a written statement, duly acknowledged, setting forth the principal of, and interest on, the Obligations, and stating whether, to Mortgagor's best knowledge, any off-sets or defenses exist against such principal and interest, and, if so, the particulars thereof, and any other matters requested by Mortgagee.

47. Indemnification.

(a) In addition to all other indemnities in favor of Mortgagee specifically provided in any of the Loan Documents Mortgagor shall indemnify Mortgagee and save Mortgagee harmless from and against any and all actual losses, liabilities, suits, obligations, fines, damages, penalties, claims, costs, charges, and expenses, including, without limitation, reasonable architect's, engineer's, attorneys' and accountant's fees and all reasonable disbursements which are imposed upon, incurred or asserted against Mortgagee by reason of: (i) any capital improvements, renovations or other work or thing done in, on or about the Mortgaged Property or any part thereof, (ii) any use, non-use, misuse, possession, occupation, alteration, repair, condition, operation, maintenance or management of the Mortgaged Property or any part thereof or any street, drive, sidewalk, curb, passageway or space comprising a part thereof or adjacent thereto, (iii) any negligence on the part of either Mortgagor or its agents, contractors, servants, employees, licensees or invitees, (iv) any accident, injury (including death) or damage to any person or Mortgaged Property occurring in, on or about the Mortgaged Property or any part thereof or in, on or about any street, drive, sidewalk, curb, passageway or space adjacent thereof, (v) an Event of Default as hereinafter defined, (vi) any lien or claim which may be alleged to have arisen on or against the Mortgaged Property or any part thereof under the Laws of the local or state government or any other governmental or quasi-governmental authority or any liability asserted against Mortgagee with respect thereto, (vii) any tax attributable to the execution, delivery, filing or recording of this Mortgage, the Note, or any Loan Documents, or (viii) any contest permitted pursuant to the provisions of this Mortgage; provided that Mortgagor shall have no obligation to indemnify or save Mortgagee harmless from any losses, liabilities, suits, obligations, fines, damages, penalties, claims, costs, charges or expenses arising solely and directly from Mortgagee's willful misconduct or negligence.

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(b) The obligations of Mortgagor under this Section 47 shall not in any way be affected by the absence in any case of covering insurance or by the failure or refusal of any insurance carrier to perform any obligation on its part under insurance policies affecting the Real Estate. If any claim, action or proceeding is made or brought against Mortgagee by reason of any event as to which Mortgagor is obligated to indemnify, then upon demand by Mortgagee, Mortgagor, at its sole cost and expense, shall resist or defend such claim, action or proceeding in Mortgagee's name, if necessary by the attorneys for Mortgagor's insurance carrier (if such claim, action or proceeding is covered by insurance), otherwise by such attorneys as Mortgagee shall approve in writing (which approval shall not be unreasonably withheld). Notwithstanding the foregoing, Mortgagee may engage its own attorneys in its reasonable discretion to defend it or to assist in its defense and Mortgagor shall pay the reasonable fees and disbursements of such attorneys.

48. Non-Waiver By Mortgagee. The failure of Mortgagee to insist upon strict performance of any term of this Mortgage shall not be deemed to be a waiver of any term of this Mortgage. Mortgagor shall not be relieved of its obligation to pay the Obligations, as and when due, by reason of Mortgagee's failure to comply with any request of Mortgagor to take any action to enforce any of the provisions of this Mortgage, the Note or any of the Loan Documents. Regardless of consideration, and without the necessity for any notice to or consent by the holder of any subordinate lien, encumbrance, right, title or interest in or to the Mortgaged Property, Mortgagee may release any person or entity at any time liable for the payment of the Obligations or any portion thereof or any part of the security held therefor, without in any manner impairing or affecting the Note, Loan Documents or the lien thereof or the lien or priority of this Mortgage, as so extended and modified. Mortgagee may resort for the payment of the Obligations to any other security held by Mortgagee in such order and manner as Mortgagee, in its discretion, may elect. Mortgagee may take action to recover the Obligations, or any portion thereof, or to enforce any covenant of this Mortgage, without prejudice to the right of Mortgagee thereafter to foreclose this Mortgage.

49. Law and Venue. THIS MORTGAGE WAS NEGOTIATED IN PART IN THE STATE OF ILLINOIS, AND THE LOAN WAS MADE BY MORTGAGEE IN THE STATE OF ILLINOIS, AND THE PROCEEDS OF THE LOAN DELIVERED PURSUANT HERETO HAVE BEEN AND WILL BE DISBURSED FROM THE STATE OF ILLINOIS, WHICH STATE, MORTGAGOR AGREES, HAS A SUBSTANTIAL RELATIONSHIP TO THE PARTIES AND TO THE UNDERLYING TRANSACTION EMBODIED HEREBY, AND IN ALL RESPECTS, INCLUDING MATTERS OF CONSTRUCTION, VALIDITY AND PERFORMANCE, THIS AGREEMENT SHALL BE CONSTRUED IN ACCORDANCE WITH THE INTERNAL LAWS (INCLUDING, WITHOUT LIMITATION, 735 ILCS SECTION 105/5-1 ET SEQ., BUT OTHERWISE WITHOUT REGARD TO THE CONFLICT OF LAWS PROVISIONS) OF THE STATE OF ILLINOIS. NOTWITHSTANDING THE FOREGOING, THE PARTIES AGREE THAT:

(a) THE PROCEDURES GOVERNING THE ENFORCEMENT BY MORTGAGEE OF THE PROVISIONAL REMEDIES AGAINST THE MORTGAGED PROPERTY OR THE MORTGAGOR, INCLUDING BY WAY OF ILLUSTRATION

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BUT NOT LIMITATION, ACTIONS FOR REPLEVIN OR CLAIM AND DELIVERY OF THE MORTGAGED PROPERTY, FOR INJUNCTIVE RELIEF OR FOR THE APPOINTMENT OF A RECEIVER, WITH RESPECT TO THE MORTGAGED PROPERTY SHALL BE GOVERNED BY THE LAWS OF THE STATE OF ILLINOIS;

(b) TO THE EXTENT APPLICABLE TO THE MORTGAGED PROPERTY, THE UNIFORM COMMERCIAL CODE AS IN EFFECT IN THE STATE OF ILLINOIS (INCLUDING THE CHOICE OF LAW PROVISIONS THEREOF) SHALL GOVERN THE CREATION OF THE SECURITY INTERESTS WHICH ARE THE SUBJECT OF THIS MORTGAGE, THE PERFECTION, THE EFFECT OF PERFECTION OR NON-PERFECTION AND THE PRIORITY OF SUCH SECURITY INTERESTS AND THE ENFORCEMENT THEREOF.

(c) NOTHING HEREIN IS INTENDED TO PRECLUDE MORTGAGEE FROM ENFORCING ANY OF ITS RIGHTS UNDER THE LOAN DOCUMENTS, INCLUDING BUT NOT LIMITED TO, ITS RIGHTS TO SUE MORTGAGOR OR ANY GUARANTOR TO COLLECT ANY OUTSTANDING OBLIGATIONS OR TO OBTAIN A JUDGMENT FOR ANY DEFICIENCY IN ACCORDANCE WITH ILLINOIS LAW FOLLOWING FORECLOSURE OR ENFORCEMENT OF ANY OF THE LIENS AND SECURITY INTERESTS AGAINST ANY OF THE COLLATERAL.

(d) WAIVER OF JURY TRIAL. MORTGAGOR AND MORTGAGEE EACH WAIVES ALL RIGHTS TO TRIAL BY JURY OF ANY SUITS, CLAIMS, COUNTERCLAIMS, AND ACTIONS OF ANY KIND ARISING UNDER OR RELATING TO THIS MORTGAGE. MORTGAGOR AND MORTGAGEE EACH ACKNOWLEDGE THAT THIS IS A WAIVER OF A LEGAL RIGHT AND REPRESENTS TO THE OTHER THAT THIS WAIVER IS MADE KNOWINGLY AND VOLUNTARILY. MORTGAGOR AND MORTGAGEE EACH AGREES THAT ALL SUCH SUITS, CLAIMS, COUNTERCLAIMS, AND ACTIONS SHALL BE TRIED BEFORE A JUDGE OF A COURT OF COMPETENT JURISDICTION, WITHOUT A JURY.

50. Jurisdiction.

(a) WITH RESPECT TO ANY LEGAL OR EQUITABLE SUIT, ACTION, CLAIM OR PROCEEDING ARISING HEREUNDER OR UNDER THE OTHER LOAN DOCUMENTS, MORTGAGOR (I) IRREVOCABLY SUBMITS TO THE NONEXCLUSIVE JURISDICTION OF THE COURTS OF THE STATE OF ILLINOIS AND THE UNITED STATES DISTRICT COURT LOCATED IN CHICAGO, ILLINOIS, (II) AGREES THAT ALL SUCH SUITS, ACTIONS, CLAIMS OR PROCEEDINGS MAY BE HEARD AND DETERMINED IN SUCH COURTS OF THE STATE OF ILLINOIS OR, TO THE EXTENT PERMITTED BY LAW, IN SUCH FEDERAL COURT AND (III) IRREVOCABLY WAIVES ANY (A) OBJECTION WHICH IT MAY HAVE AT ANY TIME TO THE LAYING OF VENUE OF ANY SUIT, ACTION, CLAIM OR PROCEEDING ARISING OUT OF OR RELATING TO THIS MORTGAGE OR ANY OTHER LOAN DOCUMENT BROUGHT IN ANY

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SUCH COURT AND (B) ANY CLAIM THAT ANY SUCH SUIT, ACTION, CLAIM OR PROCEEDING BROUGHT IN ANY SUCH COURT HAS BEEN BROUGHT IN AN INCONVENIENT FORUM.

(b) EXCEPT AS EXPRESSLY SET FORTH IN SECTION 50(c), MORTGAGOR HEREBY (I) AGREES THAT ANY LEGAL OR EQUITABLE SUIT, ACTION, CLAIM OR PROCEEDING BROUGHT BY MORTGAGOR AND/OR ANY AFFILIATE THEREOF AGAINST MORTGAGEE ARISING OUT OF OR RELATING TO THE LOAN, THIS NOTE, OR ANY OF THE OTHER LOAN DOCUMENTS OR RELATING TO THE MORTGAGED PROPERTY SHALL ONLY BE INSTITUTED BY MORTGAGOR OR SUCH AFFILIATE IN COURTS OF THE STATE OF ILLINOIS LOCATED IN CHICAGO OR THE UNITED STATES DISTRICT COURT LOCATED IN CHICAGO, ILLINOIS, AND (II) IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT TO BRING ANY SUCH SUIT, ACTION, CLAIM OR PROCEEDING AGAINST MORTGAGEE IN ANY OTHER COURT OR JURISDICTION.

(c) NOTHING IN THIS MORTGAGE WILL BE DEEMED TO PRECLUDE MORTGAGEE FROM BRINGING AN ACTION OR PROCEEDING WITH RESPECT HERETO IN THE STATE WHERE THE MORTGAGED PROPERTY IS LOCATED OR ANY OTHER JURISDICTION AND MORTGAGOR APPEARING IN AND DEFENDING SUCH ACTION OR PROCEEDING OR BRINGING A COMPULSORY COUNTERCLAIM IN SUCH SUIT, ACTION, CLAIM OR PROCEEDING.

51. Reconveyance. When all of the Obligations have been paid in full, Mortgagee shall release of record this Mortgage, and shall surrender this Mortgage and all notes and instruments evidencing the Obligations to Mortgagor.

52. Attorneys' Fees. If any Event of Default occurs, Mortgagor shall pay all costs of enforcement and collection, including but not limited to, reasonable attorneys' fees, whether or not such enforcement and collection includes the filing of a lawsuit. As used in this Mortgage and in the other Loan Documents, the term "attorneys' fees" or "attorneys' fees and costs" shall mean the fees and expenses of counsel to the parties hereto, which may include printing, photostating, duplicating and other expenses, air freight charges, and fees billed for law clerks, paralegals, librarians and others not admitted to the bar but performing services under the supervision of an attorney. The terms "attorneys' fees" or "attorneys' fees and costs" shall also include, without limitation, all such fees and expenses incurred with respect to appeals, arbitrations, bankruptcy proceedings and any post-judgment proceedings to collect any judgment, and whether or not any action or proceeding is brought with respect to the matter for which said fees and expenses were incurred. The provisions allowing for the recovery of post-judgment fees, costs and expenses are separate and several and shall survive the merger of the applicable Loan Document into any judgment. For purposes of this Section 52, the term "attorneys" includes attorneys who are employees of Mortgagee acting as counsel for Mortgagee, and the term "fees" shall include, without limitation, the fees charged by Mortgagee for its in-house counsel provided such fees are within the range of fees charged by attorneys of similar experience at medium to large sized law firms located in the City of Chicago, Illinois.

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53. Illinois Mortgage Foreclosure Law. In the event that any provision in this Mortgage shall be inconsistent with any provision of the Illinois Mortgage Foreclosure Law (735 ILCS 5/15-1101 et seq. herein called the “Act”) the provisions of the Act shall take precedence over the provisions of this Mortgage, but shall not invalidate or render unenforceable any other provision of this Mortgage that can be construed in a manner consistent with the Act.

If any provision of this Mortgage shall grant to Mortgagee any rights or remedies upon the occurrence and during the continuation of an Event of Default which are more limited than the rights that would otherwise be vested in Mortgagee under the Act in the absence of said provision, Mortgagee shall be vested with the rights granted in the Act to the full extent permitted by law.

Without limiting the generality of the foregoing, all expenses incurred by Mortgagee upon the occurrence and during the continuation of an Event of Default to the extent reimbursable under Sections 15-1510 and 15-1512 of the Act, whether incurred before or after any decree or judgment of foreclosure, and whether or not enumerated in this Mortgage, shall be added to the Obligations.

Mortgagor acknowledges that the transaction of which this Mortgage is a part is a transaction which does not include either agricultural real estate (as defined in Section 15-1201 of the Act) or residential real estate (as defined in Section 15-1219 of the Act), and upon the occurrence and during the continuation of an Event of Default to the full extent permitted by law, hereby voluntarily and knowingly waives its rights to reinstatement and redemption to the extent allowed under Section 15-1601(b) of the Act, and to the full extent permitted by law, the benefits of all present and future valuation, appraisal, homestead, exemption, stay, redemption and moratorium laws under any state or federal law.

54. Mortgagee Not Partner of Mortgagor. Neither the execution nor the performance of any of the Loan Documents by the Mortgagee, nor the exercise by the Mortgagee of any of its rights, privileges or remedies conferred under the Loan Documents or under applicable law, shall be deemed to render the Mortgagee a partner or a joint venturer with the Mortgagor, any guarantor of the Loan or any other person, or to render Mortgagor an agent of the Mortgagee for any purposes. All of such actions will be exercised by the Mortgagee solely in furtherance of its role as a secured Mortgagee advancing funds for use by the Mortgagor as provided in the Loan Documents.

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EXHIBIT A

LEGAL DESCRIPTION

PARCEL 1:

BASEMENT PARCEL:

THAT PART OF A TRACT COMPRISED OF LOT 4 (EXCEPT THE NORTH 13 FEET THEREOF) (THE SAID NORTH 13 FEET BEING MEASURED ALONG A LINE EXTENDED SOUTHWARDLY FROM AND AT RIGHT ANGLES TO THE NORTH LINE OF LOT 4) IN BLOCK 14 IN THE SUBDIVISION BY THE COMMISSIONERS OF THE ILLINOIS AND MICHIGAN CANAL OF THE SOUTH FRACTIONAL QUARTER OF SECTION 3, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, TOGETHER WITH LOT 1 AND SUB LOTS 2 AND 3 IN REHM'S SUBDIVISION OF LOT 5 IN BLOCK 14 IN CANAL TRUSTEES SUBDIVISION OF SECTION 3, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, LYING ABOVE A HORIZONTAL PLANE HAVING AN ELEVATION OF 2.08 FEET ABOVE THE CHICAGO CITY DATUM AND LYING BELOW A HORIZONTAL PLANE HAVING AN ELEVATION OF 14.08 FEET ABOVE THE CHICAGO CITY DATUM AND LYING WITHIN ITS HORIZONTAL BOUNDARY PROJECTED VERTICALLY AND DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHWEST CORNER OF SAID TRACT; THENCE SOUTH 89°59'20" EAST, ALONG THE NORTH LINE THEREOF, 49.94 FEET; THENCE SOUTH 00°00'00" WEST 13.11 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 90°00'00" EAST 46.84 FEET; THENCE NORTH 00°00'00" EAST 2.87 FEET; THENCE SOUTH 90°00'00" EAST 4.52 FEET; THENCE SOUTH 00°00'00" WEST 23.34 FEET; THENCE NORTH 90°00'00" WEST 51.36 FEET; THENCE NORTH 00°00'00" EAST 20.46 FEET TO THE POINT OF BEGINNING; ALSO,

GROUND PARCEL:

THAT PART OF A TRACT COMPRISED OF LOT 4 (EXCEPT THE NORTH 13 FEET THEREOF) (THE SAID NORTH 13 FEET BEING MEASURED ALONG A LINE EXTENDED SOUTHWARDLY FROM AND AT RIGHT ANGLES TO THE NORTH LINE OF LOT 4) IN BLOCK 14 IN THE SUBDIVISION BY THE COMMISSIONERS OF THE ILLINOIS AND MICHIGAN CANAL OF THE SOUTH FRACTIONAL QUARTER OF SECTION 3, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, TOGETHER WITH LOT 1 AND SUB LOTS 2 AND 3 IN REHM'S SUBDIVISION OF LOT 5 IN BLOCK 14 IN CANAL TRUSTEES SUBDIVISION OF SECTION 3, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, LYING ABOVE A HORIZONTAL PLANE HAVING AN ELEVATION OF 14.08 FEET ABOVE THE CHICAGO CITY DATUM AND LYING BELOW A HORIZONTAL PLANE HAVING AN ELEVATION OF 26.91 FEET ABOVE THE CHICAGO CITY DATUM AND LYING WITHIN ITS HORIZONTAL BOUNDARY PROJECTED VERTICALLY AND DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHWEST CORNER OF SAID TRACT; THENCE SOUTH 89°59'20" EAST, ALONG

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THE NORTH LINE THEREOF, 57.11 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 89°59'20" EAST, ALONG SAID NORTH LINE, 49.52 FEET; THENCE SOUTH 00°00'00" WEST 18.45 FEET; THENCE NORTH 90°00'00" WEST 6.34 FEET; THENCE SOUTH 00°00'00" WEST 7.95 FEET; THENCE NORTH 90°00'00" WEST 19.66 FEET; THENCE SOUTH 00°00'00" WEST 12.17 FEET; THENCE NORTH 90°00'00" WEST 32.08 FEET; THENCE SOUTH 00°00'00" WEST 20.33 FEET; THENCE SOUTH 90°00'00" EAST 3.77 FEET; THENCE SOUTH 00°00'00" WEST 7.45 FEET; THENCE SOUTH 90°00'00" EAST 22.29 FEET; THENCE SOUTH 00°00'00" WEST 0.40 FEET; THENCE SOUTH 90°00'00" EAST 3.58 FEET; THENCE NORTH 00°00'00" EAST 0.42 FEET; THENCE SOUTH 90°00'00" EAST 17.97 FEET; THENCE SOUTH 00°00'00" WEST 19.69 FEET; THENCE NORTH 90°00'00" WEST 0.49 FEET; THENCE SOUTH 00°00'00" WEST 10.64 FEET TO THE SOUTH LINE OF SAID TRACT; THENCE NORTH 89°58'52" WEST, ALONG SAID SOUTH LINE 63.45 FEET TO THE WEST LINE OF SAID TRACT; THENCE NORTH 18°26'13" WEST, ALONG SAID WEST LINE, 67.62 FEET; THENCE NORTH 71°44'27" EAST 23.52 FEET; THENCE SOUTH 90°00'00" EAST 23.65 FEET; THENCE NORTH 00°00'00" EAST 25.03 FEET TO THE POINT OF BEGINNING; ALSO,

MEZZANINE PARCEL 1:

THAT PART OF A TRACT COMPRISED OF LOT 4 (EXCEPT THE NORTH 13 FEET THEREOF) (THE SAID NORTH 13 FEET BEING MEASURED ALONG A LINE EXTENDED SOUTHWARDLY FROM AND AT RIGHT ANGLES TO THE NORTH LINE OF LOT 4) IN BLOCK 14 IN THE SUBDIVISION BY THE COMMISSIONERS OF THE ILLINOIS AND MICHIGAN CANAL OF THE SOUTH FRACTIONAL QUARTER OF SECTION 3, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, TOGETHER WITH LOT 1 AND SUB LOTS 2 AND 3 IN REHM'S SUBDIVISION OF LOT 5 IN BLOCK 14 IN CANAL TRUSTEES SUBDIVISION OF SECTION 3, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, LYING ABOVE A HORIZONTAL PLANE HAVING AN ELEVATION OF 26.91 FEET ABOVE THE CHICAGO CITY DATUM AND LYING BELOW A HORIZONTAL PLANE HAVING AN ELEVATION OF 43.08 FEET ABOVE THE CHICAGO CITY DATUM AND LYING WITHIN ITS HORIZONTAL BOUNDARY PROJECTED VERTICALLY AND DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHWEST CORNER OF SAID TRACT; THENCE SOUTH 89°59'20" EAST, ALONG THE NORTH LINE THEREOF, 31.84 FEET; THENCE SOUTH 00°00'00" WEST 25.03 FEET; THENCE SOUTH 78°47'06" WEST 22.47 FEET TO THE WESTERLY LINE OF SAID TRACT; THENCE NORTH 18°26'13" WEST, ALONG SAID WESTERLY LINE, 31.00 FEET TO THE POINT OF BEGINNING; ALSO,

MEZZANINE PARCEL 2:

THAT PART OF A TRACT COMPRISED OF LOT 4 (EXCEPT THE NORTH 13 FEET THEREOF) (THE SAID NORTH 13 FEET BEING MEASURED ALONG A LINE EXTENDED SOUTHWARDLY FROM AND AT RIGHT ANGLES TO THE NORTH LINE OF LOT 4) IN BLOCK 14 IN THE SUBDIVISION BY THE COMMISSIONERS OF THE ILLINOIS AND MICHIGAN CANAL OF THE SOUTH FRACTIONAL QUARTER OF

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SECTION 3, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, TOGETHER WITH LOT 1 AND SUB LOTS 2 AND 3 IN REHM'S SUBDIVISION OF LOT 5 IN BLOCK 14 IN CANAL TRUSTEES SUBDIVISION OF SECTION 3, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, LYING ABOVE A HORIZONTAL PLANE HAVING AN ELEVATION OF 26.91 FEET ABOVE THE CHICAGO CITY DATUM AND LYING BELOW A HORIZONTAL PLANE HAVING AN ELEVATION OF 42.33 FEET ABOVE THE CHICAGO CITY DATUM AND LYING WITHIN ITS HORIZONTAL BOUNDARY PROJECTED VERTICALLY AND DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHWEST CORNER OF SAID TRACT; THENCE SOUTH 89°59'20" EAST, ALONG THE NORTH LINE THEREOF, 31.84 FEET; THENCE SOUTH 00°00'00" WEST 25.03 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 90°00'00" EAST 24.91 FEET; THENCE SOUTH 00°00'00" WEST 13.01 FEET; THENCE NORTH 90°00'00" WEST 44.07 FEET TO THE WESTERLY LINE OF SAID TRACT; THENCE NORTH 18°26'13" WEST, ALONG SAID WESTERLY LINE 9.10 FEET; THENCE NORTH 78°47'06" EAST 22.47 FEET TO THE POINT OF BEGINNING; ALSO,

MEZZANINE PARCEL 3:

THAT PART OF A TRACT COMPRISED OF LOT 4 (EXCEPT THE NORTH 13 FEET THEREOF) (THE SAID NORTH 13 FEET BEING MEASURED ALONG A LINE EXTENDED SOUTHWARDLY FROM AND AT RIGHT ANGLES TO THE NORTH LINE OF LOT 4) IN BLOCK 14 IN THE SUBDIVISION BY THE COMMISSIONERS OF THE ILLINOIS AND MICHIGAN CANAL OF THE SOUTH FRACTIONAL QUARTER OF SECTION 3, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, TOGETHER WITH LOT 1 AND SUB LOTS 2 AND 3 IN REHM'S SUBDIVISION OF LOT 5 IN BLOCK 14 IN CANAL TRUSTEES SUBDIVISION OF SECTION 3, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, LYING ABOVE A HORIZONTAL PLANE HAVING AN ELEVATION OF 26.91 FEET ABOVE THE CHICAGO CITY DATUM AND LYING BELOW A HORIZONTAL PLANE HAVING AN ELEVATION OF 43.25 FEET ABOVE THE CHICAGO CITY DATUM AND LYING WITHIN ITS HORIZONTAL BOUNDARY PROJECTED VERTICALLY AND DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHWEST CORNER OF SAID TRACT; THENCE SOUTH 89°59'20" EAST, ALONG THE NORTH LINE THEREOF, 31.84 FEET; THENCE SOUTH 00°00'00" WEST 25.03 FEET; THENCE SOUTH 90°00'00" EAST 24.91 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 90°00'00" EAST 11.85 FEET ; THENCE SOUTHEASTERLY 24.10 FEET ALONG THE ARC OF A CIRCLE CONVEX NORTHEASTERLY, HAVING A RADIUS OF 19.67 FEET, AND WHOSE CHORD BEARS SOUTH 54°53'52" EAST, A DISTANCE OF 22.62 FEET; THENCE NORTH 90°00'00" WEST 30.35 FEET; THENCE NORTH 00°00'00" EAST 13.01 FEET TO THE POINT OF BEGINNING; ALSO,

MEZZANINE PARCEL 4:

THAT PART OF A TRACT COMPRISED OF LOT 4 (EXCEPT THE NORTH 13 FEET THEREOF) (THE SAID NORTH 13 FEET BEING MEASURED ALONG A LINE

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EXTENDED SOUTHWARDLY FROM AND AT RIGHT ANGLES TO THE NORTH LINE OF LOT 4) IN BLOCK 14 IN THE SUBDIVISION BY THE COMMISSIONERS OF THE ILLINOIS AND MICHIGAN CANAL OF THE SOUTH FRACTIONAL QUARTER OF SECTION 3, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, TOGETHER WITH LOT 1 AND SUB LOTS 2 AND 3 IN REHM'S SUBDIVISION OF LOT 5 IN BLOCK 14 IN CANAL TRUSTEES SUBDIVISION OF SECTION 3, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, LYING ABOVE A HORIZONTAL PLANE HAVING AN ELEVATION OF 26.91 FEET ABOVE THE CHICAGO CITY DATUM AND LYING BELOW A HORIZONTAL PLANE HAVING AN ELEVATION OF 40.08 FEET ABOVE THE CHICAGO CITY DATUM AND LYING WITHIN ITS HORIZONTAL BOUNDARY PROJECTED VERTICALLY AND DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHWEST CORNER OF SAID TRACT; THENCE SOUTH $18^{\circ}26'13''$ EAST, ALONG THE WESTERLY LINE THEREOF, 40.10 FEET TO THE POINT OF BEGINNING; THENCE SOUTH $90^{\circ}00'00''$ EAST 35.07 FEET; THENCE SOUTH $00^{\circ}00'00''$ WEST 10.00 FEET; THENCE SOUTH $62^{\circ}28'19''$ WEST 30.49 FEET TO A POINT ON THE WESTERLY LINE OF SAID TRACT; THENCE NORTH $18^{\circ}26'13''$ WEST, ALONG SAID WESTERLY LINE, 25.40 FEET TO THE POINT OF BEGINNING; ALSO,

MEZZANINE PARCEL 5:

THAT PART OF A TRACT COMPRISED OF LOT 4 (EXCEPT THE NORTH 13 FEET THEREOF) (THE SAID NORTH 13 FEET BEING MEASURED ALONG A LINE EXTENDED SOUTHWARDLY FROM AND AT RIGHT ANGLES TO THE NORTH LINE OF LOT 4) IN BLOCK 14 IN THE SUBDIVISION BY THE COMMISSIONERS OF THE ILLINOIS AND MICHIGAN CANAL OF THE SOUTH FRACTIONAL QUARTER OF SECTION 3, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, TOGETHER WITH LOT 1 AND SUB LOTS 2 AND 3 IN REHM'S SUBDIVISION OF LOT 5 IN BLOCK 14 IN CANAL TRUSTEES SUBDIVISION OF SECTION 3, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, LYING ABOVE A HORIZONTAL PLANE HAVING AN ELEVATION OF 26.91 FEET ABOVE THE CHICAGO CITY DATUM AND LYING BELOW A HORIZONTAL PLANE HAVING AN ELEVATION OF 38.83 FEET ABOVE THE CHICAGO CITY DATUM AND LYING WITHIN ITS HORIZONTAL BOUNDARY PROJECTED VERTICALLY AND DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHWEST CORNER OF SAID TRACT; THENCE SOUTH $18^{\circ}26'13''$ EAST, ALONG THE WESTERLY LINE THEREOF, 65.50 FEET TO THE POINT OF BEGINNING; THENCE NORTH $62^{\circ}28'19''$ EAST 30.49 FEET; THENCE SOUTH $00^{\circ}00'00''$ WEST 7.00 FEET; THENCE SOUTH $39^{\circ}56'19''$ WEST 32.76 FEET TO A POINT ON THE WESTERLY LINE OF SAID TRACT; THENCE NORTH $18^{\circ}26'13''$ WEST, ALONG SAID WESTERLY LINE, 19.00 FEET TO THE POINT OF BEGINNING; ALSO,

MEZZANINE PARCEL 6:

THAT PART OF A TRACT COMPRISED OF LOT 4 (EXCEPT THE NORTH 13 FEET THEREOF) (THE SAID NORTH 13 FEET BEING MEASURED ALONG A LINE

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EXTENDED SOUTHWARDLY FROM AND AT RIGHT ANGLES TO THE NORTH LINE OF LOT 4) IN BLOCK 14 IN THE SUBDIVISION BY THE COMMISSIONERS OF THE ILLINOIS AND MICHIGAN CANAL OF THE SOUTH FRACTIONAL QUARTER OF SECTION 3, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, TOGETHER WITH LOT 1 AND SUB LOTS 2 AND 3 IN REHM'S SUBDIVISION OF LOT 5 IN BLOCK 14 IN CANAL TRUSTEES SUBDIVISION OF SECTION 3, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, LYING ABOVE A HORIZONTAL PLANE HAVING AN ELEVATION OF 26.91 FEET ABOVE THE CHICAGO CITY DATUM AND LYING BELOW A HORIZONTAL PLANE HAVING AN ELEVATION OF 37.50 FEET ABOVE THE CHICAGO CITY DATUM AND LYING WITHIN ITS HORIZONTAL BOUNDARY PROJECTED VERTICALLY AND DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHWEST CORNER OF SAID TRACT; THENCE SOUTH 18°26'13" EAST, ALONG THE WESTERLY LINE THEREOF, 84.50 FEET TO THE POINT OF BEGINNING; THENCE NORTH 39°56'19" EAST 32.76 FEET; THENCE SOUTH 00°00'00" WEST 4.42 FEET; THENCE SOUTH 90°00'00" EAST 6.00 FEET; THENCE SOUTH 57°59'41" WEST 4.72 FEET; THENCE SOUTH 00°00'00" WEST 34.69 FEET TO A POINT ON THE SOUTH LINE OF SAID TRACT; THENCE NORTH 89°58'51" WEST, ALONG SAID SOUTH LINE, 17.53 FEET TO THE SOUTHWEST CORNER OF SAID TRACT; THENCE NORTH 18°26'13" WEST, ALONG THE WESTERLY LINE OF SAID TRACT, 17.38 FEET TO THE POINT OF BEGINNING; ALSO,

MEZZANINE PARCEL 7:

THAT PART OF A TRACT COMPRISED OF LOT 4 (EXCEPT THE NORTH 13 FEET THEREOF) (THE SAID NORTH 13 FEET BEING MEASURED ALONG A LINE EXTENDED SOUTHWARDLY FROM AND AT RIGHT ANGLES TO THE NORTH LINE OF LOT 4) IN BLOCK 14 IN THE SUBDIVISION BY THE COMMISSIONERS OF THE ILLINOIS AND MICHIGAN CANAL OF THE SOUTH FRACTIONAL QUARTER OF SECTION 3, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, TOGETHER WITH LOT 1 AND SUB LOTS 2 AND 3 IN REHM'S SUBDIVISION OF LOT 5 IN BLOCK 14 IN CANAL TRUSTEES SUBDIVISION OF SECTION 3, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, LYING ABOVE A HORIZONTAL PLANE HAVING AN ELEVATION OF 26.91 FEET ABOVE THE CHICAGO CITY DATUM AND LYING BELOW A HORIZONTAL PLANE HAVING AN ELEVATION OF 34.83 FEET ABOVE THE CHICAGO CITY DATUM AND LYING WITHIN ITS HORIZONTAL BOUNDARY PROJECTED VERTICALLY AND DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHWEST CORNER OF SAID TRACT; THENCE SOUTH 89°58'51" EAST, ALONG THE SOUTH LINE THEREOF, 17.53 FEET TO THE POINT OF BEGINNING; THENCE NORTH 00°00'00" EAST 34.69 FEET; THENCE NORTH 57°59'41" EAST 4.72 FEET; THENCE SOUTH 90°00'00" EAST 5.13 FEET; THENCE NORTH 00°00'00" EAST 4.08 FEET; THENCE SOUTH 90°00'00" EAST 6.60 FEET; THENCE SOUTH 00°00'00" WEST 41.28 FEET TO THE SOUTH LINE OF SAID TRACT; THENCE NORTH 89°58'51" WEST, ALONG SAID SOUTH LINE, 15.73 FEET TO THE POINT OF BEGINNING, ALL IN COOK COUNTY, ILLINOIS.

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PARCEL 2:

A NON-EXCLUSIVE EASEMENT FOR THE BENEFIT OF PARCEL 1 AS CREATED BY EASEMENT AND OPERATING AGREEMENT DATED MARCH 4, 2004 AND RECORDED 0406429163 AND RE-RECORDED MARCH 5, 2004 AS DOCUMENT 0406542165 EXECUTED BY AND BETWEEN LASALLE BANK NATIONAL ASSOCIATION, AS SUCCESSOR TRUSTEE TO AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO, AS TRUSTEE UNDER TRUST AGREEMENT DATED SEPTEMBER 1, 1992 AND KNOWN AS TRUST NUMBER 115986-04 AND RUSH/CHESTNUT LLC, FOR THE PURPOSES AS SET FORTH AND MORE FULLY DESCRIBED THEREIN.

Property of Cook County Clerk's Office

1703247016-07

871 N Rush St
Chgo Ill 60611

PL

SCANNED BY _____

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EXHIBIT B

PERMITTED EXCEPTIONS

1. Taxes not yet due and payable.
2. The land lies within the boundaries of a Special Service Area as disclosed by Ordinance recorded as Document 91075841, and is subject to additional taxes under the terms of said Ordinance and subsequent related Ordinances.
3. (A) Terms, provisions and conditions relating to the Easement described as Parcel 2 contained in the instrument creating said Easement.
(B) Rights of the adjoining owner or owners to the concurrent use of said Easement.
4. Easement over an 8-foot strip off the East end of the land, for private alley as shown on the Plat of Rehm's Subdivision of Lot 5 in Block 14 aforesaid.
5. Various encroachments as shown on Plat of Survey Number 2004-00412-001 prepared by Gremley & Biedermann dated February 23, 2004.
6. Easements, covenants, conditions and restrictions contained in the Easement and Operating Agreement executed by and between LaSalle Bank National Association, as Trustee under Trust Agreement dated September 1, 1992 and known as Trust Number 115986-04 and Rush/Chestnut LLC, and also as contained in the Declaration of Covenants, Conditions, Restrictions and Reciprocal Easements attached thereto, recorded March 4, 2004 as Document 0406429163 and re-recorded March 5, 2004 as Document 0406542165.
7. Terms and provisions of the Covenant executed by Rush/Chestnut LLC, an Illinois limited liability company, recorded August 8, 2006 as Document 0622039037, relating to the common sewer lines and water main lines on the land.
8. Easement in favor of Comcast of Chicago, Inc., its successors and assigns, for the purpose of providing broadband communications services recorded/filed March 28, 2007 as Document No. 0708718049 affecting the land, and the terms and provisions contained therein.

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EXHIBIT C

PROJECT BUDGET

Item	Amount
Taxes per annum:	\$8,000
CAM per annum:	\$4,200
Insurance per annum:	\$2,000
Architectural (marketing):	\$10,000
Architectural (pre-plans):	\$1,000
Legal (lease, draft, etc.):	\$10,000
Miscellaneous	\$14,800
Total:	\$50,000