PURCHASE AND SALE AGREEMENT

BETWEEN

YORK ROAD EW LLC
a Delaware limited liability company

(Seller)

AND

RUSH OAK BROOK ORTHOPAEDIC CENTER, LLC
an Illinois limited liability company

(Purchaser)

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PURCHASE AND SALE AGREEMENT

This Purchase and Sale Agreement ("**Agreement**"), dated as of September 1, 2015 (the "**Effective Date**"), is made by and between **YORK ROAD EW LLC,** a Delaware limited liability company ("**Seller**"), and **RUSH OAK BROOK ORTHOPAEDIC CENTER, LLC,** an Illinois limited liability company ("**Purchaser**").

ARTICLE 1
RECITALS

1.1. **Property**. Seller owns and holds fee title to that certain vacant parcel of land partially improved with blacktop in Oak Brook, Illinois, as legally described in **Exhibit A** attached hereto (the "**Land**"). The Land, together with the following items, are herein referred to collectively as the "**Property**:"

1.1.1. All the improvements located on the Land (collectively, the "**Improvements**");

1.1.2. All permits, licenses and rights, tenements, hereditaments, privileges, and appurtenances in any way belonging or appertaining to the Land, including, without limitation, all mineral, oil, gas and other hydrocarbon substances on and under the Land and all development, air and water rights relating to the Land;

1.1.3. All land, if any, lying in the bed of any publicly dedicated street, road, or avenue, open or proposed, at the foot of, adjoining or below the Land to the center line of such street, road or avenue, and in and to any strips and gores adjoining the Land; and

1.1.4. All easements and all rights of record, appurtenant to the Land and the use of all strips and rights-of-way (including public and private vehicular and pedestrian rights-of-way), if any, abutting, adjacent, contiguous to or adjoining the Land.

1.2. **Purchase and Sale**. Seller now desires to sell and Purchaser now desires to purchase all of Seller's right, title and interest in and to the Property, upon the terms and covenants and subject to the conditions set forth below.

ARTICLE 2
PURCHASE PRICE

2.1. **Price**. In consideration of the covenants herein contained, Seller hereby agrees to sell and Purchaser hereby agrees to purchase the Property for a total purchase price equal to THREE MILLION SEVEN HUNDRED FIFTY THOUSAND DOLLARS ($3,750,000.00) (the "**Purchase Price**"). The Purchase Price shall be paid by Purchaser as follows:

2.1.1. **Deposit**. Prior to the Effective Date, Purchaser, or an affiliated entity on behalf of Purchaser, deposited the amount of TWO HUNDRED THOUSAND

DOLLARS ($200,000.00) (the "**Deposit**") in escrow with Chicago Title & Trust Company ("**Escrow Agent**") pursuant to that certain Escrow Agreement (the "**Escrow Agreement**") dated March 10, 2015 and identified as Escrow No. 201506503 by and between Seller, Purchaser and Escrow Agent. The Deposit shall be held in accordance with the terms and conditions of the Escrow Agreement and this Agreement; provided, however, that in the event of a conflict between the terms of the Escrow Agreement and this Agreement, the terms of this Agreement shall control. The Deposit shall not be refundable to Purchaser, except as provided in Section 9.3 hereof or otherwise specifically provided in this Agreement.

2.1.2. **Balance of Purchase Price**. Purchaser shall on the day of Closing (as defined in Section 6.1), deliver to Escrow Agent, by bank wire transfer of immediately available funds (net of prorations), a sum equal to the balance of the Purchase Price. Purchaser shall use its good faith and diligent efforts to initiate such wire transfer prior to 12:00 p.m. Chicago time on the day of Closing. The balance of the Purchase Price received by Seller at Closing shall be adjusted to reflect prorations and other adjustments pursuant to Section 7.1 and as otherwise required under this Agreement.

2.2. **Interest on the Deposit**. Any interest earned on the Deposit shall be credited and delivered to Purchaser.

ARTICLE 3
CONDITIONS TO THE PARTIES' OBLIGATIONS

3.1. **Conditions to Purchaser's Obligation to Purchase**. Purchaser's obligation to purchase the Property and perform Purchaser's covenants under this Agreement is expressly conditioned upon each of the following:

3.1.1. **Performance by Seller**. Timely performance in all material respects of the obligations and covenants of, and deliveries required of, Seller hereunder, and there being no default by Seller under this Agreement.

3.1.2. **Delivery of Title and Possession**. Delivery at the Closing of (i) the Deed (as defined in Section 4.2.1) and (ii) possession as provided in Section 15.1.

3.1.3. **Title Insurance**. Delivery at the Closing of the standard current form of American Land Title Association (ALTA) owner's policy of title insurance with extended coverage together with: (i) "Curative Endorsements", and (ii) "Elective Endorsements" (the "**Title Policy**"), with the insured amount of the Title Policy equal to the Purchase Price issued by Chicago Title Insurance Company (the "**Title Company**"), insuring that fee simple title to the Property is vested in Purchaser subject only to the Permitted Encumbrances (as defined in Section 4.2.1), and insuring Purchaser's interest in the easements under the Amended and Restated Declaration (as defined in Section 3.1.8) subject only to the Permitted Encumbrances. For purposes hereof: (i) "**Curative Endorsements**" are those endorsements Seller elects to provide, and Purchaser is willing

to accept, to cure a "Title Objection" (as defined in Article 5 below, and (ii) "**Elective Endorsements**" are those endorsements Purchaser advises Seller it requires be issued in connection with such owner's policy of title insurance in its notice of "Title Objections" pursuant to Section 5.3.1 below and which Seller advises Purchaser and agrees to cause the Title Company to issue pursuant to "Seller's Reply Notice" (each term hereinafter defined in Section 5.3.1). The cost and expense of Elective Endorsements are the obligation of Purchaser pursuant to Section 7.3 Purchaser's Closing Costs, below. Notwithstanding anything to the contrary contained herein, Seller shall have no obligation to deliver extended coverage unless Purchaser delivers the Survey to the Title Company prior to the Closing in accordance with the terms and conditions of Section 5.1.2 below, and Seller shall have no obligation to deliver any Elective Endorsement unless Purchaser delivers all information which the Title Company requires Purchaser to deliver to the Title Company in connection with such Elective Endorsement prior to the Closing.

3.1.4. **Seller's Representations**. The representations and warranties by Seller set forth in Section 11.1 being true and correct in all material respects as of the date hereof and as of the Closing.

3.1.5. **Investigation of the Property**. Purchaser not terminating this Agreement as permitted pursuant to Section 5.3 below, or as otherwise specifically provided for in this Agreement.

3.1.6. **Zoning Condition**. Purchaser securing all approvals (the "**Approvals**") from the Village of Oak Brook, Illinois (the **"Village"**) required or necessary (as reasonably determined by Purchaser in its sole discretion) for Purchaser's planned development and use of the Property as: (i) a medical office building, (ii) an outpatient surgery center and related rehabilitation, observation and recovery services, and/or (iii) other outpatient or dental facilities and/or other medical uses, as such improvements and uses are more specifically described in its *"Application For Planned Development"*, a planned development application which will be submitted to the Village, free of conditions and requirements not contemplated by said *Application for Planned Development* (the "Zoning Condition"). If the Zoning Condition has not been satisfied on or before December 23, 2015, Purchaser shall have the option to terminate this Agreement by delivering written notice to Seller on or prior to 11:59 p.m. December 31, 2015 (the "**Outside Termination Date**"), subject to day for day extensions to each of said dates due to Village Procedural Delays (as defined below), time being of the essence. Seller and Purchaser contemplate that securing the Approvals and satisfying the Zoning Condition, will require meetings before the Village, which meetings, or agenda items for the Village at such meetings, may be postponed by the Village. In recognition of the potential for such delays the parties hereto desire to define **"Village Procedural Delays"**, which for purposes hereof, shall mean delays in securing the Approvals solely due to the actions or failures to act, without the interference of Purchaser, of the Village in addressing the requests of Purchaser. Notwithstanding anything to the contrary contained

herein, in no event will the Outside Termination Date be extended by more than forty-five (45) days for Village Procedural Delays. Purchaser shall promptly advise Seller in writing of each occurrence of Village Procedural Delays. If Purchaser fails to so terminate this Agreement by the Outside Termination Date (as same may be extended due to Village Procedural Delays), then Purchaser shall be deemed to have elected to waive the Zoning Condition as a condition to its performance under this Agreement and, subject to the satisfaction or written waiver by Purchaser of other conditions to Closing provided in this Agreement, proceed to Closing on the Closing Date (as defined below in Section 6.1 *Date and Manner of Closing*), or on such other date as agreed to by Seller and Purchaser. If the Agreement is terminated pursuant to this Section 3.1.6, then the Deposit (and all interest thereon) shall be promptly returned to Purchaser, and all further rights and obligations of the parties shall cease and terminate without any further liability of either party to the other (except those obligations which are specifically provided to survive such termination as provided in this Agreement). ***See Section 18.1 below regarding Seller's Cooperation in obtaining Approvals.***

3.1.7. **Release of Liability**. Purchaser's receipt of (a) a bulk sales release letter from the Illinois Department of Revenue stating that no liability is due for Seller and Purchaser has no obligation to withhold Purchase Price proceeds, pursuant to Section 902(d) of the Illinois Revenue Act and the Retailers Occupation Tax Act, and (b) written release from the Illinois Department of Employment Security stating that Seller is not a liable employer, filing and paying into the Illinois Unemployment Insurance Trust Fund, pursuant to the Illinois Unemployment Insurance Act (collectively, the "**Illinois Transferee Liability Releases**"). Seller shall secure the Illinois Transferee Liability Releases, and same shall be dated no earlier than 45 days prior to the Closing Date.

3.1.8. **Amended and Restated Declaration**. The Amended and Restated Declaration attached hereto as **Exhibit AA**, is in form and substance, acceptable to Purchaser and Seller (subject to verification of ownership of the parties thereunder and attaching the subordination of any and all applicable mortgage lien holders). No changes to the Amended and Restated Declaration shall be made without the written consent of both Seller and Purchaser, which granting or withholding of Purchaser's consent shall be reasonably determined by Purchaser in its sole discretion. Seller's written consent to changes to the Amended and Restated Declaration shall not be unreasonably withheld, conditioned or delayed. This condition to Purchaser's performance also requires all mortgage lien and security holders encumbering Lot 1 and Lot 2 (as Lot 1 and Lot 2 are defined in the *Declaration and Agreement of Covenants, Conditions, Reciprocal Rights and Easements*, dated December 27, 2000, and recorded as Document No. R2001-013396 in the Office of the DuPage County, Illinois Recorder of Deeds (the "Original Declaration")) as of the Closing Date to subordinate their lien and security interest to the Amended and Restated Declaration. Purchaser and Seller acknowledge that in order to satisfy this Section 3.1.8, the Amended and Restated Declaration must include changes required by the Village and/or reasonably required by Purchaser for the issuance of the Approvals, and/or as required to satisfy a component or conditions of the Approvals. In

addition, Purchaser and Seller acknowledge that the Amended and Restated Declaration is subject to the approval of the Lot 1 Owner and that such Lot 1 Owner may require additional changes thereto. Purchaser and Seller agree to cooperate with each other and with Lot 1 Owner and use diligent, good faith efforts to finalize the Amended and Restated Declaration as soon as reasonably possible, but in any event by the Outside Termination Date. Notwithstanding anything to the contrary contained herein, in the event that the Lot 1 Owner notifies Seller that it no longer desires to negotiate with Seller in connection with finalizing the Amended and Restated Declaration and/or the purchase and sale of Lot 2, then Seller shall notify Purchaser in writing thereof (the "**Lot 1 Owner Failure to Cooperate Notice**") and either Seller or Purchaser may elect to terminate this Agreement by written notice to the other delivered no sooner than fifteen (15) days after receipt by Purchaser of the Lot 1 Owner Failure to Cooperate Notice and no later than thirty (30) days following receipt by Purchaser of the Lot 1 Owner Failure to Cooperate Notice, and upon such notice given, the Deposit (and all interest thereon) shall be promptly returned to Purchaser, and all further rights and obligations of the parties under this Agreement shall cease and terminate without any further liability of either party to the other (except those obligations which are specifically provided to survive such termination as provided in this Agreement).

3.1.9. **Seller Has Secured All Approvals for Seller's Work**. Seller has secured all required approvals from all third parties, including, without limitation, the Village, the Lot 1 Owner and the Lot 2 Owner (each as defined in the Original Declaration), and delivered copies of same to Purchaser, for the timely performance of Seller's Work (as defined in Article 17) or such components thereof that are not completed as of Closing, pursuant to Article 17 below.

3.1.10. **Termination of License Agreement**. Seller has terminated that certain License Agreement dated December 16, 2004, as amended, between Seller, as licensor, and Centerpoint Properties Trust, as licensee, (the "**License Agreement**") via a written agreement, reasonably acceptable to Purchaser and the Title Company (the "**License Termination**"). The License Termination must release any and all rights to the Property which Centerpoint Properties Trust may have and/or had pursuant to the License Agreement, such that the Title Policy will insure against any claim of right of Centerpoint Properties Trust, its assigns and successors, to the Property or any portion thereof. Any equipment pertinent to the License Agreement and located on the Property has been removed from the Property.

If any of the above conditions to Closing are not satisfied on the Closing Date (or waived in writing by Purchaser), or if any other specifically identified condition to Purchaser's performance under this Agreement is not satisfied on the Closing Date, Purchaser shall have no obligation to close the transaction contemplated by this Agreement and may terminate this Agreement by written notice to Seller delivered on the Closing Date, and upon such notice given, the Deposit (and all interest thereon) shall be promptly returned to Purchaser, and all further rights and obligations of the parties under this Agreement shall cease and terminate without any

further liability of either party to the other (except those obligations which are specifically provided to survive such termination as provided in this Agreement). The forgoing to the contrary notwithstanding, the termination of this Agreement for a failure of the Zoning Condition must be exercised by the Outside Termination Date and otherwise in accordance with Section 3.1.6 above.

3.2. **Conditions to Seller's Obligation to Sell**. Seller's obligation to sell is expressly conditioned upon each of the following:

3.2.1. **Performance by Purchaser**. Performance in all material respects of the obligations and covenants of, and deliveries required of, Purchaser hereunder.

3.2.2. **Receipt of Purchase Price**. Receipt of the Purchase Price and any adjustments due Seller under Article 7, or elsewhere provided for in this Agreement, at the Closing in the manner herein provided.

3.2.3. **Purchaser's Representations**. The representations and warranties by Purchaser set forth in Section 11.2 being true and correct in all material respects as of the date hereof and as of the Closing.

ARTICLE 4
PURCHASER'S DELIVERIES AND SELLER'S DELIVERIES TO ESCROW AGENT

4.1. **Purchaser's Deliveries**. Purchaser shall, at or before the Closing, deliver to Escrow Agent each of the following:

4.1.1. **Purchase Price**. The Purchase Price as set forth in Article 2.

4.1.2. **Closing Statement**. An executed settlement statement reflecting the prorations and adjustments required under Article 7.

4.1.3. **Cash – Prorations**. The amount required of Purchaser under Article 7.

4.1.4. **Purchaser Authority**. Authority documents of Purchaser evidencing Purchaser's authority to enter into and consummate the transaction contemplated herein.

4.1.5. **Re-Certification of Representations and Warranties**. A certificate executed by Purchaser confirming that the representations and warranties made by Purchaser in this Agreement remain true and correct in all material respects as of the date of Closing.

4.1.6. **Other Documents**. Any other documents as may be reasonably necessary or appropriate to effect the transaction contemplated by this Agreement.

4.2. **Seller's Deliveries**. Seller shall, at or before the Closing, deliver to Escrow Agent each of the following:

4.2.1. **Deed**. A special warranty deed in the form attached hereto as **Exhibit B** (the "**Deed**") with respect to the Property, executed and acknowledged by Seller, notarized, and otherwise in recordable form, pursuant to which Seller shall convey title to the Property subject to the following (collectively, the "**Permitted Encumbrances**"):

1. Real property taxes and assessments against the Property which are not yet due and payable (excluding 2014 real estate taxes payable in 2015, if applicable);

2. Such other title and survey exceptions as are approved or deemed approved by Purchaser pursuant to Section 5.3.1 *Title and Survey* below;

3. The Amended and Restated Declaration;

4. Zoning regulations and ordinances, building restrictions and regulations of governmental authorities having jurisdiction over the property; and

5. Matters created by, through or under Purchaser.

4.2.2. **Owner's Affidavit**. An Owner's Affidavit in the form of **Exhibit C** attached hereto (the "**Owner's Affidavit**").

4.2.3. **FIRPTA Affidavit**. Affidavit in the form of **Exhibit D** with respect to the Foreign Investment in Real Property Tax Act.

4.2.4. **Closing Statement**. An executed settlement statement reflecting the prorations and adjustments required under Article 7.

4.2.5. **Cash – Prorations**. The amount, if any, required of Seller under Article 7.

4.2.6. **Seller Authority**. Authority documents of Seller evidencing Seller's authority to enter into and consummate the transaction contemplated herein.

4.2.7. **Re-Certification of Representations and Warranties**. A certificate executed by Seller confirming that the representations and warranties made by Seller in this Agreement remain true and correct as of the date of Closing, subject to Seller's Statement of Modifications (defined in Section 11.1 below), if any.

4.2.8. **Other Documents**. Any other documents as may be reasonably necessary or appropriate to effect the transaction contemplated by this Agreement, including without limitation, a termination of the License Agreement).

4.2.9. **Amended and Restated Declaration**. The fully-executed, notarized Amended and Restated Declaration, in recordable form.

4.3. **Additional Seller Deliveries Outside of Escrow**. Seller shall cause to be delivered to Purchaser on or prior to the Closing Date, the following items: (i) the Illinois Transferee Liability Releases, (ii) the License Termination, and (iii) the deliveries required in connection with Seller's Work as provided in Article 17 Seller's Work.

4.4. **Failure to Deliver**. The failure of Purchaser or Seller to make any delivery required above by and in accordance with this Article 4 which is not waived in writing by the other party shall constitute a default hereunder by Purchaser or Seller, as applicable.

ARTICLE 5
INVESTIGATION OF PROPERTY

5.1. **Delivery of Documents**.

5.1.1. **Title Report**. Purchaser hereby acknowledges and agrees that Seller has previously delivered to Purchaser (or to an affiliate of Purchaser) a preliminary title report covering the Property issued by the Title Company dated May 7, 2015 as Order No. 1401 880014787 together with copies of all documents referred to as exceptions therein (collectively, the "**Title Report**").

5.1.2. **Survey**. Seller has delivered to Purchaser (or to an affiliate of Purchaser) the most recent survey of the Property prepared by Sarko Engineering Inc. dated September 13, 2013 and last revised October 15, 2013 (the "**Existing Survey**"). Promptly after the Effective Date, Purchaser shall order an ALTA/ACSM survey of the Property, which survey shall be in sufficient form to enable the Title Company to issue extended coverage for purposes of the Title Policy, certified to Seller, Purchaser, Purchaser's mortgagee, if any, and the Title Company (the "**Survey**").

5.1.3. **Due Diligence Deliveries**. Seller has delivered to Purchaser, to the extent in Seller's possession, copies of the due diligence items relating to the Property identified on **Exhibit E** attached hereto.

5.2. **Physical Inspection of Property**.

5.2.1. Seller shall allow Purchaser and Purchaser's engineers, architects or other consultants, employees and agents reasonable access to the Property during normal business hours for conducting due diligence and other specific purposes provided herein, subject to the terms and conditions hereof, through the period commencing on the

Effective Date and expiring at 6:00 p.m. Chicago time on September 1, 2015 (the "**Investigation Period**").

5.2.2. Purchaser and its engineers, surveyors, soil consultants, financial consultants, architects and other employees and agents may exercise such access solely for the purposes of inspecting the physical condition of the Property and conducting non-invasive physical and environmental tests and inspections thereof, including a Phase I environmental site assessment and locating utilities and services. PURCHASER SHALL NOT CONDUCT OR ALLOW ANY PHYSICALLY INVASIVE TESTING OF, ON OR UNDER THE PROPERTY WITHOUT FIRST OBTAINING SELLER'S WRITTEN CONSENT AS TO THE TIMING AND SCOPE OF THE WORK TO BE PERFORMED AND THE PARTIES ENTERING INTO AN AMENDMENT HERETO MEMORIALIZING SUCH SCOPE OF WORK AND ANY ADDITIONAL AGREEMENTS OF THE PARTIES WITH RESPECT TO SUCH TESTING.

5.2.3. Purchaser agrees that it will cause it and any person accessing the Property hereunder to be covered by not less than $1,000,000 commercial general liability insurance (with, in the case of Purchaser's coverage, a contractual liability endorsement, insuring its indemnity obligation under this Agreement), insuring all activity and conduct of such person while exercising such right of access and naming Seller as insured, issued by a licensed insurance company qualified to do business in the State in which the Property is located and otherwise reasonably acceptable to Seller.

5.2.4. Purchaser agrees to indemnify, defend and hold harmless Seller, its affiliates and their respective members, partners, subsidiaries, shareholders, employees, officers, directors, agents, successors and assigns from any loss, injury, damage, cause of action, liability, claim, lien, cost or expense, including reasonable attorneys' fees and costs, arising from the exercise by Purchaser or its employees, consultants, agents or representatives of the right of access under this Agreement, provided however, that Purchaser shall not be required to indemnify Seller if and to the extent that any such loss, injury, liability, damage or expense was caused by the negligence or misconduct of Seller, its employees or its agents or results from the disclosure of a pre-existing condition at the Property. In no event shall Purchaser be liable or obligated to indemnify, defend and hold harmless Indemnities for pre-existing hazardous materials or conditions discovered by Purchaser in connection with its inspection of the Property. The indemnity in this Section 5.2.4 shall survive the Closing or any termination of this Agreement.

5.2.5. Purchaser agrees to give Seller reasonable prior notice of its intent to conduct any inspections or tests so that Seller will have the opportunity to have a representative present during any such inspection or test, the right to do which Seller expressly reserves. Purchaser agrees to cooperate with any reasonable request by Seller in connection with the timing of any such inspection or test.

5.2.6. Purchaser agrees that any inspection, test or other study or analysis of the Property shall be performed at Purchaser's expense and in strict accordance with applicable law.

5.2.7. Purchaser agrees at its own expense to promptly repair or restore the Property, if any inspection or test requires or results in any damage to the condition of the Property. The obligations set forth in this Section 5.2.7 shall survive the Closing or any termination of this Agreement.

5.2.8. Upon full execution and delivery of this Agreement, the provisions of this Section 5.2 shall terminate that certain Access and Indemnity Agreement dated June 29, 2015 (the "**Access and Indemnity Agreement**") between Rush University Medical Center and Seller, except for with respect to provisions thereof which are expressly stated to survive the termination thereof. Purchaser hereby represents and warrants to Seller that Purchaser has the authority to and will be deemed to render the Access and Indemnity Agreement terminated on behalf of Rush University Medical Center upon the full execution and delivery of this Agreement.

5.3. **Investigation Period**. Purchaser shall have the right to make the following investigations throughout the Investigation Period:

5.3.1. **Title and Survey**. Purchaser shall have until 6:00 p.m. Chicago time on September 1, 2015 to notify Seller of any objections (the "**Title Objections**") with respect to the Title Report and the Survey based on its review thereof. If Purchaser does not deliver such notice, such failure shall be conclusively deemed to be full and complete approval of the Title Report and the Survey and any matter disclosed therein. Without waiver of Purchaser's right to provide notice of Title Objections as above provided through September 1, 2015, it is acknowledged and agreed and notice is hereby given to Seller that 2014 real estate taxes and assessments due and payable in 2015 with respect to the Property constitute a Title Objection. If Purchaser delivers such notice, Seller shall have until 6:00 p.m. Chicago time on September 9, 2015 (the "**Seller's Response Period**") to notify Purchaser that Seller (a) will cause or (b) elects not to cause, any or all of the Title Objections disclosed therein to be removed or insured over (in a manner satisfactory to Purchaser in its sole and absolute discretion) by the Title Company (the "**Seller's Reply Notice**"). Seller's failure to notify Purchaser within Seller's Response Period as to any Title Objection shall be deemed an election by Seller not to remove or have the Title Company insure over such Title Objection. If Seller notifies or is deemed to have notified Purchaser that Seller shall not remove nor have the Title Company insure over any or all of the Title Objections, Purchaser shall have until 6:00 p.m. Chicago time on September 15, 2015 to (i) terminate this Agreement (in which case the Deposit and all interest thereon shall be promptly returned to Purchaser, and all further rights and obligations of the parties shall cease and terminate without any further liability of either party to the other (except those obligations which are specifically provided to survive such termination as provided in this Agreement)), or (ii) waive such Title Objections and

proceed to Closing without any abatement or reduction in the Purchase Price on account of such Title Objections, except that Purchaser shall have the right to deduct from the Purchase Price an amount necessary to cure all Title Objections which are liens and/or encumbrances of a definite or ascertainable amount which were incurred against title to the Property by Seller (which the parties acknowledge includes real estate taxes which are then due and payable). If Purchaser does not deliver such notice within said period, Purchaser shall be deemed to have elected to waive such Title Objections, and deduct from the Purchase Price the definite or ascertainable amount of any such liens and/or encumbrances.

5.3.2. **General Investigation and Due Diligence**. Without limitation to or by Purchaser's rights under Section 5.3.1 above as same is related to Title Objections, Purchaser shall have the right to terminate this Agreement for any reason or for no reason, in Purchaser's sole and absolute discretion, by delivering written notice of such termination to Seller prior to the expiration of the Investigation Period ("**Termination Notice**"). If the Termination Notice is delivered by Purchaser, this Agreement shall terminate in accordance with the provisions of Section 5.3.3 *Effect of Termination* below. If Purchaser fails to deliver a Termination Notice prior to the expiration of the Investigation Period, such failure shall be conclusively deemed to be a waiver of Purchaser's right to the terminate this Agreement pursuant to this Section 5.3.2, but shall not be deemed a waiver of Purchaser's right to terminate this Agreement as may be specifically provided for in any other section of this Agreement.

5.3.3. **Effect of Termination**. If Purchaser terminates this Agreement in accordance with Section 5.3, then the Deposit (and all interest thereon) shall be promptly returned to Purchaser and, subject to Section 5.2.4 and Section 5.2.7, all further rights and obligations of the parties shall cease and terminate without any further liability of either party to the other (except those obligations which are specifically provided to survive such termination as provided in this Agreement).

5.3.4. **No Obligation to Cure**. Nothing contained in this Agreement or otherwise shall require Seller to render its title marketable or to remove or correct any exception or matter disapproved by Purchaser or to spend any money or incur any expense in order to do so, except as specifically provided in this Agreement and subject to Purchaser's right to deduct from the Purchase Price as expressly set forth in Section 5.3.1 pertaining to liens and/or encumbrances of a definite or ascertainable amount.

5.4. **Copies of Third Party Reports**. If this Agreement is terminated for reasons other than Seller's default, then at Seller's request and upon payment to Purchaser of one-half (½) of the cost of such reports and work product, Purchaser, within three (3) business days after such request, shall provide Seller with copies of all third party reports and work product generated with respect to the Property requested by Seller. Such items shall be delivered without representation or warranty as to accuracy or completeness and with no right of Seller to rely thereon without the consent of the third party.

ARTICLE 6
THE CLOSING

6.1. **Date and Manner of Closing**. Provided that this Agreement has not been sooner terminated in accordance with the terms and provisions of this Agreement (and provided all such termination rights have expired or been waived or deemed waived pursuant to the provisions of this Agreement), the consummation of the transaction contemplated hereby (the "**Closing**") shall occur on the date that is ten (10) days after the satisfaction (or pursuant to the terms of this Agreement, deemed satisfaction) or waiver (or pursuant to the terms of this Agreement, deemed waiver) of all of the conditions to Closing contained in this Agreement (the "**Closing Date**"). Upon receipt of the Purchase Price, as adjusted in accordance with the terms hereof, and the satisfaction of all other conditions set forth in this Agreement and the letters of escrow closing instructions by Purchaser and Seller (or their respective counsel on behalf of Purchaser and Seller) (the "**Closing Instructions**"), the Title Company shall be authorized and directed to issue the Title Policy, subject only to the Permitted Encumbrances, to disburse the adjusted Purchase Price to Seller or its designee(s), record the Amended and Restated Declaration, the Deed, and if applicable, the Lot 2 deed (in the Order of Priority (as defined in Section 8.3 below) among the real property records of DuPage County, Illinois, and release the remaining Closing Documents to the appropriate parties, all in strict accordance with the Closing Instructions and this Agreement.

ARTICLE 7
PRORATIONS, FEES, COSTS AND ADJUSTMENTS

7.1. **Prorations**. Except as hereinafter provided, real estate taxes and assessments for calendar year 2015 (i.e. real estate taxes and assessments due and payable in calendar year 2016) and, if applicable, real estate taxes and assessments for calendar year 2016 (i.e. real estate taxes and assessments due and payable in calendar year 2017), shall be prorated as of the Closing Date on the basis of one hundred percent (100%) of the most recent ascertainable amounts assessed against the Property, and the credit to Purchaser shall reduce the balance of proceeds due from Purchaser at Closing (the "**Tax Proration**"). Seller shall pay the 2014 real estate taxes and assessments (2014 real estate taxes and assessments payable in 2015) prior to Closing.

7.1.1. Seller contemplates conveying Lot 2 in the Subdivision to the Subdivision's Lot 1 Owner concurrently with the Closing (which deed for Lot 2 shall be recorded in the Order of Priority pursuant to Section 8.3 below). In connection with the conveyance of Lot 2 to the Lot 1 Owner and entering into the Amended and Restated Declaration, Seller shall use its good faith, commercially reasonable and diligent efforts to secure the obligation of the Lot 1 Owner to pay to Seller an amount not less than the Tax Proration to compensate Seller for granting the Tax Proration to Purchaser (the "**Offset Amount**"). If Seller does not secure the Lot 1 Owner's obligation to pay the Offset Amount, the Tax Proration shall be reduced by fifty percent (50%). If Seller secures from the Lot 1 Owner the Lot 1 Owner's obligation to pay Seller an amount less than the Offset Amount to compensate Seller for granting the Tax Proration to Purchaser

(the "**Reduced Amount**"), the Tax Proration shall be reduced by an amount equal to 50% of the Reduced Amount.

7.2. **Seller's Closing Costs**. Seller shall pay (i) any state and county transfer taxes relating to the Deed and/or the transfer of the Property, (ii) the cost of the Title Report and the title premium for the Title Policy (with extended coverage) and the cost of any Curative Endorsements), (iii) the cost of recording the Deed, (iv) one-half of the cost of recording the Amended and Restated Declaration, (v) the cost of recording any documents necessary to cure title objections caused by Seller, (vi) one-half of Escrow Agent's settlement charges, escrow fee or escrow termination charge, and (vii) Seller's own attorneys' fees.

7.3. **Purchaser's Closing Costs**. Purchaser shall pay (i) one-half of Escrow Agent's settlement charges, escrow fee or escrow termination charge, (ii) the cost of Elective Endorsements, (iii) any costs incurred in connection with Purchaser's financing the purchase of the Property, including, without limitation, the cost of any lender's title insurance policy and the cost to record Purchaser's financing documents, (iv) any costs incurred in connection with Purchaser's investigation of the Property, (v) Purchaser's own attorneys' fees, (vi) the cost of the Survey, and (vii) one-half of the cost of recording the Amended and Restated Declaration.

ARTICLE 8
DISTRIBUTION OF FUNDS AND DOCUMENTS

8.1. **Delivery of the Purchase Price**. At the Closing, Escrow Agent shall deliver the Purchase Price (net of any prorations, Purchaser credits and holdbacks pursuant to this Agreement) to Seller.

8.2. **Other Monetary Disbursements**. Escrow Agent shall, at the Closing, arrange for wire transfer, (i) to Seller, or order, as instructed by Seller, all sums and any proration or other credits to which Seller is entitled and less any appropriate proration, credit or holdback pursuant to this Agreement, or other charges and (ii) to Purchaser, or order, any excess funds therefor delivered to Escrow Agent by Purchaser and all sums and any proration or other credits to which Purchaser is entitled and less any appropriate proration or other charges.

8.3. **Recorded Documents**. Escrow Agent shall first cause the Amended and Restated Declaration, second the Deed, and third, if applicable, the Lot 2 deed, in that order (the "**Order of Priority**"), and then any other documents that Seller or Purchaser desires to record to be recorded with the appropriate county recorder, and after recording, returned to the grantee, beneficiary or person acquiring rights under said document or for whose benefit said document was required. Seller and Purchaser acknowledge and agree that each of the Amended and Restated Declaration, the Deed and the Lot 2 deed (if applicable) shall be made effective as of the Closing Date, but recorded in the order described in this Section 8.3.

8.4. **Documents to Purchaser**. Escrow Agent shall at the Closing deliver by overnight express delivery to Purchaser the following:

1. one (1) conformed copy of the Deed as soon as reasonably practicable;
2. one (1) copy of the Owner's Affidavit;
3. one (1) original of the FIRPTA Affidavit;
4. one (1) original of the Closing Statement (including the Title Company Disbursement Statement);
5. one (1) original of the Title Policy;
6. copies of the authority documentation delivered under Section 4.2.6;
7. The re-certification of Seller's representations and warranties; and
8. one (1) copy of the Amended and Restated Declaration.

8.5. **Documents to Seller**. Escrow Agent shall at the Closing deliver by overnight express delivery to Seller, the following:

1. one (1) conformed copy of the Deed as soon as reasonably practicable;
2. one (1) original of the Owner's Affidavit;
3. one (1) original of the FIRPTA Affidavit;
4. copies of the authority documentation delivered under Section 4.1.4;
5. the re-certification of Purchaser's representations and warranties; and
6. one (1) original of the Closing Statement (including the Title Company Disbursement Statement).

8.6. **All Other Documents**. Escrow Agent shall at the Closing deliver by overnight express delivery, each other document received hereunder by Escrow Agent to the person acquiring rights under said document or for whose benefit said document was required.

ARTICLE 9
RETURN OF DOCUMENTS AND FUNDS UPON TERMINATION

9.1. **Return of Seller's Documents**. If escrow or this Agreement is terminated for any reason, Escrow Agent shall deliver all documents and materials deposited by Seller and then in Escrow Agent's possession to Seller and shall destroy any documents executed by both Purchaser and Seller other than the Escrow Agreement and any Closing escrow agreement. Upon delivery by Escrow Agent to Seller (or such destruction, as applicable) of such documents and materials, Escrow Agent's obligations with regard to such documents and materials under this Agreement shall be deemed fulfilled and Escrow Agent shall have no further liability with regard to such documents and materials to either Seller or Purchaser.

9.2. **Return of Purchaser's Documents**. If escrow or this Agreement is terminated for any reason, Escrow Agent shall deliver all documents, materials, and monies (including

Purchase Price monies, except for the Deposit which shall be disbursed in accordance with Section 9.3 below) deposited by Purchaser and then in Escrow Agent's possession to Purchaser and shall destroy any documents executed by both Purchaser and Seller other than the Escrow Agreement and any Closing escrow agreement. Upon delivery by Escrow Agent to Purchaser (or such destruction, as applicable) of such documents and materials, Escrow Agent's obligations with regard to such documents and materials under this Agreement shall be deemed fulfilled and Escrow Agent shall have no further liability with regard to such documents and materials to either Seller or Purchaser.

9.3. **Deposit**. If this Agreement is terminated (i) pursuant to Section 10.2 or Article 12 or (ii) due to the failure of a condition set forth in Section 3.1 (iii) resulting from a termination under Section 5.3, or (iv) such other right of termination of Purchaser expressly provided under this Agreement, Purchaser shall be entitled to obtain the return of the Deposit by causing Escrow Agent to deliver the Deposit to Purchaser pursuant to Section 9.4 below. If the Closing does not take place and escrow or this Agreement is terminated pursuant to Section 10.1 below, Seller shall be entitled to the Deposit.

9.4. **No Effect on Rights of Parties; Survival**. The return of documents and monies as set forth above shall not affect the right of either party to seek such legal or equitable remedies as such party may have under Article 10 with respect to the enforcement of this Agreement. The obligations under this Article 9 shall survive termination of this Agreement.

ARTICLE 10
DEFAULT

10.1. **Seller's Remedies**. If, for any reason whatsoever (other than the failure of a condition set forth in Section 3.1 and other than a termination of this Agreement pursuant to Section 10.2 or Article 12 or such other right of termination of Purchaser expressly provided in this Agreement), Purchaser fails to complete the acquisition as herein provided, Purchaser shall be in breach of its obligations hereunder and Seller shall be released from any further obligations hereunder. BY INITIALING BELOW, PURCHASER AND SELLER HEREBY ACKNOWLEDGE AND AGREE THAT SELLER'S ACTUAL DAMAGES IN THE EVENT OF SUCH A BREACH OF THIS AGREEMENT BY PURCHASER WOULD BE EXTREMELY DIFFICULT OR IMPOSSIBLE TO DETERMINE, THAT THE AMOUNT OF THE DEPOSIT IS THE PARTIES' BEST AND MOST ACCURATE ESTIMATE OF THE DAMAGES SELLER WOULD SUFFER IN THE EVENT THE TRANSACTION PROVIDED FOR IN THIS AGREEMENT FAILS TO CLOSE, AND THAT SUCH ESTIMATE IS REASONABLE UNDER THE CIRCUMSTANCES EXISTING ON THE DATE OF THIS AGREEMENT. PURCHASER AND SELLER AGREE THAT SELLER'S RIGHT TO RETAIN THE DEPOSIT SHALL BE THE SOLE REMEDY OF SELLER AT LAW IN THE EVENT OF SUCH A BREACH OF THIS AGREEMENT BY PURCHASER. NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THIS SECTION 10.1, IF PURCHASER BRINGS AN ACTION AGAINST SELLER FOR AN ALLEGED BREACH OR DEFAULT BY SELLER OF ITS OBLIGATIONS UNDER THIS

AGREEMENT, RECORDS A LIS PENDENS OR OTHERWISE ENJOINS OR RESTRICTS SELLER'S ABILITY TO SELL AND TRANSFER THE PROPERTY OR REFUSES TO CONSENT TO OR INSTRUCT RELEASE OF THE DEPOSIT TO SELLER IF REQUIRED BY ESCROW AGENT (EACH A "**PURCHASER'S ACTION**"), SELLER SHALL NOT BE RESTRICTED BY THE PROVISIONS OF THIS SECTION 10.1 FROM BRINGING AN ACTION AGAINST PURCHASER SEEKING EXPUNGEMENT OR RELIEF FROM ANY IMPROPERLY FILED LIS PENDENS, INJUNCTION OR OTHER RESTRAINT, AND/OR RECOVERING FEES, COSTS AND EXPENSES (INCLUDING ATTORNEYS' FEES) WHICH SELLER MAY SUFFER OR INCUR AS A RESULT OF ANY PURCHASER'S ACTION BUT ONLY TO THE EXTENT THAT SELLER IS THE PREVAILING PARTY; AND THE AMOUNT OF ANY SUCH FEES, COSTS AND EXPENSES AWARDED TO SELLER SHALL BE IN ADDITION TO THE LIQUIDATED DAMAGES SET FORTH HEREIN. NOTHING IN THIS AGREEMENT SHALL, HOWEVER, BE DEEMED TO LIMIT PURCHASER'S LIABILITY TO SELLER FOR DAMAGES OR INJUNCTIVE RELIEF FOR BREACH OF PURCHASER'S INDEMNITY OBLIGATIONS UNDER SECTION 5.2.4 ABOVE OR FOR ATTORNEYS' FEES AND COSTS AS PROVIDED IN SECTION 16.5 BELOW.

SELLER'S INITIALS: AL **PURCHASER'S INITIALS:**____

10.2. **Purchaser's Remedies**. If the sale is not completed as herein provided solely by reason of any material default of Seller, Purchaser shall be entitled, as its sole and exclusive remedy, to either (i) terminate this Agreement (by delivering notice to Seller which includes a waiver of any right, title or interest of Purchaser in the Property) in which event the Deposit and all interest earned thereon shall be returned to Purchaser or (ii) treat this Agreement as being in full force and effect and pursue only the specific performance of this Agreement, provided that Purchaser must commence any action for specific performance within sixty (60) days after the scheduled Closing Date. Purchaser waives any right to pursue any other remedy at law or equity for such default of Seller, including, without limitation, any right to seek, claim or obtain damages, punitive damages or consequential damages. In no case shall Seller ever be liable to Purchaser under any statutory, common law, equitable or other theory of law, either prior to or following the Closing, for any lost rents, profits, "benefit of the bargain," business opportunities or any form of consequential damage in connection with any claim, liability, demand or cause of action in any way or manner relating to the Property, the condition of the Property, this Agreement, or any transaction or matter between the parties contemplated hereunder. Nothing in this Agreement shall be deemed to limit Seller's liability to Purchaser for the attorneys' fees and costs as provided in Section 16.5 below. The foregoing to the contrary notwithstanding, Purchaser shall have any and all rights and remedies at law for a breach by Seller of any covenant, representation and/or warranty of Seller in Article 17 *Seller's Work*, and for any failure by Seller to timely perform the obligations of Seller set forth in Article 17 *Seller's Work*.

AGREEMENT, RECORDS A LIS PENDENS OR OTHERWISE ENJOINS OR RESTRICTS SELLER'S ABILITY TO SELL AND TRANSFER THE PROPERTY OR REFUSES TO CONSENT TO OR INSTRUCT RELEASE OF THE DEPOSIT TO SELLER IF REQUIRED BY ESCROW AGENT (EACH A "**PURCHASER'S ACTION**"), SELLER SHALL NOT BE RESTRICTED BY THE PROVISIONS OF THIS SECTION 10.1 FROM BRINGING AN ACTION AGAINST PURCHASER SEEKING EXPUNGEMENT OR RELIEF FROM ANY IMPROPERLY FILED LIS PENDENS, INJUNCTION OR OTHER RESTRAINT, AND/OR RECOVERING FEES, COSTS AND EXPENSES (INCLUDING ATTORNEYS' FEES) WHICH SELLER MAY SUFFER OR INCUR AS A RESULT OF ANY PURCHASER'S ACTION BUT ONLY TO THE EXTENT THAT SELLER IS THE PREVAILING PARTY; AND THE AMOUNT OF ANY SUCH FEES, COSTS AND EXPENSES AWARDED TO SELLER SHALL BE IN ADDITION TO THE LIQUIDATED DAMAGES SET FORTH HEREIN. NOTHING IN THIS AGREEMENT SHALL, HOWEVER, BE DEEMED TO LIMIT PURCHASER'S LIABILITY TO SELLER FOR DAMAGES OR INJUNCTIVE RELIEF FOR BREACH OF PURCHASER'S INDEMNITY OBLIGATIONS UNDER SECTION 5.2.4 ABOVE OR FOR ATTORNEYS' FEES AND COSTS AS PROVIDED IN SECTION 16.5 BELOW.

SELLER'S INITIALS:_____ **PURCHASER'S INITIALS:** MB

10.2. **Purchaser's Remedies**. If the sale is not completed as herein provided solely by reason of any material default of Seller, Purchaser shall be entitled, as its sole and exclusive remedy, to either (i) terminate this Agreement (by delivering notice to Seller which includes a waiver of any right, title or interest of Purchaser in the Property) in which event the Deposit and all interest earned thereon shall be returned to Purchaser or (ii) treat this Agreement as being in full force and effect and pursue only the specific performance of this Agreement, provided that Purchaser must commence any action for specific performance within sixty (60) days after the scheduled Closing Date. Purchaser waives any right to pursue any other remedy at law or equity for such default of Seller, including, without limitation, any right to seek, claim or obtain damages, punitive damages or consequential damages. In no case shall Seller ever be liable to Purchaser under any statutory, common law, equitable or other theory of law, either prior to or following the Closing, for any lost rents, profits, "benefit of the bargain," business opportunities or any form of consequential damage in connection with any claim, liability, demand or cause of action in any way or manner relating to the Property, the condition of the Property, this Agreement, or any transaction or matter between the parties contemplated hereunder. Nothing in this Agreement shall be deemed to limit Seller's liability to Purchaser for the attorneys' fees and costs as provided in Section 16.5 below. The foregoing to the contrary notwithstanding, Purchaser shall have any and all rights and remedies at law for a breach by Seller of any covenant, representation and/or warranty of Seller in Article 17 *Seller's Work*, and for any failure by Seller to timely perform the obligations of Seller set forth in Article 17 *Seller's Work*.

ARTICLE 11
REPRESENTATIONS AND WARRANTIES

11.1. **Seller's Warranties and Representations**. The matters set forth in this Section 11.1 constitute representations and warranties by Seller which are now and (subject to matters contained in Seller's Statement of Modifications, if any) shall, in all material respects, at the Closing be true and correct. If Seller hereafter acquires actual knowledge that any of the representations and warranties contained in this Article 11 may cease to be true, Seller shall give notice thereof to Purchaser (which notice shall include copies of the instrument, correspondence, or document, if any, upon which Seller's notice is based). Such notice shall be referred to herein as the "**Seller's Statement of Modifications**" and shall be given by Seller to Purchaser, if ever, no later than three (3) business days before the date of Closing. There shall be no duty imposed or implied to investigate, inquire, inspect, or audit any such matters, and there shall be no personal liability on the part of any individual asset manager of Seller. To the extent Purchaser has or acquires actual knowledge, including by way of Seller's Statement of Modifications, prior to the Closing that these representations and warranties are inaccurate, untrue or incorrect in any way, such representations and warranties shall be deemed modified to reflect Purchaser's actual knowledge, provided that Purchaser shall have the right to terminate this Agreement by written notice to Seller on or before the date of Closing, in the event of any material modification (as reasonably determined by Purchaser) to Seller's representations and warranties. In the event of such termination, the Deposit and all interest accrued thereon shall be promptly returned to Purchaser.

11.1.1. **Broker**. With respect to the transaction contemplated by this Agreement, Seller represents that it has not engaged nor dealt with any broker other than CBRE, Inc. ("**Seller's Broker**"). Seller agrees that if any person or entity makes a claim for brokerage commissions or finder's fees related to the sale of the Property by Seller to Purchaser, and such claim is made by, through or on account of any acts or alleged acts of Seller or its representatives, Seller will protect, indemnify, defend and hold Purchaser free and harmless from and against any and all loss, liability, cost, damage and expense (including reasonable attorneys' fees) in connection therewith. The provisions of this paragraph shall survive Closing or any termination of this Agreement. Seller shall pay all commissions due and owing to Seller's Broker in accordance with a separate agreement.

11.1.2. **Organization**. Seller has been duly formed, validly exists and is in good standing in the jurisdiction of its formation and in the state in which the Property is located.

11.1.3. **Power and Authority**. Seller has the legal power, right and authority to enter into this Agreement, to bind Seller and the Property to the commitments made hereunder and to consummate the transactions contemplated hereby.

11.1.4. **The Property**. To Seller's knowledge, there are no leases or other rights of use or occupancy, including without limitation, crop leases or mineral leases,

affecting the Property except for the Original Declaration, which shall be revised in its entirety pursuant to the Amended and Restated Declaration, and except for the License Agreement, which shall be terminated pursuant to Section 3.1.10 above. Seller shall indemnify, defend and hold Purchaser harmless from and against any claims, costs, expenses and liabilities arising from such License Agreement arising prior to Closing.

11.1.5. **FIRPTA**. Seller is not a "foreign person" as defined in Section 1445 of the Internal Revenue Code and is therefore exempt from the withholding requirements of said Section.

11.1.6. . **No Default**. To Seller's actual knowledge, the execution, delivery and performance by Seller of this Agreement shall not constitute or cause a default or breach of any agreement or undertaking of Seller or concerning the Property.

11.1.7. **No Litigation**. Seller has not received written notice of any suit, claim, demand, damage, action, or cause of action of any person, entity or governmental agency or instrumentality affecting the Property that has not heretofore been finally adjudicated.

11.1.8. **No Special Assessments**. Seller has not received written notice concerning any existing or proposed special assessments or similar taxes, charges or assessments against the Property or any utility service moratoriums or other moratoriums affecting the Property.

11.1.9. **No Condemnation**. Seller has not received written notice that any portion of the Property has been condemned or otherwise taken by any public authority and has no actual knowledge that any condemnation of the Property in whole or part is pending or threatened.

11.1.10. **No Contracts**. Except for the Original Declaration which shall be revised in its entirety pursuant to the Amended and Restated Declaration, and any service contracts entered into by or on behalf of Lot 1 Owner in connection therewith, to Seller's knowledge there are no service contracts, equipment leases, development agreements or other agreements affecting the Land. To Seller's actual knowledge, there are no defaults by any party under the Original Declaration.

11.1.11. **No Violations of Laws**. Seller has not received written notice that the Property is currently in violation of any law, ordinance, code or regulation, including without limitation, any law related to the environmental condition of the Property.

11.1.12. **No Violations of CCRs**. Seller has not received written notice that the Property is in violation or breach of any of the covenants, conditions, restrictions or other agreements affecting the Property.

11.1.13. **Due Diligence Materials**. The due diligence materials listed on Exhibit E will be provided to Purchaser and will be true, correct and complete copies of the corresponding documents in Seller's files.

11.1.14. **PATRIOT Act**. Seller is and will remain in compliance with the requirements of Executive Order No. 13224, 66 Fed Reg. 49079 (September 25, 2001) (the "**Order**") and other similar requirements contained in the rules and regulations of the Office of Foreign Asset Control, Department of the Treasury ("**OFAC**") and in any enabling legislation or other Executive Orders in respect thereof (the Order and such other rules, regulations, legislation, or orders are collectively called the "**Orders**"). Seller:

(a) is not listed on the Specially Designated Nationals and Blocked Persons List maintained by OFAC pursuant to the Order or on any other list of terrorists or terrorist organizations maintained pursuant to any of the rules and regulations of OFAC or pursuant to any other applicable Orders (such lists are collectively referred to as the "**Lists**");

(b) has not been determined by competent authority to be subject to the prohibitions contained in the Orders;

(c) is not and will not become owned or controlled by, nor act for or on behalf of, any person or entity on the Lists or any other person or entity that has been determined by competent authority to be subject to the prohibitions contained in the Orders; and

(d) is not knowingly engaged in, and will not knowingly engage in, any dealings or transactions or be otherwise associated with such persons or entities on the Lists or that has been determined by competent authority to be subject to the prohibitions contained in the Orders.

11.2. **Purchaser's Warranties and Representations**. The matters set forth in this Section 11.2 constitute representations and warranties by Purchaser which are now and shall, at the Closing, be true and correct in all material respects.

11.2.1. **Broker**. With respect to the transaction contemplated by this Agreement, Purchaser represents that it has not engaged nor dealt with any broker other than Cain Brothers RE LLC ("**Purchaser's Broker**"). Purchaser agrees that if any person or entity other than Purchaser's Broker makes a claim for brokerage commissions or finder's fees related to the sale of the Property by Seller to Purchaser, and such claim is made by, through or on account of any acts or alleged acts of Purchaser or its representatives, Purchaser will protect, indemnify, defend and hold Seller free and harmless from and against any and all loss, liability, cost, damage and expense (including reasonable attorneys' fees) in connection therewith. The provisions of this paragraph shall survive Closing or any termination of this Agreement.

11.2.2. **Power and Authority**. Purchaser has the legal power, right and authority to enter into this Agreement and to consummate the transactions contemplated hereby.

11.2.3. **Organization**. Purchaser has been duly formed, validly exists and is in good standing in the jurisdiction of its formation and, on or before the Closing Date shall be in the state in which the Property is located.

11.2.4. **No Default**. To Purchaser's actual knowledge, the execution, delivery and performance by Purchaser of this Agreement shall not constitute or cause a default or breach of any agreement or undertaking of Purchaser.

11.2.5. **Independent Investigation**. The consummation of this transaction shall constitute Purchaser's acknowledgment that it has independently inspected and investigated the Property and has made its own examination of the condition of the Property, except as otherwise expressly provided in this Agreement.

11.2.6. **Purchaser Reliance**. Purchaser is experienced in and knowledgeable about the ownership and management of real estate, and it has relied and will rely on its own consultants, advisors, counsel, employees, agents, principals and/or studies, investigations and/or inspections with respect to the Property, its condition, value and potential, except as otherwise expressly provided in this Agreement. Purchaser agrees that, notwithstanding the fact that it has received certain information from Seller or its agents or consultants, Purchaser has relied solely upon and will continue to rely solely upon its own analysis and will not rely on any information provided by Seller or its agents or consultants, except as expressly set forth in Section 11.1.

11.2.7. **PATRIOT Act**. Purchaser is and will remain in compliance with the Orders. Purchaser:

(a) is not listed on the Lists;

(b) has not been determined by competent authority to be subject to the prohibitions contained in the Orders;

(c) is not and will not become owned or controlled by, nor act for or on behalf of, any person or entity on the Lists or any other person or entity that has been determined by competent authority to be subject to the prohibitions contained in the Orders;

(d) is not knowingly engaged in, and will not knowingly engage in, any dealings or transactions or be otherwise associated with such persons or entities on the Lists or that has been determined by competent authority to be subject to the prohibitions contained in the Orders; and

(e) agrees to cooperate with Seller in providing such additional information and documentation on Purchaser's legal or beneficial ownership, policies, procedures and sources of funds as Seller reasonably deems necessary or prudent solely to enable it to comply with Orders or anti-money laundering laws as now in existence or hereafter amended.

11.2.8. **ERISA**. Purchaser is not, nor is acting on behalf of, an entity or person that is either (i) a benefit plan investor as defined under Section 3(42) of the Employee Retirement Income Security Act of 1974, as amended ("**ERISA**"), or (ii) any other entity that holds ERISA "plan assets" as defined under Section 3(42) of ERISA.

11.3. **No Other Warranties and Representations**. Except as specifically set forth in this Article 11, neither Seller nor any affiliate of Seller has made, make or have authorized anyone to make, any warranty or representation as to any written materials delivered to Purchaser, the persons preparing such materials, the truth, accuracy or completeness of such materials, the present or future physical condition, development potential, zoning, building or land use law or compliance therewith, the operation, income generated by, or any other matter or thing affecting or relating to the Property or any matter or thing pertaining to this Agreement. Purchaser expressly acknowledges that no such warranty or representation has been made and that Purchaser is not relying on any warranty or representation whatsoever other than as is expressly set forth in this Article 11. Purchaser shall accept the Property "as is" and in its condition on the date of Closing subject only to the express provisions of this Agreement and hereby acknowledges and agrees that **EXCEPT AS PROVIDED IN SECTION 11.1 ABOVE AND ARTICLE 17 BELOW, AND IN THE DEED, SELLER HAS NOT MADE, DOES NOT MAKE AND SPECIFICALLY NEGATES AND DISCLAIMS ANY REPRESENTATIONS, WARRANTIES OR GUARANTIES OF ANY KIND OR CHARACTER WHATSOEVER, WHETHER EXPRESS OR IMPLIED, ORAL OR WRITTEN, PAST, PRESENT, FUTURE OR OTHERWISE, OF, AS TO, CONCERNING OR WITH RESPECT TO, THE PROPERTY**.

11.3.1. **No Environmental Representations**. Seller makes no representations or warranties as to whether the Property contains asbestos, radon or any hazardous materials or harmful or toxic substances, or pertaining to the extent, location or nature of same, if any. Further, to the extent that Seller has provided to Purchaser information from any inspection, engineering or environmental reports concerning asbestos, radon or any hazardous materials or harmful or toxic substances, Seller makes no representations or warranties with respect to the accuracy or completeness, methodology of preparation or otherwise concerning the contents of such reports.

11.3.2. **Release of Claims**. Subject to the express provisions hereof including, without limitation, Purchaser's remedies in Section 10.2 above, Purchaser acknowledges and agrees that Seller makes no representation or warranty as to, and Purchaser, for itself, its successors and assigns, waives and releases Seller, its affiliates and their respective members, partners, subsidiaries, shareholders, employees, officers, directors, agents,

successors and assigns from any present or future claims, at law or in equity, whether known or unknown, foreseeable or otherwise, arising from or relating to, the Property, including without limitation the presence or alleged presence of asbestos, radon or any hazardous materials or harmful or toxic substances in, on, under or about the Property, including without limitation any claims under or on account of (i) the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as the same may have been or may be amended from time to time, and similar state statutes, and any regulations promulgated thereunder, (ii) any other federal, state or local law, ordinance, rule or regulation, now or hereafter in effect, that deals with or otherwise in any manner relates to, environmental matters of any kind, or (iii) the common law. Purchaser hereby specifically acknowledges that Purchaser has carefully reviewed this Section 11.3.2 and has discussed its import with legal counsel and that the provisions of this Section 11.3.2 are a material part of this Agreement. This Section 11.3.2 shall survive the Closing forever. The foregoing release of claims shall not pertain to fraud, intentional misrepresentation, Article 17 *Seller's Work* of this Agreement and shall not limit Purchaser's rights pursuant to Section 10.2 *Purchaser's Remedies* or Section 16.5 *Attorneys' Fees* of this Agreement nor prohibit Purchaser from pursuing an action for return of the Deposit when the same is required to be returned to Purchaser pursuant to the terms and conditions of this Agreement.

ARTICLE 12
CASUALTY AND CONDEMNATION

Promptly upon learning thereof, Seller shall give Purchaser written notice of any condemnation, damage or destruction of the Property occurring prior to the Closing. If prior to the Closing all or a portion of the Property is condemned, damaged or destroyed, Purchaser shall have the option of either (i) applying the proceeds of any condemnation award or payment under any insurance policies toward the payment of the Purchase Price to the extent such condemnation awards or insurance payments have been received by Seller, receiving from Seller an amount equal to any applicable deductible under any such insurance policy and receiving an assignment from Seller of Seller's right, title and interest in any such awards or payments not theretofore received by Seller, or (ii) terminating this Agreement by delivering written notice of such termination to Seller and Escrow Agent within ten (10) business days after Purchaser has received written notice from Seller of such material condemnation, damage or destruction. If this Agreement is terminated pursuant to right of Purchaser contained in the foregoing clause (ii), the Deposit and all accrued interest shall be promptly returned to Purchaser.

ARTICLE 13
CONDUCT PRIOR TO CLOSING

13.1. **Actions Prohibited**. Seller shall not, without the prior written approval of Purchaser, which approval will not be unreasonably withheld or delayed:

1. make any material structural alterations or additions to the Property other than in connection with the performance of Seller's Work;

2. sell, transfer, encumber or change the status of title of all or any portion of the Property, or enter into any agreement affecting the Property;

3. except as expressly provided herein in Article 18 pertaining to Seller's assisting Purchaser in obtaining the Approvals, change or attempt to change, directly or indirectly, the current zoning of the Property in a manner materially adverse to it;

4. except as expressly provided herein, cancel, amend or modify in a manner materially adverse to the Property, any license or permit held by Seller with respect to the Property or any part thereof which would be binding upon Purchaser after the Closing; OR

5. fail to provide to Purchaser, promptly of the receipt thereof, any and all written notices relating to the Property received by Seller or its agents or representatives from any governmental or quasi-governmental instrumentality, insurance company, vendor or other party under any of the contracts relating to the Property to which Seller is a party, or from any other entity or party, which may have a material effect upon the Property or result in a material change in a representation or warranty made by Seller hereunder.

13.2. **Confidentiality**. Seller and Purchaser shall, prior to the Closing, maintain the confidentiality of any confidential or proprietary aspects this sale and purchase (the "**Confidential Information**"), if any, and shall not, except as required by judicial order, law or governmental regulation or similar legal requirement applicable to Seller or Purchaser, disclose the terms of this Agreement or of such sale and purchase, or the names of, and other information relating to, the prior owners of the Property to any third parties whomsoever other than (a) the Brokers, (b) the attorneys, potential equity investors in Purchaser or potential lenders to Purchaser, officers, directors and employees of Seller and Purchaser who need to know such information, (c) representatives of the State of Illinois, County of DuPage and the Village in connection with negotiations for incentives and zoning, (d) Escrow Agent, (e) the Title Company, (f) the Illinois Health and Facilities Planning Board in connection with Purchaser's securing a Certificate of Need, and (g) such other persons whose assistance is required in carrying out the terms of this Agreement. Neither party shall (i) at any time prior to the Closing issue a press release or otherwise communicate with media representatives regarding this sale and purchase, unless such release or communication has received the prior written approval of the other party, which approval shall not be unreasonably withheld, conditioned or delayed and (ii) at any time after Closing identify the other party or any of its constituent members in any press release or other communication with media representatives regarding this sale and purchase, unless such identification has been approved in writing by the other party. Purchaser agrees that all documents and information regarding the Property of whatsoever nature made available to it by Seller or Seller's agents and the results of all tests and studies of the Property

(collectively, the "**Proprietary Information**") are confidential and Purchaser shall not disclose any Proprietary Information to any other person except those described in this Section 13.2 above, including those assisting it with the analysis of the Property, and only after procuring such person's agreement to abide by these confidentiality restrictions. Proprietary Information shall not be deemed to include any information or material which is a matter of public record, publically available, known to Purchaser or Purchaser's representatives prior to the Effective Date or which is disclosed by a third party without connection to Purchaser. This Section 13.2 shall survive the Closing or termination of this Agreement. Reference below in subsections 13.2.1 through and including 13.2.3 to party shall refer to Seller or Purchaser as the context requires.

13.2.1. Information or other items shall not be considered to be Confidential Information subject to this Agreement if such information or other items are: (a) already or subsequently become generally available to the public through no act or failure to act by the receiving party; (b) demonstrably known to the receiving party or in its possession prior to receipt from the disclosing party and/or disclosing party's representatives; (c) developed independently by the receiving party without use of any Confidential Information of the disclosing party; or (d) received separately by the receiving party from a third party, other than the disclosing party's representatives, having the legal right to transmit the same without violating any obligation of confidentiality to the disclosing party.

13.2.2. Each party shall treat and safeguard the other party's Confidential Information with the same standard of care employed for its own Confidential Information and shall in no event employ less than a reasonable standard of care. In the event that a receiving party becomes aware of any conduct by its employees, agents or other third parties in contravention of the terms hereof, the receiving party shall, with all reasonable promptness, take commercially reasonable steps to: (a) stop such conduct and to prevent the same from recurring; (b) retrieve from all recipients known to the receiving party any improperly disclosed Confidential Information and to advise all such recipients in writing that any such Confidential Information is confidential and proprietary to the disclosing party; and (c) advise the disclosing party of the receiving party's remedial actions.

13.2.3. All Confidential Information shall remain the property of the disclosing party. The receiving party shall deliver or destroy, as specified by the disclosing party to the receiving party within thirty (30) days following written notice from the disclosing party, all documentation, substances, computer disks or other tangible media containing any of the Confidential Information, including, without limitation, all copies or replications thereof. No rights other than a right to use the Confidential Information solely for the purpose of effectuating the purchase and sale of the Property are granted or are to be implied by this Agreement, and no license is or shall be granted by a disclosing party to a receiving party except in a written instrument executed by the parties for such purpose.

13.3. **Right to Cure New Title Defects**. If any title or survey defect not caused by Seller which would entitle Purchaser to terminate this Agreement shall first arise after the date of the Title Report and prior to the Closing, Seller may elect, by written notice to Purchaser, to cure such title defect by causing it to be removed, or insured over (to Purchaser's reasonable satisfaction) and Seller may adjourn the Closing for up to ten (10) days to do so. Nothing contained in this Section 13.3 shall require Seller to cure any such title defect or to incur any liability or expense to do so, subject to Purchaser's right to deduct from the Purchase Price as provided in Section 5.3.1.

ARTICLE 14
NOTICES

All notices, demands or other communications given hereunder shall be in writing and shall be deemed to have been duly delivered (i) upon the delivery (or refusal to accept delivery) by messenger or overnight express delivery service (or, if such date is not on a business day, on the business day next following such date), or (ii) on the third (3rd) business day next following the date of its mailing by certified mail, postage prepaid, at a post office maintained by the United States Postal Service, or (iii) upon receipt by email, addressed as follows:

If to Purchaser, to	Rush Oak Brook Orthopaedic Center, LLC 1725 West Harrison Suite 364 Chicago, IL 60612 Attention: Michael Dandorph Email: Michael_Dandorph@rush.edu
With a copy to:	Corporate Real Estate 1725 West Harrison Suite 229 Chicago, IL 60612 Attention: Peter J. Ziarno Email: Peter_J_Ziarno@rush.edu
With a copy to:	Office of Legal Affairs 1700 West Van Buren Street, Suite 301 Chicago, IL 60612 Attention: Anne Murphy Email: Anne_Murphy@rush.edu

With a copy to:	MKS Attorneys at Law, LLC Attention: Daniel McCarthy Email: dmccarthy@mkslaw.com
With a copy to:	Gretchen Heinze Townshend McGuireWoods LLP 77 West Wacker Drive Suite 4100 Chicago, IL 60601-1818 312.849.8237 (Direct Line) 312.698.4524 (Direct FAX) ghtownshend@mcguirewoods.com
And with a copy to:	Dennis Viellieu dviellieu@rushortho.com
If to Seller, to:	2122 EW LLC and York Road EW LLC c/o The John Buck Company One North Wacker Drive Suite 2400 Chicago, Illinois 60606 Attention: Steve Schiltz Email: sschiltz@tjbc.com
with a copy to:	Locke Lord LLP 111 South Wacker Drive Chicago, Illinois 60606 Attention: Kenneth I. Weiner and Jennifer Garner Email: kweiner@lockelord.com and jgarner@lockelord.com
If to Escrow Agent/Title Company, to:	Chicago Title & Trust Company 10 South LaSalle St., Suite 3100 Chicago, IL 60603 Attention: Linda Tyrrell Email: linda.tyrrell@ctt.com

Either party may, by notice given as aforesaid, change the address or addresses, or designate an additional address or additional addresses, for its notices, provided, however, that no notice of a change of address shall be effective until actual receipt of such notice.

ARTICLE 15
TRANSFER OF TITLE AND POSSESSION

15.1. **Transfer of Possession**. Possession of the Property shall be transferred to Purchaser at the time of Closing subject only to the Permitted Encumbrances.

15.2. **Delivery of Documents at Closing**. At the time of Closing, Seller shall deliver to Purchaser originals or copies of any additional documents, instruments or records in the possession of Seller or its agents which are necessary for or used in connection with the ownership and operation of the Property.

ARTICLE 16
GENERAL PROVISIONS

16.1. **Captions**. Captions in this Agreement are inserted for convenience of reference only and do not define, describe or limit the scope or the intent of this Agreement or any of the terms hereof.

16.2. **Exhibits**. All exhibits referred to herein and attached hereto are a part hereof.

16.3. **Entire Agreement**. This Agreement contains the entire agreement between the parties relating to the transaction contemplated hereby and all prior or contemporaneous agreements, understandings, representations and statements, oral or written, are merged herein.

16.4. **Modification**. No modification, waiver, amendment, discharge or change of this Agreement shall be valid unless the same is in writing and signed by all of the parties hereto.

16.5. **Attorneys' Fees**. Should any party hereto employ an attorney for the purpose of enforcing or construing this Agreement, or any judgment based on this Agreement, in any legal proceeding whatsoever, including insolvency, bankruptcy, arbitration, declaratory relief or other litigation, the prevailing party shall be entitled to receive from the other party or parties thereto reimbursement for all reasonable attorneys' fees and all costs, whether incurred at the trial or appellate level, including but not limited to service of process, filing fees, court and court reporter costs, investigative costs, expert witness fees and the cost of any bonds, whether taxable or not, and such reimbursement shall be included in any judgment, decree or final order issued in that proceeding. The "**prevailing party**" means the party in whose favor a judgment, decree, or final order is rendered.

16.6. **Governing Law**. This Agreement shall be construed and enforced in accordance with the laws of the State of Illinois.

16.7. **Time of Essence**. Time is of the essence to this Agreement and to all dates and time periods set forth herein.

16.8. **Survival of Warranties**. Except as hereinafter provided with respect to Article 17 *Seller's Work,* only those warranties and representations contained in Sections 11.1, 11.2, 11.3 and the provisions of Section 13.2 shall survive the Closing, the delivery of the Deed and the payment of the Purchase Price, provided that (i) such representations and warranties, along with the various documents executed and delivered at Closing, shall cease and terminate six (6) months after the date of Closing except in respect of any representation or warranty as to which Purchaser or Seller, as the case may be, shall have commenced, on or before such six (6) month anniversary, a legal proceeding based on the breach thereof as of the date of Closing, and then only for so long as such proceeding shall continue and limited to the breach therein claimed, (ii) Seller shall have no liability to Purchaser with respect thereto unless and until the damages suffered by Purchaser as a result thereof shall equal or exceed actual damages of $10,000.00 in the aggregate, and (iii) the maximum total liability for which Seller shall be responsible with respect to all representations and warranties shall not exceed the Maximum Liability Cap (as defined in Section 16.15) in the aggregate. Unless otherwise expressly herein stated to survive, all other representations, covenants, indemnities, conditions and agreements contained herein shall merge into and be superseded by the various documents executed and delivered at Closing and shall not survive the Closing and all representations, covenants, indemnities, conditions and agreements contained in the various documents executed and delivered at Closing shall cease and terminate six (6) months after the date of Closing. Seller shall have no liability to Purchaser after Closing for any matter disclosed by Seller to Purchaser or learned by Purchaser prior to Closing. The foregoing to the contrary notwithstanding, the terms, provisions, covenants, representations and warranties of Article 17 *Seller's Work*, shall survive the Closing and the recording of the Deed and are not limited by this provision or elsewhere in this Agreement. The Maximum Liability Cap shall not apply to Seller's Work until the date that Seller's Work is completed pursuant to the terms and conditions of Article 17.

16.9. **Assignment by Purchaser**. Purchaser may assign its rights under this Agreement (a) without consent of Seller, but upon written notice to Seller delivered no later than five (5) business days before the date of Closing, to any affiliate of Purchaser, or (b) upon written notice to Seller delivered no later than five (5) business days before the date of Closing, to an unaffiliated third party upon receipt of Seller's prior written consent, which consent shall not be unreasonably withheld, conditioned or delayed. Notwithstanding any such assignment by Purchaser of its rights under this Agreement, Purchaser shall not be relieved of any liability under this Agreement accruing either before or after the date of assignment.

16.10. **Severability**. If any term, covenant, condition, provision or agreement herein contained is held to be invalid, void or otherwise unenforceable by any court of competent jurisdiction, the fact that such term, covenant, condition, provision or agreement is invalid, void or otherwise unenforceable shall in no way affect the validity or enforceability of any other term, covenant, condition, provision or agreement herein contained.

16.11. **Successors and Assigns**. All terms of this Agreement shall be binding upon, inure to the benefit of and be enforceable by, the parties hereto and their respective legal representatives, successors and assigns (subject to Section 16.9).

16.12. **Interpretation**. Seller and Purchaser acknowledge each to the other that both they and their counsel have reviewed and revised this Agreement and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement or any amendments or exhibits hereto.

16.13. **Counterparts**. This Agreement may be executed in any number of counterparts, each of which so executed shall be deemed an original; such counterparts shall together constitute but one agreement.

16.14. **Recordation**. This Agreement may not be recorded and any attempt to do so shall be of no effect whatsoever.

16.15. **Limitation on Liability**. In any action or actions brought to enforce the obligations of Seller under this Agreement or any other document delivered in connection herewith, the judgment(s) or decree(s) shall be subject to the provisions of Section 16.8 and shall, otherwise in any event, be enforceable against Seller in damages only up to a maximum of $200,000.00, in the aggregate (the "**Maximum Liability Cap**"), plus fees and costs pursuant to Section 16.5 *Attorneys' Fees*. In connection with this Agreement, no affiliate of Seller shall have any individual liability hereunder. No shareholder, officer, employee or agent of or consultant of Seller or any affiliate of Seller shall be held to any personal liability hereunder, and no resort shall be had to their property or assets, or the property or assets of any affiliate of Seller or of Seller for the satisfaction of any claims hereunder or in connection with the affairs of any affiliate of Seller or of Seller. The provisions of this Section shall survive the termination of this Agreement.

16.16. **Business Day**. As used in this Agreement, "business day" shall be deemed to be any day other than a day on which banks in the state of Illinois shall be permitted or required to close. If any final day for performance of an obligation or exercising of a right hereunder falls on a non-business day, then such date shall be extended to the next immediately following business day.

16.17. **Waiver of Jury Trial**. PURCHASER AND SELLER HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVE THE RIGHT TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION BASED HEREON, ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS AGREEMENT OR ANY DOCUMENTS CONTEMPLATED TO BE EXECUTED IN CONNECTION HEREWITH, OR ANY COURSE OF CONDUCT, COURSE OF DEALINGS, STATEMENTS (WHETHER ORAL OR WRITTEN) OR ANY ACTIONS OF EITHER PARTY ARISING OUT OF OR RELATED IN ANY MANNER WITH THIS AGREEMENT OR THE PROPERTY (INCLUDING WITHOUT LIMITATION, ANY ACTION TO RESCIND OR CANCEL THIS AGREEMENT OR ANY CLAIMS OR DEFENSES ASSERTING THAT THIS AGREEMENT WAS FRAUDULENTLY INDUCED OR IS OTHERWISE VOID OR VOIDABLE). THIS WAIVER IS A MATERIAL INDUCEMENT FOR SELLER TO ENTER INTO AND ACCEPT THIS AGREEMENT AND THE DOCUMENTS TO BE DELIVERED BY PURCHASER AT CLOSING, AND SHALL

SURVIVE THE CLOSING OR TERMINATION OF THIS AGREEMENT. Each party hereby authorizes and empowers the other to file this Section 16.17 and this Agreement with the clerk or judge of any court of competent jurisdiction as a written consent to waiver of jury trial.

16.18. **Exclusivity**. For so long as this Agreement remains in full force and effect, Seller agrees that it and each of its agents, servants and employees shall not, without the prior written consent of Purchaser, explore, meet, discuss, negotiate, directly or indirectly, or enter into an agreement with any third party for the purpose of discussing, organizing, formulating, designing, developing, investing in or implementing an arrangement that could lead to the sale of the Property to such third party.

ARTICLE 17
SELLER'S WORK

17.1. **Seller's Work**. Pursuant to Section 2.1 of the Original Declaration, Seller, at its sole cost and expense, commissioned a Drainage Study (as defined in the Original Declaration) to determine whether additional drainage facilities and/or improvements to the existing Detention Ponds (as defined in the Original Declaration) shall be required to be made in order for the Project (as defined in the Original Declaration) to comply with the requirements of the Village or any other governmental or quasi-governmental authority once a 122,500 square foot building is constructed on Lot 3. Purchaser hereby acknowledges that Seller has delivered a copy of the Drainage Study to Purchaser. As a condition to Purchaser's obligation to Close, Seller shall deliver to Purchaser prior to Closing evidence of the approval of Lot 1 Owner and copies of all permits, approvals, licenses and the like from applicable governmental authorities (collectively, the "**Authorizations**") that are required in order to permit Seller to complete Seller's Work on or before June 30, 2016. On or before June 30, 2016, Seller shall construct, at Seller's sole cost and expense, any additional drainage facilities and/or improvements to the existing Detention Ponds which are determined to be required pursuant to the Drainage Study or by the Village ("**Seller's Work**"). Seller's Work shall be performed in a good and workmanlike manner, lien-free and in compliance with all applicable laws and the Original Declaration, as the same may be amended by the Amended and Restated Declaration. If Seller has not completed Seller's Work prior to the Closing, then the greater of (i) ONE HUNDRED SIXTY THOUSAND DOLLARS ($160,000.00) of the Purchase Price, and (ii) the amount set forth in a qualified bid secured by Seller and approved by Purchaser, said approval of Purchaser not to be unreasonably withheld, conditioned, or delayed (the "**Holdback Amount**") which would otherwise be payable to Seller at Closing shall be held in escrow by Escrow Agent pursuant to the terms and conditions of an escrow holdback agreement by and between Seller, Purchaser and Escrow Agent (the "**Escrow Holdback Agreement**"). The form of the Escrow Holdback Agreement shall be consistent with the terms of this Section 17.1, shall include the requirement that all disbursements be made through Escrow Agent pursuant to Escrow Agent's standard "construction escrow agreement," shall permit the disbursement of one-half (½) of the Holdback Amount upon completion of at least one-half (½) of Seller's Work and the balance upon completion of Seller's Work, and shall be negotiated in good faith and agreed upon by Purchaser

and Seller during the period between the satisfaction of the Zoning Condition and the Closing Date.

17.1.1. Seller's Sidewalk Work. Except as hereinafter provided, Seller's Work shall also include Seller's completion of the sidewalk installation along Windsor Drive pursuant to resolution 2000 SD FP-R-754 recorded in the Recorder's Office November 29, 2000 as document number R2000-187247 (the "**Resolution**") to the satisfaction of the Village prior to June 30, 2016 (the "**Sidewalk Work**"). Seller hereby advises Purchaser that Seller will be meeting with the Village to request that the Village rescind and render the requirement to complete the Sidewalk Work null and void. Seller shall deliver reasonable prior written notice of such meeting with the Village (which may take place by telephone) to Purchaser to allow Purchaser and/or its representative to participate in such meeting (and if such meeting takes place by telephone, allowing Purchaser and/or its representative to participate in such telephone conference call). Purchaser agrees that it will cooperate with and support in good faith Seller's effort to obtain the Village's rescission of the requirement to complete the Sidewalk Work. Any decision by the Village to rescind the requirement to complete the Sidewalk Work, in order to be effective to render the obligation of Seller to complete the Sidewalk Work pursuant to this Section 17.1.1, must be in form and substance reasonably acceptable to Purchaser and the Title Company, and must extinguish from the Title Policy any obligation to perform the Sidewalk Work pursuant to the Resolution as an encumbrance and/or exception to title as evidenced by the Title Policy.

17.2. **License to Enter/Indemnification/Insurance**. If any portion of Seller's Work is performed after the Closing Date, Seller and its contractors, agents and employees, are hereby granted a temporary license to enter upon any portion of the Property for the purpose of performing all or any part of Seller's Work from and after the Closing. Notwithstanding the foregoing, Seller's Work shall be performed in a manner so as to minimize, to the extent reasonably possible, any interference with the operation of the Property and the improvements related thereto, including all parking areas and accessways. Seller agrees to indemnify, defend and hold harmless Purchaser, its affiliates and their respective members, partners, subsidiaries, shareholders, employees, officers, directors, agents, successors and assigns ("**Purchaser Indemnities**") from any loss, injury, damage, cause of action, liability, claim, lien, cost or expense, including reasonable attorneys' fees and costs, for death or injury to, or damage to property of, third parties, other than Purchaser Indemnitees, arising from, or in connection with, Seller's negligence or willful misconduct in the performance of Seller's Work. The indemnity in this Section shall survive the Closing for a period of two (2) years after the completion of Seller's Work. Prior to entering on to the Property, or on to neighboring property as required for the performance of Seller's Work, Seller shall procure, and provide Purchaser with evidence of, not less than $1,000,000 commercial general liability insurance (which in the case of Seller's coverage, a contractual liability endorsement, insuring Seller's indemnity obligation under this Section), insuring all activity and conduct of such person(s) while exercising such right of access and naming Purchaser as an additional insured, issued by a licensed insurance company qualified

to do business in the State in which the Property is located, and otherwise reasonably acceptable to Purchaser.

17.3. **Delay**. Notwithstanding anything to the contrary contained in this Article 17, Seller's failure to complete Seller's Work by June 30, 2016 for reasons outside Seller's reasonable control, including without limitation delays caused by Purchaser and Force Majeure (hereinafter defined), shall not subject Seller to any liability to Purchaser for damage or be deemed a default by Seller under this Agreement so long as Seller diligently proceeds to perform Seller's Work after the end of such delay or Force Majeure event. As used herein, "**Force Majeure**" shall mean a strike, lockout, labor trouble, civil commotion, an act of God, terrorist act or any other event beyond Seller's reasonable control which results in Seller's being unable to timely perform Seller's Work.

17.4. **Cooperation**. So long as Seller is proceeding with Seller's Work in accordance with the Plans (hereinafter defined) approved by Purchaser, the Village and Lot 1 Owner, and any other applicable governing body having approval rights, Purchaser hereby agrees not to interfere with or delay, other than to a de minimis extent, the completion of Seller's Work and to reasonably cooperate with Seller in the performance of Seller's Work, including, without limitation, by promptly enforcing Purchaser's rights as Owner under the Amended and Restated Declaration after the Closing has occurred. Notwithstanding anything to the contrary contained herein, if Purchaser's wrongful interference with or wrongful delay of Seller's Work continues for a total of thirty (30) days or longer in the aggregate ("**Wrongful Interference**"), Seller shall give written notice of same to Purchaser, advising Purchaser to cease and desist (a "**Cease and Desist Notice**") from Wrongful Interference. Prior to giving Purchaser a Cease and Desist Notice, Seller shall first request a meeting with Purchaser to discuss the problems surrounding the Wrongful Interference and possible solutions to the problem, if any. Purchaser shall promptly reply to Seller's request and schedule a meeting with Seller to be held within five (5) business days of Seller's request for such meeting. Purchaser and Seller shall meet at the scheduled time. At such meeting, Seller and Purchaser shall, in good faith, reasonably cooperate to determine potential solutions to the problems surrounding the Wrongful Interference acceptable to Seller in its reasonable discretion. At any time following that meeting if no potential solutions discussed at that meeting were acceptable to Seller and Purchaser (or if such potential solutions discussed at that meeting were acceptable to Seller and Purchaser but were not promptly implemented, or were promptly implemented but did not rectify the problems surrounding the Wrongful Interference,), or at any time following Purchaser's failure to appear at the schedule meeting, Seller may issue a Cease and Desist Notice, and if Purchaser fails within five (5) business days of receipt of same to stop the Wrongful Interference, Seller may as its sole remedy stop Seller's Work and, following assignment to Purchaser of all of Seller's right title and interest in and to the "Construction Documents", be relieved of its obligations to perform Seller's Work. For purposes of this provision, the term "**Construction Documents**" shall mean the Plans, and any and all other plans and specifications, construction contracts, permits, surveys, studies, and approvals, required or pertinent to the completion of Seller's Work. Under such circumstances, all monies in the Escrow Holdback will first be used to pay outstanding bona fide

disbursement requests of contractors retained for Seller's Work for work performed and/or materials supplied, and the remainder shall be promptly disbursed to Purchaser.

17.5. **Seller's Work Procedures.**

17.5.1. **Plans and Specifications.** Purchaser hereby acknowledges receipt of the plans and specifications for Seller's Work (the "**Plans**"), and Purchaser hereby approves the Plans. No material changes to the Plans, nor material deviations therefrom, shall be permitted by Seller or otherwise allowed, without Seller having first obtained all required third party approvals to such material changes or material deviations, including the prior written approval of Purchaser, which approval of Purchaser shall not be unreasonably withheld, conditioned or delayed. Purchaser's approval of material changes to the Plans or material deviations therefrom shall be required even if such changes or deviations are required by the Village or any other applicable governmental authority. Notwithstanding the foregoing, in the event Purchaser unreasonably withholds, conditions or delays its approval of any material changes to, or material deviations of, the Plans, such actions or inactions by Purchaser shall be deemed to be a Wrongful Interference. Prior to Closing, Seller shall deliver to Purchaser three (3) contractors' bids for Seller's Work, which bids will state the anticipated duration of Seller's Work. Upon written request by the other party, Seller and Purchaser shall both be obligated to identify to the other in writing the individuals who have the responsibility to make changes or decisions related to Seller's Work.

17.5.2. **Completion.** All of Seller's Work shall: (i) be completed lien free, (ii) in compliance with the Original Declaration, and as applicable, the Amended and Restated Declaration, (iii) in compliance with all applicable laws, (iv) in accordance with the Plans, and (v) at Seller's sole cost and expense (such that if the Holdback Amount is insufficient, Seller shall pay all such costs and expenses in excess of the Holdback Amount). Seller shall keep the Property and the Lot 1 Owner's property free of mechanics liens and the like. If any mechanics liens are created, caused or permitted by Seller to attach in connection with the performance of Seller's Work, Seller at its expense, shall discharge or insure over, as provided below, any such lien within thirty (30) days after Seller's receipt of notice thereof by payment, or by the issuance of a title indemnity in form, amount and issued by a title insurance company satisfactory to Purchaser in its reasonable discretion, indemnifying Purchaser against all costs and liabilities resulting from such lien. If Seller delivers such title indemnity to Purchaser with respect to any such lien, Seller shall thereafter have the right to diligently contest such lien; provided that Seller shall, in any event, have any such lien released of record prior to final enforcement thereof. If Seller fails to have any such lien discharged of record or insured over, as provided above, within such thirty (30) day period, Purchaser shall have the right, but not the obligation, to pay the amount of such lien and cause the same to be discharged of record, whereupon Seller shall reimburse Purchaser, within ten (10) days after receipt of Purchaser's written demand, for any such funds advanced, with interest, within ten (10) days of Purchaser's written demand for payment. If Purchaser

exercises its right to pay the amount of such lien pursuant to the foregoing sentence, to the extent Escrow Holdback Agreement funds exist, Purchaser shall be entitled to direct, and Seller shall consent to such direction, the Escrow Agent to disburse funds in the amount of the such lien to Purchaser from the Holdback Amount being held in escrow. In such event, Seller shall within thirty (30) days thereafter, deposit with Escrow Agent the amount so disbursed such that Escrow Agent will have on hand the portion of the Holdback Amount that Escrow Agent is entitled to hold pursuant to the Escrow Holdback Agreement.

17.5.3. **Warranties**. Seller shall secure warranties of at least one year (commencing upon completion of the particular component of Seller's Work) for Seller's Work, which warranties as to Seller's Work from the contractor(s) performing such work, shall, upon request of Purchaser, be assigned to Purchaser pursuant to documentation reasonably acceptable to Purchaser.

17.6. **Survival**. The terms, provisions, covenants and obligations of Seller in this Article 17 shall survive the Closing.

ARTICLE 18
ZONING APPROVAL AND COOPERATION

18.1. **Purchaser's Obligation to Pursue Zoning Approval; Seller's Cooperation**. Purchaser and Seller shall each use their continuing diligent and good faith efforts, to satisfy the Zoning Condition prior to the Outside Termination Date. Purchaser and Seller shall at all times: (i) keep the other party regularly informed as to the progress of the Approvals, and (ii) provide reasonable advance notice to the other party and extend the other party the opportunity to attend all meetings with the Village pertaining to the Zoning Condition which are arranged by such party. Purchaser and Seller shall cooperate in a commercially reasonable manner with the other party's efforts to satisfy the Zoning Condition prior to the Outside Termination Date, including, without limitation, by promptly providing all information reasonably requested by the other party in connection therewith and, upon the other party's reasonable prior written request, attending all meetings with the Village pertaining to satisfaction of the Zoning Condition consistent with the *"Application For Planned Development"* to be submitted by Purchaser to the Village.

18.2. **Seller's Obligation to Pursue Amended and Restated Declaration**. Seller shall use its continuing diligent and good faith efforts, to timely satisfy the conditions to Closing set forth in Article 3, Section 3.1.8 *Amended and Restated Declaration* of this Agreement. Seller shall at all times keep the Purchaser regularly informed as to the progress of securing the approval of the Lot 1 Owner to the Amended and Restated Declaration.

(signature page follows)

IN WITNESS WHEREOF, this Agreement has been executed as of the date first set forth above.

PURCHASER:

RUSH OAK BROOK ORTHOPAEDIC CENTER, LLC, an Illinois limited liability company

By: _____
Name: Michael Dandorph
Title: Manager

SELLER:

YORK ROAD EW LLC, a Delaware limited liability company

By: **Buck York Road, L.L.C.**, an Illinois limited liability company, its Managing Member

By: _____
Name: _____
Title: _____

IN WITNESS WHEREOF, this Agreement has been executed as of the date first set forth above.

PURCHASER:

RUSH OAK BROOK ORTHOPAEDIC CENTER, LLC, an Illinois limited liability company

By: _____
Name: Michael Dandorph
Title: Manager

SELLER:

YORK ROAD EW LLC, a Delaware limited liability company

By: **Buck York Road, L.L.C.**, an Illinois limited liability company, its Managing Member

By: _____
Name: Steven Schiltz
Title: Authorized Signatory

AGREEMENT OF ESCROW AGENT

The undersigned has executed this Agreement solely to confirm its agreement to hold the Deposit and any other Closing deposits in escrow in accordance with the provisions hereof.

CHICAGO TITLE & TRUST COMPANY

By: Linda Tyrell

Name: LINDA TYRELL

Title: AVP / SR ESCROW OFFICER

ESCROW # 201513926

EXHIBIT A

LEGAL DESCRIPTION

Lot 3 in York Road Properties, L.L.C. Subdivision of Lot A in Sunbeam Corporation Second Assessment Plat, being part of the Southeast 1/4 of Section 24, Township 39 North, Range 11 East of the Third Principal Meridian, recorded October 5, 1964 as Document Number R64-37390, in DuPage County, Illinois, according to the plat of said York Road Properties, L.L.C. Subdivision recorded November 29, 2000 as Document Number R2000-187248, in DuPage County, Illinois.

ADDRESS OF PROPERTY: 2011 York Center, Oak Brook, Illinois

PIN: 06-24-403-010 (Lot 3)

EXHIBIT AA

AMENDED AND RESTATED DECLARATION

(See attached)

PREPARED BY AND AFTER RECORDING RETURN TO:
MKS ATTORNEYS AT LAW, LLC
P.O BOX 338
LAKE GENEVA, WISCONSIN 53147

PIN Numbers: 06-24-403-008; 06-24-403-009; and 06-24-403-010.

For Recorder's Use

AMENDED AND RESTATED DECLARATION AND AGREEMENT OF COVENANTS, CONDITIONS, RECIPROCAL RIGHTS AND EASEMENTS

BETWEEN

YORK ROAD EW LLC
(A DELAWARE LIMITED LIABILITY COMPANY)

AND

PEMBROKE 2001 YORK LLC
(A DELAWARE LIMITED LIABILITY COMPANY)

MKS: August 28, 2015

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AMENDED AND RESTATED DECLARATION AND AGREEMENT OF COVENANTS, CONDITIONS, RECIPROCAL RIGHTS AND EASEMENTS

THIS AMENDED AND RESTATED DECLARATION AND AGREEMENT OF COVENANTS, CONDITIONS, RECIPROCAL RIGHTS AND EASEMENTS ("Agreement" or "Declaration") is made and entered into and is effective as of _____, 2015 (hereinafter the"Effective Date"), by and between **PEMBROKE 2001 YORK LLC** (hereinafter "Pembroke" or "Lot 1 Owner", or "Owner" as context requires) and **YORK ROAD EW LLC, A DELAWARE LIMITED LIABILITY COMPANY** ("YR", or "Lot 2 and Lot 3 Owner", "Lot 2 Owner", "Lot 3 Owner", or "Owner" as context requires). Pembroke and YR are together called the "Declarants".

RECITALS:

A. YR's predecessor-in-interest, York Road Properties, LLC, a Delaware limited liability company, caused a Plat of Subdivision to be recorded November 29, 2000, as Document No. R2000-187248 in the Office of the DuPage County, Illinois Recorder of Deeds, by which certain property was subdivided into Lot 1, Lot 2 and Lot 3, as legally depicted and described on **Exhibit A** attached hereto. Reference to "Lots" herein shall mean Lot 1, Lot 2, and Lot 3, or such combination thereof as context requires.

B. Pembroke is the fee simple owner of Lot 1, as depicted and legally described on attached **Exhibit A**, being real property located in the Village of Oak Brook, Illinois (the "Village") (the "Pembroke Property" or "Parcel" as context requires).

C. YR is the fee simple owner of Lot 2 and Lot 3, as depicted and legally described on attached **Exhibit A**, being real property located in the Village (the "YR Property" or "Parcel" as context requires). The YR Property and the Pembroke Property are together called the "Property".

D. Declarants' predecessors-in-interest entered into a *Declaration and Agreement of Covenants, Conditions, Reciprocal Rights and Easements* dated December 27, 2000 (the "Original Declaration") and recorded as Document No. R2001-013396 in the Office of the DuPage County, Illinois Recorder of Deeds, with the expressed intention that the Original Declaration was intended to create singular control so as to cause Lot 1, Lot 2 and Lot 3 to be a single lot for purposes of the Village zoning code and ordinances.

E. Declarants' desire to completely amend, restate and replace the Original Declaration with this Declaration such that the Original Declaration shall upon the full execution and recordation of this Declaration become a nullity and the terms and provisions of this Declaration shall govern the relationship between the owners from time to time of Lot 1, Lot 2 and Lot 3.

F. While it was the expressed intention of the Original Declaration to create singular control so as to cause Lot 1, Lot 2 and Lot 3 to be a single lot for purposes of Village zoning code and

ordinances, it is the expressed intention of this Declaration to abandon singular control so as to cause Lot 1, Lot 2 and Lot 3 to be individual lots for purposes of Village zoning code and ordinances.

NOW THEREFORE, in consideration of the foregoing recitals, and the mutual promises set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

ARTICLE I
Incorporation/ Effect of Declaration

1.01 Incorporation. The preambles to this Declaration are fully incorporated herein by this reference thereto with the same force and effect as though restated herein.

1.02 Amendment and Restatement. As of the Effective Date, this Declaration shall be deemed to be a complete substitution and replacement of the Original Declaration, and the Original Declaration shall be void and without further force or effect.

ARTICLE II
Specific Grant of Easements Pertaining to Access, Stormwater and Parking

2.01 Grant of Easements By Lot 2 Owner. Lot 2 Owner does hereby declare, reserve, grant, convey and warrant the following easements:

(a) Grant of Ingress and Egress Easement for Lot 1 and Lot 3. Lot 2 Owner hereby declares, reserves, grants, conveys and warrants: (i) to Lot 1 Owner, its successors, assigns, invitees, and tenants, and to and for the benefit of Lot 1 and any improvements from time to time located thereon, and (ii) to Lot 3 Owner, its successors, assigns, invitees, and tenants, and to and for the benefit of Lot 3 and any improvements from time to time located thereon, a perpetual and non-exclusive easement appurtenant for pedestrian and vehicular ingress and egress through that portion of Lot 2 from York Road on the west boundary of Lot 2 to Windsor Drive on the east boundary of Lot 2, as designated and depicted and legally described in **Exhibit B** to this Declaration (the "Ingress Egress Easement Area"). It is the intention of the Lot 2 Owner that this easement is contiguous, without gap or gore, to Lot 3 along Lot 3's entire northern border, and without gap or gore to both York Road and Windsor Drive on the west and east ends of this Ingress Egress Easement Area. The grant of this easement to Lot 3 includes a perpetual and non-exclusive easement appurtenant for pedestrian and vehicular ingress and egress (i) through that portion of Lot 2 from the Ingress Egress Easement Area to the Lot 3 driveways from time to time in existence, should any gap or gore exist between the Ingress Egress Easement Area and Lot 3, and (ii) through that portion of Lot 2 from the Ingress Egress Easement Area to York Road on the west side and Windsor Drive on the east side, should any gap or gore exist between the Ingress Egress Easement Area and said York Road and said Windsor Drive.

(b) Grant of Surface Water Runoff and Storm Water Improvements Easement for Lot 1 and Lot 3. Lot 2 Owner hereby declares, reserves, grants, conveys and warrants: (i) to Lot 3 Owner, its successors, assigns, invitees, and tenants, and to and for the benefit of Lot 3, and any improvements from time to time located thereon, and (ii) to Lot 1 Owner, its successors, assigns, invitees and tenants, and to and for the benefit of Lot 1 and any improvements from time to time located thereon, a perpetual and non-exclusive easement appurtenant, to direct and deposit storm water and surface water runoff through surface and subsurface improvements, now or hereafter existing, over, across, under, and through Lot 2, including, without limitation, subsurface piping so as to connect the "Detention Ponds" (hereinafter defined).

(c) Parking: Grant of Ingress and Egress and Parking Easement for Lot 1. Lot 2 Owner hereby declares, grants, conveys and warrants to Lot 1 Owner, its successors, assigns, invitees, and tenants, and to and for the benefit of Lot 1 and any improvements from time to time located thereon, a perpetual and non-exclusive easement appurtenant for pedestrian and vehicular ingress and egress on, over, across and about Lot 2 for parking automobiles on Lot 2. The foregoing to the contrary, no parking of automobiles or other vehicles shall be permitted in the Ingress Egress Easement Area.

(d) Grant of Landscaping Easement for Benefit of Lot 3. As of the Effective Date, the size of the actual asphalt roadway located within the Ingress Egress Easement Area (the "Access Road") located on Lot 2 is smaller than the Ingress Egress Easement Area and as a result, there exists an area between Lot 3 and the Access Road which as of the Effective Date is improved with trees and grass or other soft landscaping and/or is without asphalt roadway (the "Landscape Area"). Lot 2 Owner hereby declares, grants, conveys and warrants to Lot 3 Owner, its successors, assigns, invitees, and tenants, and to and for the benefit of Lot 3 and any improvements from time to time located thereon, a perpetual and non-exclusive easement appurtenant for Lot 3 Owner to maintain, repair, replace and/or improve the Landscape Area with landscaping improvements, inclusive of both hard and soft landscaping improvements, including without limitation, retaining walls, grass, trees, and shrubbery ("Landscaping Improvements").

2.02 Grant of Easements By Lot 1 Owner. Lot 1 Owner does hereby declare, grant, convey and warrant the following easements:

(a) Grant of Surface Water Runoff, Storm Water and Detention Pond Easement for Lot 3. Lot 1 Owner hereby declares, grants, conveys and warrants to Lot 3 Owner, its successors, assigns, invitees, and tenants, and to and for the benefit of Lot 3, and any improvements from time to time located thereon, a perpetual and non-exclusive easement, to direct and deposit storm water and surface and subsurface water runoff from Lot 3, including from the "Lot 3 Detention Pond" (hereinafter defined), through surface and subsurface improvements, now or hereafter existing, over, across, under, through and into the "Lot 1 Detention Pond" (hereinafter defined).

(b) Grant of Surface Water Runoff and Storm Water Easement for Lot 2. Lot 1 Owner hereby declares, grants, conveys and warrants to Lot 2 Owner, its successors, assigns,

invitees, and tenants, and to and for the benefit of Lot 2, and any improvements from time to time located thereon, a perpetual and non-exclusive easement appurtenant, to direct and deposit storm water and surface and subsurface water runoff from Lot 2, through surface and subsurface improvements, now or hereafter existing, over, across, under, through and into the Lot 1 Detention Pond.

ARTICLE III
Grant of Utility Easements and Access for Maintenance and Self Help

3.01 Grant of Utility and Other Easements by Declarants. In addition to the easements granted in Article II above, the Declarants hereby declare, reserve, grant, convey and warrant the following easements:

(a) Sanitary Sewers. A non-exclusive, irrevocable, relocatable, and perpetual easement to each Owner for the purposes of entering onto other Lots, to the extent necessary, to construct a connection to the sanitary sewer line(s) servicing the Property, and to use the sanitary sewer line(s) for its intended purpose, and to repair, replace or renew such connection, subject to the prior approval of the Owners of the affected Lots, which approval shall not be unreasonably withheld, conditioned or delayed.

(b) Water Lines. A non-exclusive, irrevocable, relocatable, and perpetual easement to each Owner for the purposes of entering onto other Lots, to the extent necessary, to construct a connection to the water line(s) located on such other Lot or Lots and to use the water line(s) for its intended purpose, and to repair, replace or renew such connection, subject to the prior approval of the Owners of the affected Lots, which approval shall not be unreasonably withheld, conditioned or delayed.

(c) Other Utilities. A non-exclusive, irrevocable, relocatable, and perpetual easement to each Owner on, over, under and across other Lots for the purpose of (a) connecting to any non-dedicated utility lines, including without limitation, telephone and electric lines, or repairing, maintaining, replacing or renewing the same, which are located at the Property, from time to time, and intended to provide service to more than one Lot, and (b) connecting dedicated utility lines to each Owner's improvement on each Owner's Lot or repairing, maintaining, replacing or renewing the same. The location of all such utility lines shall be subject to the prior approval of the Owner of the Lot over which the utility lines will be placed, which approval shall not be unreasonably withheld, conditioned or delayed. Each Owner may impose reasonable limitations on the constructing Owner's exercise of its rights under this Section, including without limitation, establishing hours of the day and days of the week during which the constructing Owner may use and enjoy the easement granted in this Section.

(d) Construction. A non-exclusive, irrevocable, relocatable, and perpetual easement for ingress and egress to the extent necessary to and from each Lot to each Owner for persons, vehicles and materials over, on, across and through each Lot to the extent necessary to permit the construction, installation, use, maintenance, repair, restoration, reconstruction and/or replacement

of any and all improvements (now or hereafter existing) at the Property, including, without limitation, the "Lot 3 Improvements" (hereinafter defined), enlarging the Lot 1 Detention Pond pursuant to this Agreement, the landscaping improvements in the Landscape Area. Each Owner may impose reasonable limitations on the constructing Owner's exercise of its rights under this Section, including without limitation, establishing paths of ingress and egress, and reasonable hours of the day of the week during which the constructing Owner may use and enjoy the easement granted in this Section.

(e) Maintenance and Self Help Ingress and Egress. A non-exclusive, irrevocable, relocatable, and perpetual easement for ingress and egress to and from each Lot to each Owner for persons, vehicles and materials over, on, across and through each Lot to the extent necessary to: (i) permit each Owner to perform any and all construction, installation, use, maintenance, repair, restoration, reconstruction, and/or replacement rights and/or obligations, and/or (ii) permit self help rights to each Owner, under this Declaration.

(f) Entry/Repair/Restoration/Mechanics Lien. Each Owner shall deliver five (5) days' prior written notice before entering onto another Owner's Lot pursuant to the easements granted in this Article (except in the event of an emergency, in which case no prior notice shall be required, or pursuant to a regular maintenance schedule subject to the reasonable approval of the affected Owner, written notice of which shall be delivered to the affected Lot Owner one (1) day prior to the first entry pursuant to such maintenance schedule). If an Owner enters onto another Lot to exercise any rights granted under any of the easements in this Article, such Owner, at its sole cost and expense, shall promptly and diligently, and with as minimal disruption as is practicable, repair any damage caused by such entry and shall restore the surface to its condition existing prior to such entry. If, because of any act or omission of a constructing Owner or any person claiming by, through, or under a constructing Owner, any mechanic's lien or other lien shall be filed against another Owner's Lot (whether or not such lien is valid or enforceable as such), such constructing Owner, as the case may be, shall, at its sole cost and expense, cause the same to be discharged of record or insured over by a title company reasonably acceptable to the affected Owner within ten (10) days after notice thereof, and shall also indemnify the other Owner and hold it harmless from any and all claims, losses, damages, judgments, settlements, costs and expenses, including, without limitation, reasonable attorneys' fees, resulting therefrom or by reason thereof.

ARTICLE IV
Maintenance and Repair of Easement Areas

4.01 Maintenance and Repair of Easement Areas.

(a) Lot 1 Owner / Ingress and Egress Easement Area. Up to the date that the Lot 3 Owner commences construction of a building on Lot 3 (the "Lot 3 Building Construction Commencement Date"), Lot 1 Owner, its successors and assigns, shall at all times maintain (including removal of snow, salting and sanding), repair, and replace the improvements from time to time existing in the Ingress Egress Easement Area, inclusive of, asphalt, curbs and gutters, traffic

signals, and landscape areas, all in accordance with "Class A Standards" (hereinafter defined") or better.

(b) Lot 3 Owner / Ingress and Egress Easement Area. From and after the Lot 3 Building Construction Commencement Date, Lot 3 Owner, its successors and assigns, shall at all times maintain (including removal of snow, salting and sanding), repair, and replace the improvements from time to time existing in the Ingress Egress Easement Area, inclusive of, asphalt, curbs and gutters, traffic signals, landscape areas, all in accordance with Class A Standards or better.

(c) Lot 1 Owner / Lot 1 Detention Pond. Lot 1 Owner, its successors and assigns, shall at all times maintain, repair and replace the Lot 1 Detention Pond, and all connections from the Lot 3 Detention Pond to the Lot 1 Detention Pond Located in Lot 2 and/or Lot 1, in accordance with Class A Standards so as to maintain the free flow of water between the Lot 3 Detention Pond and the Lot 1 Detention Pond.

(d) Lot 3 Owner/ Lot 3 Detention Pond. Lot 3 Owner, its successors and assigns, shall at all times maintain, repair and replace the Lot 3 Detention Pond, and all connections from the Lot 3 Detention Pond on Lot 3 to the Lot 2 southern boundary line, in accordance with Class A Standards so as to maintain the free flow of water between the Lot 3 Detention Pond and the Lot 1 Detention Pond.

(e) Maintenance Standards. Maintenance of all easement areas and improvements located therein or thereon shall be consistent, from time to time, with that observed by owners or managers of Class A office buildings in the Village, and in compliance with all governmental and quasi governmental laws, codes, rules and regulations (the "Class A Standards").

ARTICLE V
Shared Costs / Allocation of Costs / Budget /Contractors/Audit Self Help / Lien Rights / No Termination

5.01 Shared Costs / Allocation of Costs.

(a) Ingress and Egress Easement. Up to the Lot 3 Building Construction Commencement Date, Lot 1 Owner shall pay all cost of maintaining, repairing and replacing the improvements from time to time existing in the Ingress Egress Easement Area, including the Access Road.

Effective as of the Lot 3 Building Construction Commencement Date, subject to the limitation hereinafter provided regarding the first replacement of the Access Road, the cost of maintaining, repairing and replacing the improvements from time to time existing in the Ingress Egress Easement Area, including the Access Road shall be shared by the Lot 1 Owner and the Lot 3 Owner in accordance with their "Sharing Percentage". For purposes hereof: (i) the Lot 1 Owner's

Sharing Percentage shall be equal to 75.4 % (which is the quotient obtained expressed as a percentage of the land square footage of Lot 1 and Lot 2 divided by the total land square footage of the Property), and (ii) the Lot 3 Owner's Sharing Percentage shall be equal to 24.6% (which is the quotient obtained expressed as a percentage of the land square footage of Lot 3 divided by the total land square footage of the Property).

(b) First Replacement Access Road. As to the cost of the first replacement of the Access Road, Lot 3 Owner's Sharing Percentage shall be equal to the product obtained expressed as a percentage of the Lot 3 Owner's Sharing Percentage multiplied by the quotient determined by taking the remaining useful life of the Access Road as of the Lot 3 Building Construction Commencement Date and dividing by the original useful life of the Access Road. For purposes of this provision the original useful life of the Access Road being replaced shall be reasonably determined by the Lot 1 Owner and the Lot 3 Owner, and if same are unable within thirty (30) days to agree upon the useful life, the useful life shall be deemed to be twenty (20) years. Lot 1 Owner shall pay all costs of the first replacement of the Access Road in excess of Lot 3 Sharing Percentage as adjusted pursuant to this Section 5.01(b). The term "first replacement" shall mean resurfacing the entire Access Road with at least three inches of compacted asphalt.

(c) Detention Ponds. Effective as of the Lot 3 Building Construction Commencement Date, the cost of maintaining and repairing the Lot 1 Detention Pond and the Lot 3 Detention Pond, and the pipes connecting the Lot 3 Detention Pond to the Lot 1 Detention Pond shall be shared by the Lot 1 Owner and the Lot 3 Owner in accordance with their Sharing Percentage. For purposes hereof, cost of maintaining and repairing shall not include replacement costs. Lot 1 Owner shall pay all replacement costs of the Lot 1 Detention Pond. Until the Lot 3 Building Construction Commencement Date, Lot 1 Owner shall pay all replacement costs of the Lot 3 Detention Pond. Effective as of the Lot 3 Building Construction Commencement Date, Lot 3 Owner shall pay all replacement costs of the Lot 3 Detention Pond. Replacement costs of the pipes connecting the Lot 3 Detention Pond to the Lot 1 Detention Pond shall be shared by the Lot 1 Owner and the Lot 3 Owner in accordance with their Sharing Percentage.

(d) Shared Costs. Those costs that the Lot 1 Owner and the Lot 3 Owner share pursuant to foregoing provisions of this Article are herein called "Shared Costs".

(e) Payment of Shared Costs /Reimbursement of Other Monetary Obligations. Unless otherwise provided in this Declaration, if an Owner (the "Creditor Owner") is entitled to reimbursement under the provisions of this Declaration from another Owner, the Creditor Owner shall invoice the Owner who is responsible for such reimbursement for such Owner's share of the costs and expenses as they are incurred, but no more than once per month, and such invoiced Owner shall pay the Creditor Owner the invoiced sums within fifteen (15) days after receipt of any such invoice. If any such sums are not paid within said fifteen (15) day period, then interest shall accrue on such unpaid sums at a rate (the "Default Rate") equal to five percent (5%) per annum above the prime rate published in The Wall Street Journal on the day the delinquency arises from and after the sixteenth (16th) day after the date on which the Owner receives the invoice until paid to the Creditor

Owner. If such rate is no longer published, the Owners shall promptly designate a comparable published prime rate.

5.02 Budget / Contractors / Audit.

(a) Budget. Effective as of the first one year anniversary of the Lot 3 Building Construction Commencement Date, Lot 3 Owner shall annually, on or before December 31st of each year prepare a good faith budget for the succeeding calendar year for projected Shared Costs (the "Budget") and deliver a copy of same to the Lot 1 Owner (on or before December 31st of each year) for its review and approval. In addition, Lot 3 Owner shall annually deliver a report (the "Report") of actual Shared Costs for the calendar year just ended on or before January 30th of each year. Lot 1 Owner shall advise Lot 3 Owner in writing on or before February 15th of each calendar year of its approval or disapproval of the proposed Budget and its approval or disapproval of the Report. If Lot 1 Owner disagrees with the Budget, and/or in the event that budgeted Shared Costs have increased over the prior year's actual Shared Costs by more than 10% from that of the previously approved Budget, Lot 1 Owner may, within thirty (30) days following its receipt of the Budget, request in writing the procedures of Section 5.02(b) below be invoked for the calendar year in question. Lot 1 Owner at all times has the right to audit the Report pursuant to the provisions of Section 5.02(c) below.

(b) Candidates. Within sixty (60) days following written request of Lot 1 Owner as provided in Section 5.02(a) above, Lot 3 Owner shall prepare a list of not less than three (3), qualified contractors to perform the work associated with Shared Costs (the "Candidates"). Lot 3 Owner shall furnish each Candidate with a "Request for Proposal". The Request for Proposal shall among other things address the Candidates proposed fees, reimbursables and other costs for work associated with Shared Costs. Upon receipt of responses to the Request for Proposal from each responding Candidate, Lot 3 Owner shall provide a copy of same to Lot 1 Owner and each shall review same and thereafter promptly meet to discuss each Candidate and each Candidate's proposal. Lot 3 Owner and Lot 1 Owner shall timely choose a Candidate to perform the work associated with Shared Costs. If the Lot 3 Owner and the Lot 1 Owner cannot agree on a Candidate within thirty (30) days, the Candidate with the lowest bid shall be the approved Candidate for the work associated with the Shared Costs, and Lot 3 Owner shall enter into a contract with the approved Candidate. The contract shall provide it may be terminated without penalty upon thirty (30) days' notice.

(c) Audit. Lot 1 Owner shall have the right to inspect, at reasonable times and in a reasonable manner, such of Lot 3 Owner's books of account and records as pertain to Shared Costs. Lot 1 Owner shall provide Lot 3 Owner with a copy of its findings within fifteen (15) days after completion of the audit. In the event of any error not disputed by Lot 3 Owner or Lot 1 Owner, Lot 3 Owner shall make a correcting payment in full to Lot 1 Owner within thirty (30) days after the determination of the amount of such error if Lot 1 Owner overpaid such amount, and Lot 1 Owner shall pay Lot 3 Owner within thirty (30) days after the determination of such error if Lot 1 Owner underpaid such amount. If within the period aforesaid, Lot 1 Owner provides Lot 3 Owner with its notice disputing the correctness of the Report, and if such dispute shall have not been settled by

agreement, Lot 1 Owner or Lot 2 Owner may submit the dispute to a reputable firm of independent certified public accountants selected by Lot 1 Owner or Lot 3 Owner, and approved by the other, such approval shall not be unreasonably withheld, conditioned or delayed, and the opinion of such accountants shall be binding upon the Lot 3 Owner and the Lot 1 Owner. From and after April 30 of any year, any cost incurred within the prior 16 months, if not previously disputed, shall no longer be open to dispute and shall conclusively be deemed to have been approved.

5.03 Self Help/Entry on to Other Lots / Owner's Lien. In the event at any time any Owner fails to perform its obligations under this Declaration, or fails to pay any and all expenses or any other sum for which such Owner is responsible pursuant to this Declaration, then the affected Owner may notify in writing the party so failing to perform or pay (the "Non Performing Party") in writing of such failure. If the Non Performing Party fails to cure such default within ten (10) days of receipt of such notice (or within one (1) day of receipt of such notice in the event such performance is necessary to avoid imminent danger to persons or property) or, if such default (other than a default in the payment of money) cannot be cured within ten (10) days, if the Non Performing Party fails to commence curing such default within said ten (10) day period or fails to diligently pursue such cure to completion within such reasonable time necessary to complete such cure, then the affected Owner, individually or in conjunction with any other Owner of any Lot affected thereby, shall have the right to perform the obligations which the Non Performing Party has failed to perform and pay any and all costs and charges associated therewith, or pay any charges or other sums which have remained unpaid by the Non Performing Party. In such event, the Owner or Owners who have made such payments shall be entitled to assess directly those Owners who would otherwise have been responsible for such payments (through assessments or direct obligation to pay), had the Non Performing Party performed, for one hundred fifteen percent (115%) of the charges, fees, costs and expenses incurred by such Owner or Owners in connection therewith. The Owners incurring such costs and expenses shall notify the other Owners in writing of the amounts and charges payable. In order to secure the payment of the foregoing amounts paid or incurred by such performing Owners, the Owners incurring such amounts shall have the right, in addition to all other legal rights and remedies available at law or in equity, to assert and record a lien against the Lot or Lots owned by the delinquent Owners and to foreclose the lien created in favor of the collecting Owner by a preceding at equity in accordance with Illinois law. The remedies specified herein shall be cumulative and are in addition to all other remedies permitted at law or in equity.

5.04. Limitation on Remedies /No Termination For Breach. Notwithstanding anything in this Declaration to the contrary, no breach hereunder shall entitle any Owner to cancel, rescind, or otherwise terminate this Declaration. No breach hereunder shall defeat or render invalid the lien of any mortgage or deed of trust upon any portion of the Property made in good faith for value, and the terms and provisions hereof shall be binding upon and effective against any successor in title, including title acquired by foreclosure, trustee's sale, or otherwise.

ARTICLE VI
Enlargement of Lot 1 Detention Pond

6.01 Enlargement of Lot 1 Detention Pond for Lot 3 Improvements.

(a) Lot 3 Right to Enlarge. There currently exists a wet retention/detention pond on Lot 1 (the "Lot 1 Detention Pond") and a dry detention pond on Lot 3 (the "Lot 3 Detention Pond"), (collectively, the "Detention Ponds"). The Detention Ponds provide storm drainage facilities for the Property that are adequate for the improvements currently (i.e. as of the date of this Declaration) constructed on Lot 1 and Lot 2. The Lot 3 Owner is hereby granted the right to increase the capacity of the Lot 1 Detention Pond to accommodate the construction (and following casualty or tear down and reconstruction) of a building of 122,500 rentable square feet, parking areas serving same (including parking garage structures) and other improvements on Lot 3 ("Lot 3 Improvements") and to modify the Lot 3 Detention Pond and connections to the Lot 1 Detention Pond. If the Lot 3 Owner elects to construct, or to cause or to permit to be constructed, Lot 3 Improvements, the Lot 3 Owner shall cause a drainage study (the "Drainage Study") to be completed, at its sole cost and expense and by a qualified consultant as reasonably and in good faith determined by the Lot 3 Owner, to determine whether additional drainage facilities shall be required for the Lot 3 Improvements to comply with the requirements of the Village or of such other applicable governmental or quasi-governmental authority. The results of the Drainage Study and any accompanying reports shall be promptly delivered to the Lot 1 Owner. If the Drainage Study concludes, or if the Village and/or any other governmental or quasi-governmental entity having jurisdiction over the Property requires, that additional drainage facilities are required to cause the Lot 3 Improvements, to comply with the Village or other governmental or quasi-governmental requirements, the Lot 3 Owner shall be required to construct such additional drainage facilities, at its sole cost and expense.

(b) Securing Approval of Request Package Lot 1 Owner. If the Lot 3 Owner wishes to construct additional drainage facilities on Lot 1 including increasing or adjusting the capacity of the Lot 1 Detention Pond and/or the connections to the Lot 3 Detention Pond, the design of such additional drainage facilities to Lot 1 shall be subject to the reasonable approval of the Lot 1 Owner, which approval shall not be unreasonably withheld, conditioned or delayed. On such occasions, the Lot 3 Owner shall submit to the Lot 1 Owner the following documentation (the "Request Package"): (a) a reasonably detailed statement outlining the scope of the proposed work, (b) plans and specifications for the proposed work, and (c) a construction schedule for the proposed work. The Lot 1 Owner may not unreasonably withhold, condition or delay its approval of the proposed work and shall use reasonable efforts to approve or disapprove of same in writing within ten (10) business days of receipt of the Request Package. The Lot 1 Owner's failure to respond within said ten (10) business day period shall be deemed approval of the proposed work, provided that the top of the first page of the Request Package includes a bolded statement in capitalized letters and large font stating that **"FAILURE TO RESPOND WITHIN TEN (10) BUSINESS DAYS OF RECEIPT SHALL BE DEEMED APPROVAL OF THE WORK PROPOSED HEREIN."** The foregoing font shall be considered large font. If the Lot 1 Owner disapproves of the proposed work, the Lot 1 Owner shall deliver to the Lot 3 Owner a reasonably detailed written statement

outlining the reasons for such disapproval. Upon receipt of a written objection to a Request Package, the Lot 3 Owner may within thirty (30) days thereafter elect to enter into binding arbitration to determine whether the Lot 1 Owner unreasonably withheld or conditioned its consent to the proposed work. Lot 1 Owner and Lot 3 Owner shall apply to the American Arbitration Association ("AAA") for arbitration and the Lot 1 Owner and the Lot 3 Owner shall jointly select an arbitrator within ten (10) days after receipt of a list of arbitrators from the AAA. If the Lot 1 Owner fails to select an arbitrator or fails to join in the arbitrator selection process, the Lot 1 Owner shall be deemed to have consented to use the arbitrator chosen by the Lot 3 Owner. The arbitrator shall make his or her determination whether the Lot 1Owner unreasonably withheld or conditioned its consent to the proposed work, which determination shall be binding on the Lot 1 Owner and the Lot 3 Owner.

(c) Restriction on Overburdening. The Lot 1 Owner acknowledges that the Lot 1 Detention Pond, as to be enlarged to accommodate the Lot 3 Improvements, will accommodate both the existing (as of the date of this Declaration) Lot 1 and Lot 2 improvements, and the Lot 3 Improvements. Lot 1 Owner covenants and agrees that it shall not do anything that will cause the Lot 1 Detention Pond to be overburdened and shall refrain from granting other third parties rights to deposit stormwater in the Lot 1 Detention Pond which would result in overburdening the Lot 1 Detention Pond.

ARTICLE VII
Cooperation of Lot 1 and Lot 2 Owner

7.01 Cooperation of Lot 1 and Lot 2 Owner. It is acknowledged and agreed that Lot 1 and Lot 2 are separated from Lot 3 by the width or more of the Access Road on the north side of Lot 3, and Lot 1 and Lot 2 above grade improvements are not proximate to the southern, western and eastern perimeter lines of the Lot 3. Lot 1 Owner and Lot 2 Owner, at no out of pocket expense to either, shall support and consent to the Lot 3 Owner's request or petition for reducing Lot 3 building setbacks as reflected on the Plat or otherwise imposed by the Village, and shall also support Lot 3 Owner's request for a special use for Lot 3 from the Village.

ARTICLE VIII
Notice

8.01 Notices. Any notice required or permitted to be given under this Declaration or by law shall be deemed to have been given if reduced to writing and delivered in person or deposited with a nationally-recognized overnight courier service, or mailed by Registered or Certified Mail, postage prepaid, to the party who is to receive such notice (the "Notified Party") at the addresses below. When so deposited with a nationally-recognized overnight courier service, such notice shall be deemed to have been given on the next business day after it was so deposited. When so mailed, the notice shall be deemed to have been given three (3) business days after the date it was mailed. The address specified below may be changed by giving written notice thereof to the other party. Upon transfer of ownership of a Lot, the new owner shall use its reasonable good faith efforts to advise the

remaining Owners of the transfer and the new owner's address for notices.

York Road EW LLC
c/o The John Buck Company
1 North Wacker Drive, Suite 2400
Chicago, Illinois 60606
Attn: Steve Schiltz

Pembroke 2001 York LLC
c/o Pembroke Hobson LLC
24North Bryn Mawr Avenue, #287
Bryn Mawr, Pennsylvania 19010
Attn: John B. Vander Zwaag

ARTICLE IX
Miscellaneous

9.01 Attorneys' Fees. In the event an Owner institutes any legal action or proceeding for the enforcement of any right or obligation herein contained, the prevailing Owner after a final adjudication shall be entitled to recover its costs and reasonable attorneys' fees incurred in the preparation and prosecution of such action or proceeding.

9.02 Amendment. Except as hereinafter provided, the Owners (and any successors, assigns, or grantees of same, together "Transferees" and each such Transferee an "Owner" for purposes of this Agreement) agree that the provisions of this Declaration may be modified or amended, in whole or in part, only by the written consent of all record Owners of the Property, from time to time, evidenced by a document that has been fully executed by all such then Owners and notarized and recorded in the Office of the DuPage County Recorder, Illinois. If an Owner requests an amendment to the Declaration, all costs associated with the preparation, negotiation (including reasonable attorneys' fees) and recording of the amendment incurred by any Owner shall be paid by the Owner requesting the amendment unless otherwise agreed by the Owners. If an amendment to this Declaration is required to clarify the terms herein, each Owner shall pay its Sharing Percentage of such costs.

9.03 No Waiver. No waiver of any default of any obligation by any Owner hereto shall be implied from any omission by the other Owner to take any action with respect to such default.

9.04 Successors and Assigns / Covenants to Run with Land. This Declaration and the easements, covenants, burdens, benefits, rights and obligations created hereby shall inure to the benefit and burden, as applicable, and be binding upon each Owner and its successors and assigns, heirs, and personal representatives; and grantees and/or Transferees and of all persons now or hereafter owning or claiming any interest in the Property; provided, however, if any Owner conveys all of its interest in the Lot or Lots owned by it, such Owner shall thereupon automatically be released and discharged from any and all further obligations under this Declaration as it had in connection with the property conveyed by it and the Transferee shall thereupon automatically be bound by all of such obligations accruing after such conveyance; and provided further, no such transfer shall release such Owner from any liabilities, actual or contingent, existing as of the time of such conveyance. THIS DECLARATION AND THE EASEMENTS HEREIN CONTAINED

AND THE COVENANTS, BURDENS, BENEFITS, RIGHTS AND OBLIGATIONS CREATED HEREBY SHALL BE DEEMED **COVENANTS RUNNING WITH THE PROPERTY** AND SHALL INURE TO THE BENEFIT OF AND/OR BURDEN, AS THE CASE MAY BE, AND BE BINDING UPON THE PARTIES HERETO AND THEIR RESPECTIVE SUCCESSORS, ASSIGNS, HEIRS, PERSONAL REPRESENTATIVES, AND GRANTEES AND/OR TRANSFEREES AND OF ALL PERSONS NOW OR HEREAFTER OWNING OR CLAIMING ANY INTEREST IN THE PROPERTY.

9.05 Separability. If any provision contained herein shall be held to be invalid or to be unenforceable or not to run with the land, such holding shall not affect the validity or enforceability of the remainder of this Declaration. In the event the validity or enforceability of any provision of this Declaration is held to be dependent upon the existence of a specific legal description, the parties agree to promptly cause such legal description to be prepared.

9.06 Time of Essence. Time is of the essence of this Declaration.

9.07 Entire Declaration. This Declaration contains the complete understanding and agreement of the parties hereto with respect to all matters referred to herein, and all prior representations, negotiations, and understandings are superseded hereby.

9.08 Governing Law. The laws of the State of Illinois shall govern the interpretation, validity, performance, and enforcement of this Declaration.

9.09 Estoppel Certificates. Each Owner, within thirty (30) day of its receipt of a written request from the other Owner(s), shall from time to time provide the requesting Owner, a certificate binding upon such Owner stating: (a) to the best of such Owner's knowledge, whether any party to this Declaration is in default or violation of this Declaration and if so identifying such default or violation; and (b) that this Declaration is in full force and effect and identifying any amendments to the Declaration as of the date of such certificate.

9.10 No Public Right. Nothing contained herein shall be construed as creating any rights in the general public or as dedicating for public use any portion of the Property.

{Signature Pages Follows Immediately}

IN WITNESS WHEREOF, the parties hereto have executed this Declaration as of the date first above written.

YORK ROAD EW LLC, a Delaware limited liability company **By: Buck York Road, L.L.C., an Illinois limited liability company, its Managing Member** **By: _____** **Name:_____** **Title:_____**	**PEMBROKE 2001 York LLC, a Delaware limited liability company** **By: _____** **Name:_____** **Title:_____**

STATE OF _____)
) SS.
COUNTY OF _____)

I, _____, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY, that _____, personally known to me to be the _____ of Buck York Road L.L.C., an Illinois limited liability company, which limited liability company is the managing member of York Road EW LLC, a Delaware limited liability company, whose name is subscribed to the within Declaration, appeared before me this day in person and acknowledged that he/she signed and delivered the said Declaration thereto as such _____ of said limited liability company, as his/her free and voluntary act and as the free and voluntary act and deed of said limited liability company, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal, this _____ day of _____, 2015.
Notary Public
Print Name:
County of Residence:
My Commission Expires:

STATE OF _____)
) SS.
COUNTY OF _____)

I, _____, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY, that _____, personally known to me to be the _____ of Pembrok 2001 York LLC, a Delaware limited liability company, whose name is subscribed to the within Declaration, appeared before me this day in person and acknowledged that he/she signed and delivered the said Declaration thereto as such _____ of said limited liability company as his/her free and voluntary act and as the free and voluntary act and deed of said limited liability company, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal, this _____ day of _____, 2015.
Notary Public
Print Name:
County of Residence:
My Commission Expires:

MORTGAGEE CONSENT AND SUBORDINATION

_____ is the current holder of that certain _____ ("Mortgage") in the real property described as:

LOT 1 IN YORK ROAD PROPERTIES, L.L.C. SUBDIVISION, BEING A SUBDIVISION OF LOT A IN SUNBEAM CORPORATION SECOND ASSESSMENT PLAT, BEING A PART OF THE SOUTH EASE QUARTER OF SECTION 24, TOWNSHIP 39 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT OF SAID YORK ROAD PROPERTIES, L.L.C. SUBDIVISION THEREOF RECORDED NOVEMBER 29, 2000 AS DOCUMENT NUMBER R2000-187248, IN DUPAGE COUNTY, ILLINOIS.

_____ hereby consents to the foregoing *Amended and Restated Declaration and Agreement of Covenants, Conditions, Reciprocal Rights and Easements* and hereby subordinates its Mortgage and other security instruments securing the indebtedness secured by Mortgage to the *Amended and Restated Declaration and Agreement of Covenants, Conditions, Reciprocal Rights and Easements.*

MORTGAGEE:

_____

By:_____
Name: _____
Title: _____

STATE OF_____)
) SS.
COUNTY OF_____)
I, _____, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY, that _____, personally known to me to be the _____ of_____, whose name is subscribed to the within Consent, and Subordination appeared before me this day in person and acknowledged that he/she signed and delivered the said Consent thereto as such _____ of said _____, as his/her free and voluntary act and as the free and voluntary act and deed of said_____, for the uses and purposes therein set forth.
GIVEN under my hand and Notarial Seal, this _____ day of _____, 2015.

Notary Public
Print Name:
County of Residence:
My Commission Expires:

EXHIBIT A

Legal Descriptions and Depiction of Lots 1, 2 and 3

LOTS 1, 2 AND 3 IN YORK ROAD PROPERTIES, L.L.C. SUBDIVISION, BEING A SUBDIVISION OF LOT A IN SUNBEAM CORPORATION SECOND ASSESSMENT PLAT, BEING A PART OF THE SOUTH EASE QUARTER OF SECTION 24, TOWNSHIP 39 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT OF SAID YORK ROAD PROPERTIES, L.L.C. SUBDIVISION THEREOF RECORDED NOVEMBER 29, 2000 AS DOCUMENT NUMBER R2000-187248, IN DUPAGE COUNTY, ILLINOIS.

{Depiction of Lots 1, 2 and 3 follows immediately}

EXHIBIT A (continued)

Legal Descriptions and Depiction of Lots 1, 2 and 3

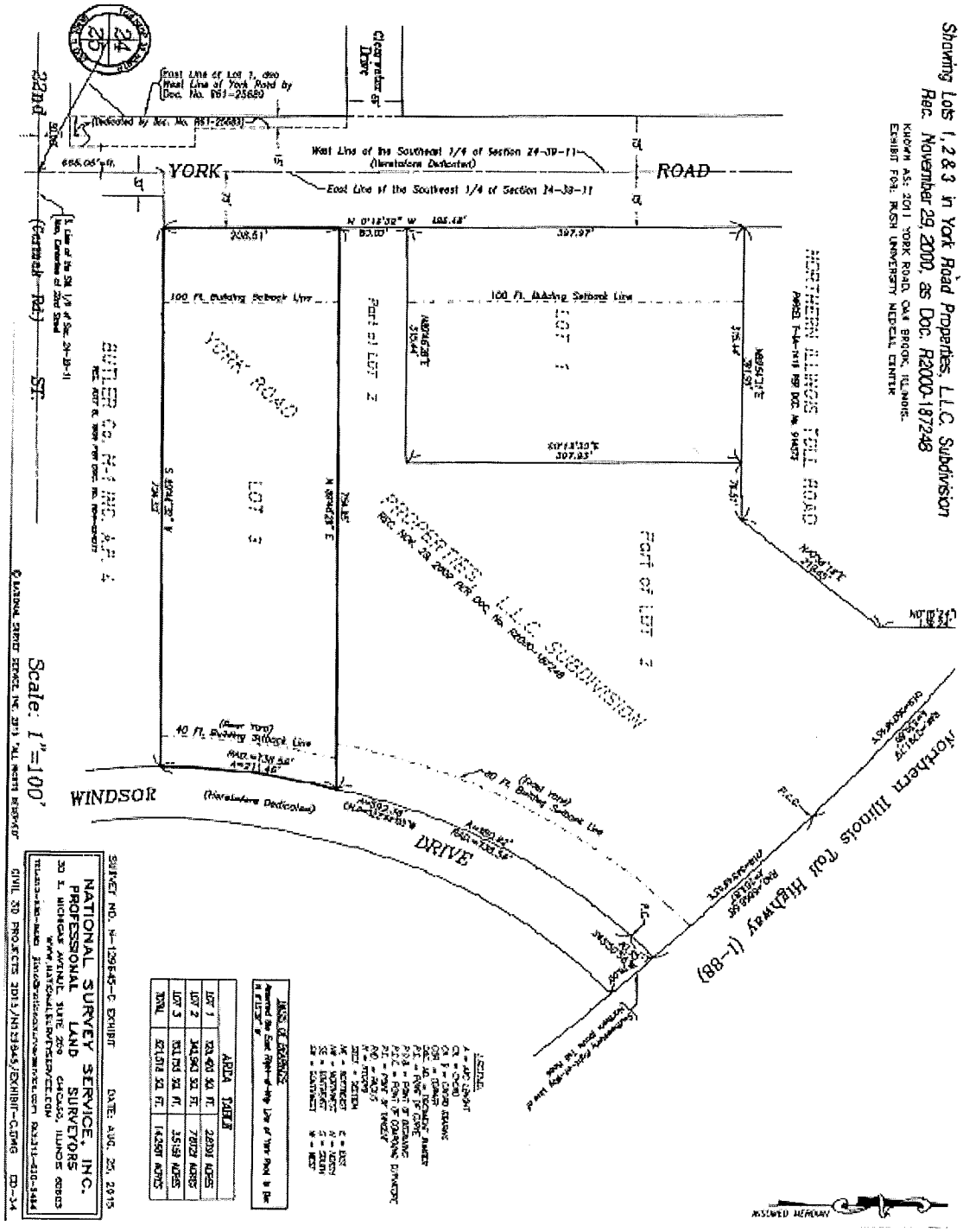

EXHIBIT B

Legal Descriptions and Depiction of Ingress Egress Easement Area

INGRESS AND EGRESS EASEMENT AREA (WITHIN LOT 2):

THE SOUTH 61.00 FEET OF THE WEST 349.20 FEET OF LOT 2 AND THE SOUTH 47.00 FEET OF SAID LOT 2 LYING EAST OF THE WEST 349.20 FEET THEREOF, IN YORK ROAD PROPERTIES, LLC. SUBDIVISION, BEING A SUBDIVISION OF LOT A IN SUNBEAM CORPORATION SECOND ASSESSMENT PLAT, BEING PART OF THE SOUTHEAST1/4 OF' SECTION 24, TOWNSHIP 39 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN., ACCORDING TO THE PLAT THEREOF RECORDED NOVEMBER 29, 2000 AS DOCUMENT R2000-187248, IN DUPAGE COUNTY, ILLINOIS

AREA = 40,721 SQUARE FEET OR 0.9348 ACRES

{Depiction of Ingress and Egress Easement follows immediately}

. . . . . **EXHIBIT B (continued)**

Legal Descriptions and Depiction of Ingress Egress Easement Area

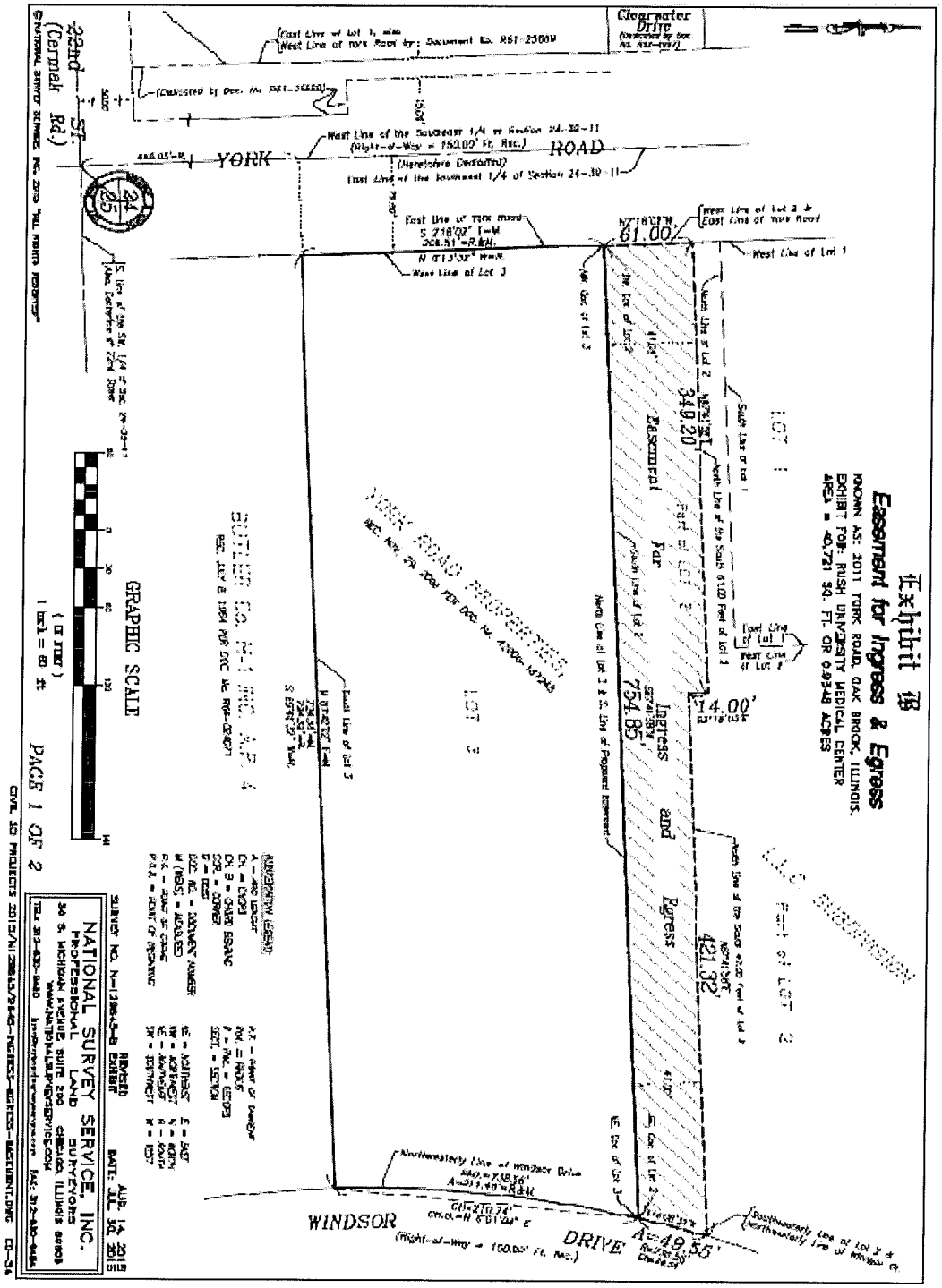

EXHIBIT B

SPECIAL WARRANTY DEED

THIS INSTRUMENT WAS PREPARED BY:

Jennifer R. Garner, Esq.
Locke Lord LLP
111 South Wacker Drive
Suite 4400
Chicago, Illinois 60606

MAIL AFTER RECORDING TO:

MKS Attorneys at Law, LLC
P.O. Box 338
Lake Geneva, Wisconsin 53147
Attention: Daniel McCarthy

THIS SPECIAL WARRANTY DEED is made this ___ day of _____, 2015 by **YORK ROAD EW LLC** ("**Grantor**"), having an address of One North Wacker Drive, Chicago, Illinois 60606 to _____ ("**Grantee**"), having an address of _____.

WITNESSETH, that the Grantor, for and in consideration of the sum of Ten and no/100 ($10.00) Dollars and other good and valuable consideration in hand paid by the Grantee, the receipt whereof is hereby acknowledged, by these presents does **GRANT, BARGAIN, SELL, REMISE, RELEASE, ALIEN AND CONVEY** unto the Grantee, its successors and assigns, **FOREVER,** the following described property:

(i) That certain real property in DuPage County, Illinois, which is described on **Exhibit A** attached hereto and incorporated herein by reference (the "**Land**");

(ii) All buildings, structures, utility lines, utility facilities, utility improvements, street and drainage improvements, and other improvements of any kind or nature located in, on, or under the Land (all of the foregoing being referred to herein collectively as the "**Improvements**"); and

(iii) All appurtenances benefiting or pertaining to the Land or the Improvements, including, without limitation, all of Grantor's right, title, and interest in and to all development and utility rights and permits benefiting the Land and all streets, alleys, rights-of-way, or easements adjacent to or benefiting the Land, and all

strips or pieces of land abutting, bounding, or adjacent to the Land (all of the foregoing being referred to herein collectively as the "**Appurtenances**").

The Land, Improvements and Appurtenances are collectively referred to herein as the "**Premises**."

Together with all and singular the hereditaments and appurtenances thereunto belonging, or in anywise appertaining, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof, and all the estate, right, title, interest, claim or demand whatsoever, of the Grantor, either in law or equity, of, in and to the Premises, with the hereditaments and appurtenances: **TO HAVE AND TO HOLD** the Premises as above described, with the appurtenances, unto the Grantee, his heirs/successors and assigns forever.

And the Grantor, for itself, and its successors and assigns, does covenant, promise and agree, to and with the Grantee, his heirs/successors and assigns, that it has not done or suffered to be done anything whereby the Premises hereby granted are, or may be, in any manner encumbered or charged, except as set forth as "Permitted Title Exceptions" on Exhibit B attached hereto and made a part hereof; and that subject to such Permitted Title Exceptions, the Grantor will warrant and forever defend the Premises for the period that Grantor owned title to the Premises against all persons lawfully claiming by, through or under the Grantor, but not otherwise.

IN WITNESS WHEREOF, said Grantor has caused its name to be signed to these presents the day and year first above written.

YORK ROAD EW LLC, a Delaware limited liability company

By: **Buck York Road, L.L.C.**, an Illinois limited liability company, its Managing Member

By: _____
Name: _____
Title: _____

MAIL TAX BILLS TO:

_____
_____
_____
_____

STATE OF _____)
) SS
COUNTY OF _____)

I, the undersigned, a Notary Public for said County and State, do hereby certify that _____, personally known to me to be the _____ of Buck York Road, L.L.C., an Illinois limited liability company, the Managing Member of York Road EW LLC, a Delaware limited liability company, and personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he/she signed and delivered said instrument thereto as such _____ of said limited liability company, as his/her free and voluntary act and as the free and voluntary act and deed of said limited liability company, for the uses and purposes therein set forth.

GIVEN under my hand and official seal this _____ day of _____, 2015 .

_____
Notary Public

Print Name: _____

County of Residence: _____

My Commission Expires _____

{SEAL}

EXHIBIT C

OWNER'S AFFIDAVIT

The undersigned Affiant, being first duly sworn, and being duly authorized to do so on behalf of the Owner named below, hereby makes the following affidavit to _____ ("**Title Company**") in connection with the transaction identified as follows:

AFFIANT: _____

OWNER: _____

PROPERTY: _____ (as more particularly described in Schedule A to the Commitment set forth below)

COMMITMENT: _____ Commitment #_____

1. There are no other parties who are in possession, or who have or claim a right to be in possession, of any part of Property except pursuant to that certain Declaration and Agreement of Covenants, Conditions, Reciprocal Rights and Easements dated December 27, 2000 (the "**Original Declaration**") which on or prior to the Closing Date, shall be amended and restated in its entirety by the Amended and Restated Declaration.

2. (a) No person has furnished any labor, services, or materials in connection with the construction or repair of any buildings or improvements on any of the Property within the last One Hundred Eighty (180) days; (b) there are no unpaid amounts due for any labor, material, or services in connection with the construction or repair of any improvements on any of the Property, or with respect to the Property itself, that could form the basis of a lien thereon; and (c) Owner has not received any notice of intention to file or record a lien in connection with any of the Property.

3. There has been no material change in the exterior aspects of any improvements on any of the Property as shown in the respective survey plans referred to in the Commitment and no services of a broker have been engaged by the undersigned with regard to the management, sale, purchase, lease, option, or other conveyance of interest in the Property, except for _____.

4. All real estate taxes and municipal or county charges currently due and owing with respect to the Property have been paid, or will be paid prior to the date on which same will become delinquent.

5. As an inducement to Title Company to insure over any matters attaching or created during the "gap" in time between the last continuation of title and the recording of the

appropriate deed, mortgage, or other instrument with respect to the Property, Owner shall promptly remove of record any matters filed of record during said gap period, but only to the extent caused by Owner.

6. This Affidavit is given with the understanding and intention that Title Company shall rely thereon in issuing the title insurance policy which is based on the Commitment.

7. THE UNDERSIGNED EXECUTES THIS AGREEMENT BECAUSE OF THE BENEFITS DIRECTLY AND INDIRECTLY ACCRUING TO IT BY REASON OF THE ISSUANCE OF THE POLICY.

Executed as of the ____ day of _____, 2015.

AFFIANT:

YORK ROAD EW LLC, a Delaware limited liability company

By: **Buck York Road, L.L.C.**, an Illinois limited liability company, its Managing Member

By: _____
Name: _____
Title: _____

State of _____

County of _____

Subscribed and sworn to before me
this _____ day of _____, 2015.

_____

Notary Public

My commission expires: _____

EXHIBIT D

FIRPTA AFFIDAVIT

TRANSFEROR'S CERTIFICATION OF NON-FOREIGN STATUS

To inform **[PURCHASER ENTITY]**, a _____ ("**Transferee**"), that withholding of tax under Section 1445 of the Internal Revenue Code of 1986, as amended (the "**Code**"), will not be required upon the transfer of certain real property to Transferee by _____ ("**Transferor**"), the undersigned hereby certifies the following on behalf of Transferor:

1. Transferor is not a foreign corporation, foreign partnership, foreign trust or foreign estate (as those terms are defined in the Code and the Income Tax Regulations promulgated thereunder);

2. Seller is not a disregarded entity as defined in §1.1445-2(b)(2)(iii);

3. Transferor's U.S. employer identification number is _____; and

4. Transferor's office address is c/o _____.

Transferor understands that this Certification may be disclosed to the Internal Revenue Service by Transferee and that any false statement contained herein could be punished by fine, imprisonment, or both.

Under penalty of perjury I declare that I have examined this Certification and to the best of my knowledge and belief it is true, correct and complete, and I further declare that I have authority to sign this document on behalf of Transferor.

Dated: _____, 2015

YORK ROAD EW LLC, a Delaware limited liability company

By: **Buck York Road, L.L.C.**, an Illinois limited liability company, its Managing Member

By: _____
Name: _____
Title: _____

EXHIBIT E

DUE DILIGENCE MATERIALS

1. Copies of any building and use restrictions or declarations of easements, covenants and restrictions applicable to any portion of the Property;

2. As built plans locating all utilities, roads, building, structures, parking areas and other improvements located on the Property and any existing topographical or engineering drawings of the Property;

3. Copies of all existing licenses, permits or other federal, state or local authorizations issued or required to be issued in connection with the existing improvements or operations conducted at the Property;

4. Copies of any and all public or private utility easements, access agreements, special assessment arrangements, tap-in or connection fee agreements or procedures, and any public financial assistance relating to the Property;

5. Any soil or boring reports, environmental studies, hydrological studies, engineering studies, structural analysis reports, percolation tests or data, septic permits, traffic studies, grading or erosion permits, or other permits issued by the Department of Energy and Natural Resources or other governmental authority in connection with the development of the Property;

6. Copies of tax bills and documents relating to tax or assessment proceedings, abatements, exemptions, or notices for the years 2013, 2014 and 2015;

7. Any other pertinent information reasonably requested by Purchaser to the extent the same is in Seller's possession and without Seller being obligated to incur any expense to deliver the same to Purchaser;

8. Copies of any correspondence received by Seller regarding non-compliance of the Property with any ordinance, code, rule, law or other governmental requirement; and

9. Copies of all contracts, books and records relating to the Property (other than any privileged, proprietary or confidential records), soil reports, environmental studies and reports, and surveys.

FIRST AMENDMENT TO PURCHASE AND SALE AGREEMENT

THIS FIRST AMENDMENT TO PURCHASE AND SALE AGREEMENT ("Amendment") is dated as of September 14, 2015, and is entered into by and between **YORK ROAD EW LLC**, a Delaware limited liability company ("Seller"), and **RUSH OAK BROOK ORTHOPAEDIC CENTER, LLC**, an Illinois limited liability company ("Purchaser").

RECITALS

A. Purchaser and Seller entered into that certain *Purchase and Sale Agreement* dated as of September 1, 2015 (the "Contract"), pertaining to the purchase by Purchaser and the sale by Seller of the land commonly known as 2011 York Center, Oak Brook, Illinois, and the "Property" therein described.

B. Purchaser and Seller desire to amend the Contract in accordance with the terms and provisions herein contained.

NOW, THEREFORE, in consideration of the foregoing recitals, the mutual covenants set forth in this Amendment, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Purchaser and Seller hereby agree as set forth herein.

Article I
Incorporation / Defined Terms

1.01 Incorporation. The preambles to this Amendment are fully incorporated herein by this reference thereto with the same force and effect as though restated herein.

1.02 Defined Terms. To the extent not otherwise defined herein to the contrary, all capitalized terms and capitalized phrases used in this Amendment shall have the respective meanings ascribed to them in the Contract.

Article II
Amendment to Contract

2.01 Amendments to the Contract. The Contract is amended effective as of the date of this Amendment, unless another date is specifically provided for below, as follows:

Section 5.3.1. Title and Survey is deleted in its entirety and replaced with the following new Section 5.3.1 Title and Survey:

"5.3.1. Title and Survey. Purchaser shall have until 6:00 p.m. Chicago time on September 1, 2015 to notify Seller of any objections (the "Title Objections") with respect to the Title Report and the Survey based on its review thereof. If Purchaser does not deliver such notice, such failure shall be conclusively deemed to be full and complete approval of the Title Report and the Survey and any matter disclosed therein. Without waiver of Purchaser's right to provide notice of Title Objections as above provided through September 1, 2015, it is acknowledged and agreed and notice is hereby given to Seller that 2014 real estate taxes and assessments due and payable in 2015 with respect to the Property constitute a Title Objection. If Purchaser delivers such notice, Seller shall have until 6:00 p.m. Chicago time on September 9, 2015 (the "Seller's Response Period") to notify Purchaser that Seller (a) will cause or (b) elects not to cause, any or all of the

Title Objections disclosed therein to be removed or insured over (in a manner satisfactory to Purchaser in its sole and absolute discretion) by the Title Company (the "Seller's Reply Notice"). Seller's failure to notify Purchaser within Seller's Response Period as to any Title Objection shall be deemed an election by Seller not to remove or have the Title Company insure over such Title Objection. If Seller notifies or is deemed to have notified Purchaser that Seller shall not remove nor have the Title Company insure over any or all of the Title Objections, Purchaser shall have until 6:00 p.m. Chicago time on ***September 21, 2015*** *to (i) terminate this Agreement (in which case the Deposit and all interest thereon shall be promptly returned to Purchaser, and all further rights and obligations of the parties shall cease and terminate without any further liability of either party to the other (except those obligations which are specifically provided to survive such termination as provided in this Agreement)), or (ii) waive such Title Objections and proceed to Closing without any abatement or reduction in the Purchase Price on account of such Title Objections, except that Purchaser shall have the right to deduct from the Purchase Price an amount necessary to cure all Title Objections which are liens and/or encumbrances of a definite or ascertainable amount which were incurred against title to the Property by Seller (which the parties acknowledge includes real estate taxes which are then due and payable). If Purchaser does not deliver such notice within said period, Purchaser shall be deemed to have elected to waive such Title Objections, and deduct from the Purchase Price the definite or ascertainable amount of any such liens and/or encumbrances."*

Article III
Confirmation

3.01 Confirmation. The terms and provisions of the Contract as modified hereby are hereby ratified, confirmed and adopted by the parties hereto.

3.02 Authorization. The undersigned individual(s) executing this Amendment on behalf of Purchaser and Seller are each fully empowered and authorized to execute this Amendment.

3.03 Full Force and Effect. Purchaser and Seller do each hereby represent and warrant to the other that the Contract as amended hereby is in full force and effect.

IN WITNESS WHEREOF, the parties hereto have duly executed this Amendment as of the date first above written

RUSH OAK BROOK ORTHOPAEDIC CENTER, LLC,
an Illinois limited liability company
By: _____
Name: Michael J. Dondoreh
Title: EVP & COO

YORK ROAD EW LLC, a Delaware limited liability company
By: Buck York Road, L.L.C., an Illinois limited liability company, its Managing Member
By: _____
Name: John A. Buck III
Title: Authorized Signatory

SECOND AMENDMENT TO PURCHASE AND SALE AGREEMENT

THIS SECOND AMENDMENT TO PURCHASE AND SALE AGREEMENT ("Amendment") is dated as of September 18, 2015, and is entered into by and between **YORK ROAD EW LLC**, a Delaware limited liability company ("Seller"), and **RUSH OAK BROOK ORTHOPAEDIC CENTER, LLC**, an Illinois limited liability company ("Purchaser").

RECITALS

A. Purchaser and Seller entered into that certain *Purchase and Sale Agreement*, dated as of September 1, 2015 (as amended by that certain instrument captioned *First Amendment to Purchase and Sale Agreement*, dated September 14, 2015 (the "First Amendment")), as amended hereby (the "Contract"), pertaining to the purchase by Purchaser and the sale by Seller of the land commonly known as 2011 York Center, Oak Brook, Illinois, and the "Property" therein described.

B. Purchaser and Seller desire to amend the Contract in accordance with the terms and provisions herein contained.

NOW, THEREFORE, in consideration of the foregoing recitals, the mutual covenants set forth in this Amendment, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Purchaser and Seller hereby agree as set forth herein.

Article I
Incorporation / Defined Terms

1.01 Incorporation. The preambles to this Amendment are fully incorporated herein by this reference thereto with the same force and effect as though restated herein.

1.02 Defined Terms. To the extent not otherwise defined herein to the contrary, all capitalized terms and capitalized phrases used in this Amendment shall have the respective meanings ascribed to them in the Contract.

Article II
Amendment to Contract

2.01 Amendments to the Contract. The Contract is amended effective as of the date of this Amendment, unless another date is specifically provided for below, as follows:

(a) Purchaser Right to Terminate for Title Objections. Pursuant to the First Amendment, Purchaser's right to terminate the Contract pursuant to *Section 5.3.1. Title and Survey* of the Contract was extended to 6:00 p.m. Chicago time on September 21, 2015. The parties wish to further extend Purchaser's right to terminate the Contract pursuant to *Section 5.3.1 Title and Survey* to 6:00 p.m. Chicago time on October 12, 2015. In furtherance thereof, reference to September 21, 2015 in *Section 5.3.1. Title and Survey* is hereby deleted and replaced with October 12, 2015.

In connection with the rights of Purchaser under *Section 5.3.1 Title and Survey* to (i) terminate the Contract (with the Deposit and all interest thereon promptly returned to Purchaser) or (ii) waive such Title Objections and proceed to Closing, such right to terminate for Title Objections, subject to the provisions of Section 2.01(b) below, is limited solely to the "Transmission Line Title Exception" (hereinafter

defined). For purposes hereof, the "Transmission Line Title Exception" is that certain underground transmission line moving north/south in the approximate middle of the Land, and is depicted on both the ALTA/ACSM Land Title Survey prepared by Sarko Engineering Inc., Job Number 42343, dated September 13, 2013, and the ALTA/ACSM Land Title Survey prepared by National Survey Service, Inc. Survey Number N-129645, dated July 15, 2015, revised August 13, 2015 and further revised August 25, 2015. The Transmission Line Title Exception was identified in Purchaser's Title Objections notice, dated September 1, 2015, to Seller and responded to in Seller's Reply Notice, dated September 9, 2015, to Purchaser.

(b) Seller's Reply Notice Clarification. It is acknowledged and agreed, that with the exception of the Transmission Line Title Exception, Purchaser has approved Seller's proposed resolution of Title Objections as set forth in Seller's Reply Notice, dated September 9, 2015. It is further acknowledged and agreed that the failure to resolve the Title Objections in the manner proposed by Seller in Seller's Reply Notice on or before Closing will render such Title Objections to remain as unpermitted encumbrances for purposes of the Contract, including without limitation, *Section 3.1.3 Title Insurance*. In addition, it is acknowledged and agreed that the Title Company's title commitment attached to Seller's Reply Notice was further revised to correct a legal description and to add a Parcel 3 as an insured parcel, and said revised title commitment is acknowledged as the "Revised Commitment" referred to in Seller's Reply Notice.

Article III
Confirmation

3.01 Confirmation. The terms and provisions of the Contract as modified hereby are hereby ratified, confirmed and adopted by the parties hereto.

3.02 Authorization. The undersigned individual(s) executing this Amendment on behalf of Purchaser and Seller are each fully empowered and authorized to execute this Amendment.

3.03 Full Force and Effect. Purchaser and Seller do each hereby represent and warrant to the other that the Contract as amended hereby is in full force and effect.

IN WITNESS WHEREOF, the parties hereto have duly executed this Amendment as of the date first above written.

RUSH OAK BROOK ORTHOPAEDIC CENTER, LLC,
an Illinois limited liability company
By: _____
Name: Michael Dandorph
Title: EVP & COO

YORK ROAD EW LLC, a Delaware limited liability company
By: Buck York Road, L.L.C., an Illinois limited liability company, its Managing Member
By: _____
Name: Steven Schiffz
Title: Authorized Signatory

THIS THIRD AMENDMENT TO PURCHASE AND SALE AGREEMENT ("Amendment") is dated as of October 9, 2015, and is entered into by and between **YORK ROAD EW LLC**, a Delaware limited liability company ("Seller"), and **RUSH OAK BROOK ORTHOPAEDIC CENTER, LLC**, an Illinois limited liability company ("Purchaser").

RECITALS

A. Purchaser and Seller entered into that certain *Purchase and Sale Agreement*, dated as of September 1, 2015 (as amended by that certain instrument captioned *First Amendment to Purchase and Sale Agreement*, dated September 14, 2015, as further amended by that certain instrument captioned *Second Amendment to Purchase and Sale Agreement*, dated September 18, 2015), as amended hereby, (the "Contract"), pertaining to the purchase by Purchaser and the sale by Seller of the land commonly known as 2011 York Center, Oak Brook, Illinois, and the "Property" therein described.

B. Purchaser and Seller desire to amend the Contract in accordance with the terms and provisions herein contained.

NOW, THEREFORE, in consideration of the foregoing recitals, the mutual covenants set forth in this Amendment, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Purchaser and Seller hereby agree as set forth herein.

Article I
Incorporation / Defined Terms

1.01 Incorporation. The preambles to this Amendment are fully incorporated herein by this reference thereto with the same force and effect as though restated herein.

1.02 Defined Terms. To the extent not otherwise defined herein to the contrary, all capitalized terms and capitalized phrases used in this Amendment shall have the respective meanings ascribed to them in the Contract.

Article II
Amendment to Contract

2.01 Amendments to the Contract. The Contract is amended effective as of the date of this Amendment, unless another date is specifically provided for below, as follows:

(a) 3.1.6 Zoning Condition.

(i) *Section 3.1.6 Zoning Condition* of the Contract is amended by deleting the reference to "December 23, 2015" and inserting in lieu thereof *the following: "February 23, 2016"*.

(ii) *Section 3.1.6 Zoning Condition* of the Contract is further amended by deleting the reference to "December 31, 2015 (the **"Outside Termination Date"**)", and inserting in lieu thereof the following: "*February 29, 2016 (the "**Outside Termination Date**")*".

(b) Section 5.3.1 Title and Survey/Purchaser's Right to Terminate for Title Objection. Pursuant to the Second Amendment, Purchaser's right to terminate the Contract pursuant to *Section 5.3.1. Title and Survey* of the Contract with respect to the Transmission Line Title Exception was extended to 6:00 p.m. Chicago time on October 12, 2015. The parties wish to further extend Purchaser's right to terminate the Contract pursuant to *Section 5.3.1 Title and Survey* with respect to the Transmission Line Title Exception to 6:00 p.m. Chicago time on November 20, 2015. In furtherance thereof, reference to "October 12, 2015" in *Section 5.3.1. Title and Survey* as amended by the Second Amendment is hereby deleted and replaced with *"November 20, 2015"*.

(c) Closing. Notwithstanding anything to the contrary in the Contract, the Closing shall in no event occur prior to March 10, 2016.

Article III
Confirmation

3.01 Confirmation. The terms and provisions of the Contract as modified hereby are hereby ratified, confirmed and adopted by the parties hereto.

3.02 Authorization. The undersigned individual(s) executing this Amendment on behalf of Purchaser and Seller are each fully empowered and authorized to execute this Amendment.

3.03 Full Force and Effect. Purchaser and Seller do each hereby represent and warrant to the other that the Contract as amended hereby is in full force and effect.

IN WITNESS WHEREOF, the parties hereto have duly executed this Amendment as of the date first above written

RUSH OAK BROOK ORTHOPAEDIC CENTER, LLC,
an Illinois limited liability company
By: _____
Name: Michael J. Dandorph
Title: EVP and COO

YORK ROAD EW LLC, a Delaware limited liability company

By: Buck York Road, L.L.C., an Illinois limited liability company, its Managing Member
By: _____
Name: Steven Schiltz
Title: Authorized Signatory

THIS FOURTH AMENDMENT TO PURCHASE AND SALE AGREEMENT ("Amendment") is dated as of November 5, 2015, and is entered into by and between **YORK ROAD EW LLC**, a Delaware limited liability company ("Seller"), and **RUSH OAK BROOK ORTHOPAEDIC CENTER, LLC**, an Illinois limited liability company ("Purchaser").

R E C I T A L S

A. Purchaser and Seller entered into that certain *Purchase and Sale Agreement*, dated as of September 1, 2015 (as amended by that certain instrument captioned *First Amendment to Purchase and Sale Agreement*, dated September 14, 2015, as further amended by that certain instrument captioned *Second Amendment to Purchase and Sale Agreement*, dated September 18, 2015, as further amended by that certain *Third Amendment to Purchase and Sale Agreement* dated October 9, 2015, the "Third Amendment"), as amended hereby, (the "Contract"), pertaining to the purchase by Purchaser and the sale by Seller of the land commonly known as 2011 York Center, Oak Brook, Illinois, and the "Property" therein described.

B. Purchaser and Seller desire to amend the Contract in accordance with the terms and provisions herein contained.

NOW, THEREFORE, in consideration of the foregoing recitals, the mutual covenants set forth in this Amendment, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Purchaser and Seller hereby agree as set forth herein.

Article I
Incorporation / Defined Terms

1.01 Incorporation. The preambles to this Amendment are fully incorporated herein by this reference thereto with the same force and effect as though restated herein.

1.02 Defined Terms. To the extent not otherwise defined herein to the contrary, all capitalized terms and capitalized phrases used in this Amendment shall have the respective meanings ascribed to them in the Contract.

Article II
Amendment to Contract

2.01 Amendments to the Contract. The Contract is amended effective as of the date of this Amendment, unless another date is specifically provided for below, as follows:

(a) Unconditional Approval and Commitment of Commonwealth Edison to Relocate Transmission Lines in Calendar Year 2016. There is added to *Article 3 Conditions to Purchaser's Obligation to Purchase* of the Contract, as new Section 3.1.11., the following:

> "**Relocation of Transmission Lines**. Seller has completed the Relocation of Transmission Lines Work (as defined in Section 17.1.2 *Seller's Relocation of Transmission Lines Work* below) in accordance with the terms and conditions of Article 17 below.

(b) Article 17 Seller's Work / Transmission Lines. There is added to *Section 17.1 Seller's Work* the following new Section 17.1.2:

"17.1.2. **Seller's Relocation of Transmission Lines Work**. There exist underground transmission lines on the Land (the "**Transmission Lines**") as identified on both the ALTA/ACSM Land Title Survey prepared by Sarko Engineering Inc., Job Number 42343, dated September 13, 2013, and the ALTA/ACSM Land Title Survey prepared by National Survey Service, Inc. Survey Number N-129645, dated July 15, 2015, revised August 13, 2015, further revised August 25, 2015, and further revised September 28, 2015. Except as hereinafter provided, Seller's Work shall also include the "Relocation of Transmission Lines Work" (hereinafter defined). For purposes hereof, the "**Relocation of Transmission Lines Work**" shall mean the lien free decommissioning and removing from the Land of the existing Transmission Lines and installing a replacement transmission line (the "**Replacement Transmission Lines**") on an offsite area reasonably acceptable to Seller, Purchaser and Commonwealth Edison, and repairing and restoring any damage caused to the subsurface or surface of such offsite area associated with, incurred in connection with, or resulting from, the Replacement of the Transmission Lines (including without limitation repair and/or restoration of subsurface material, surface material, e.g., concrete, asphalt pavement, landscaping, if applicable), all pursuant to plans and specifications reasonably acceptable to Seller, Purchaser and Commonwealth Edison. Seller's Relocation of Transmission Lines Work shall be completed on or before ~~June 30, 2016~~ (subject to reasonable extensions to said June 30, ~~2016~~ date approved by Purchaser, said approval of Purchaser not to be unreasonably withheld, conditioned or delayed). No changes may be made to the plans and specifications without the written approval of Seller, Purchaser, and Commonwealth Edison, which Seller and Purchaser approvals shall not be unreasonably withheld, conditioned or delayed. The Replacement Transmission Lines shall in all events be located in an area that does not interfere with Purchaser's intended development or use of the Land nor interfere with the use by Purchaser and/or the Lot 1 Owner of the easements under the Amended and Restated Declaration. Notwithstanding the foregoing, Purchaser acknowledges and agrees that installing and locating the Replacement Transmission Lines in one of the areas reserved for easement purposes under the Amended and Restated Declaration shall not in and of itself be deemed interference pursuant to the foregoing sentence. Seller's Relocation of Transmissions Lines Work shall be deemed an additional component of Seller's Work under this Article 17 for all purposes of this Agreement, except as follows: Section 17.4 and subsections 17.5.1. and 17.5.2., are not applicable to Seller's Relocation of Transmission Lines Work as same are specific to components of Seller's Work other than Seller's Relocation of Transmission Lines Work.

Changed to "Closing" per 6th Amendment.

All of Seller's Relocation of Transmission Lines Work shall: (i) be completed lien free, (ii) be in compliance with all applicable laws, (iii) be in accordance with the plans and specifications approved by Seller, Purchaser and Commonwealth Edison, and (iv) be at Seller's sole cost and expense. Seller shall obtain any necessary consents and/or approvals from the Lot 1 Owner for the Relocation of Transmission Lines Work, and provide Purchaser with copies of same within five (5) days of Seller's securing same, but in any event no later than commencing the Relocation of Transmissions Lines Work.

If Seller, in connection with the Relocation of the Transmissions Lines Work, is required to grant an easement on Lot 2 to Commonwealth Edison in the Ingress Egress Easement Area identified in the Amended and Restated Declaration attached as Exhibit AA to this Agreement, and/or grant an easement on Lot 3, said easement in scope and location shall be reasonably acceptable to Purchaser, shall not interfere with Purchaser's rights under the Amended and Restated Declaration, shall not interfere with Purchaser's intended development of the Property, shall require the relocated Transmission Lines to be buried, and shall contain specific language that the surface of the easement area may be used for pedestrian and vehicular ingress and egress, driveway lanes and pavement (including asphalt and/or concrete), sidewalks, curbing, landscaping, including grass, trees and shrubs. Purchaser acknowledges and agrees that granting an easement in connection with the Relocation of the Transmissions Line Work on Lot 2 to Commonwealth Edison in the Ingress Egress Easement Area identified in the Amended and Restated Declaration attached as Exhibit AA to this Agreement, and/or granting an easement on Lot 3 in a location which is reasonably acceptable to Purchaser shall not in and of itself be deemed interference pursuant to the foregoing sentence. Satisfaction of the conditions set forth in this paragraph in a manner that is reasonably acceptable to Purchaser shall be a condition to Purchaser's obligation to close the transaction contemplated by this Agreement, and in such instance of failure to satisfy, Purchaser shall have all of the rights provided in *Section 3.1 Conditions to Purchaser's Obligation to Purchase* for a failure of a specifically identified condition to be satisfied."

(c) Section 5.3.1 Title and Survey/Purchaser's Right to Terminate for Title Objection. Pursuant to the Third Amendment, Purchaser's right to terminate the Contract pursuant to *Section 5.3.1. Title and Survey* of the Contract with respect to the Transmission Line Title Exception was extended to 6:00 p.m. Chicago time on November 20, 2015. The parties wish to further extend Purchaser's right to terminate the Contract pursuant to *Section 5.3.1 Title and Survey* with respect to the Transmission Line Title Exception to 6:00 p.m. Chicago time on January 11, 2016. In furtherance thereof, reference to "November 20, 2015" in *Section 5.3.1. Title and Survey* as amended by the Third Amendment is hereby deleted and replaced with *"January 11, 2016"*. ~~In the event the Edison Contract is not entered into by January 11, 2016, reference to "January 11, 2016" in the immediately prior sentence shall, ipso facto, be deleted and replaced with *"February 11, 2016"* such that Purchaser's right to terminate the Contract pursuant to *Section 5.3.1 Title and Survey* with respect to the Transmission Line Title Exception is extended to 6:00 p.m. Chicago time on February 11, 2016.~~ In the event the Edison Contract is approved by Purchaser and entered into by Seller (as approved by Purchaser) Purchaser's right to terminate the Contract pursuant to *Section 5.3.1 Title and Survey* with respect to the Transmission Line Title Exception shall be rendered null and void.

(d) Edison Contract; Investigation of Transmission Lines Relocation Cost and Timing. From and after the date of this Amendment, Seller shall use its diligent good faith efforts to enter into a contract by and between Seller and Commonwealth Edison (the "Edison Contract") by January 11, 2016 (the "Edison Contract Deadline") which shall (1) obligate Commonwealth Edison to perform the Relocation of Transmission Lines Work prior to June 30, 2016, and (2) state the total amount to be paid to Commonwealth Edison for the performance of the Relocation of Transmission Lines Work (the "Determined Costs"), other than any variable costs arising from unforeseen circumstances which may occur during Commonwealth Edison's performance of the Relocation of Transmission Lines Work. The Edison Contract shall be subject to Purchaser's review and approval, which shall not be unreasonably withheld, conditioned or delayed. Seller shall keep Purchaser reasonably informed of the status of Seller's efforts to obtain the Edison Contract. I~~n the event the Edison Contract is not entered into by~~

~~January 11, 2016, reference to "January 11, 2016" in the first sentence of this section 2.01(d) shall, ipso facto, be deleted and replaced with "*February 11, 2016*" such that February 11, 2016 shall be the Edison Contract Deadline.~~

(e) Contract Termination Rights For Excessive Relocation Costs. If, on or before thirty (30) days before Closing, Seller informs Purchaser that the amount of the Determined Costs is in excess of $500,000.00 (the "**Excess Costs**"), Seller shall deliver written notice to Purchaser within ten (10) days after Seller's determination of the Excess Costs ("Seller's Notice") stating whether or not Seller agrees, in its sole and absolute discretion, to pay the Excess Costs. If Seller's Notice states that Seller agrees to pay the Excess Costs, then Seller shall be obligated to continue to perform the Relocation of Transmission Lines Work as provided in the Contract, as amended hereby. However, if Seller's Notice states that Seller shall not pay the Excess Costs, then Purchaser, at Purchaser's election, may by delivering written notice to Seller (the "Purchaser Notice") within ten (10) days after receipt of Seller's Notice (i) terminate the Contract (the "Excessive Relocation Cost Termination Right"), in which event, provided Purchaser is not in default of its obligations under the Contract, the Deposit, and all interest thereon, shall be promptly returned to Purchaser (and Seller shall deliver written notice to Escrow Agent authorizing Escrow Agent to return the such Deposit no later than two (2) Business Days following receipt of the Purchaser Notice), and all further rights and obligations of the parties under the Contract shall cease and terminate without any further liability of either party to the other (except those obligations which are specifically provided to survive such termination as provided in the Contract), or (ii) proceed to Closing, in which event Seller shall continue to perform the Relocation of Transmission Lines Work as provided in the Contract and the Purchase Price shall be increased by the amount of the Excess Costs. Purchaser's failure to timely deliver the Purchaser Notice pursuant to the foregoing sentence shall be deemed Purchaser's election to terminate the Contract pursuant to clause (i) of the foregoing sentence. In determining whether Determined Costs are in excess of $500,000.00 for purposes of the termination right in this Section 2.01(e) and the exercise thereof, any contribution of monies by Commonwealth Edison identified in the Edison Contract, or costs absorbed by Commonwealth Edison pursuant to and identified in the Edison Contract, in connection with Relocation of the Transmission Lines Work, shall reduce the Determined Costs.

(f) Contract Termination for Failure to Enter into Edison Contract. Notwithstanding anything to the contrary contained in the Contract, as amended hereby, if the Edison Contract is not approved by Purchaser and fully-executed on or before June 30, 2016, then the Contract shall be deemed automatically terminated, in which event, provided that Purchaser is not in default under the Contract, the Deposit, and all interest thereon, shall be promptly returned to Purchaser (and Seller shall deliver written notice to Escrow Agent authorizing Escrow Agent to return the Deposit no later than two (2) Business Days following such automatic termination).

(g) Closing Date. Notwithstanding anything to the contrary contained in the Contract, the Closing shall occur on the date that is thirty (30) days after the satisfaction (or pursuant to the terms of the Contract, deemed satisfaction) or waiver (or pursuant to the terms of the Contract, deemed waiver) of all of the conditions to Closing contained in this Agreement (the "Closing Date"). In no event shall the Closing Date occur earlier than March 10, 2016 or later than December 31, 2016.

Article III
Confirmation

3.01 Confirmation. The terms and provisions of the Contract as modified hereby are hereby ratified, confirmed and adopted by the parties hereto.

3.02 Authorization. The undersigned individual(s) executing this Amendment on behalf of Purchaser and Seller are each fully empowered and authorized to execute this Amendment.

3.03 Full Force and Effect. Purchaser and Seller do each hereby represent and warrant to the other that the Contract as amended hereby is in full force and effect.

[Signature Page Follows]

[Signature Page to Fourth Amendment to Lease]

IN WITNESS WHEREOF, the parties hereto have duly executed this Amendment as of the date first above written.

RUSH OAK BROOK ORTHOPAEDIC CENTER, LLC,
an Illinois limited liability company

By: _____
Name: John P. Mordach
Title: Chief Financial Off.cer

YORK ROAD EW LLC, a Delaware limited liability company

By: Buck York Road, L.L.C., an Illinois
limited liability company, its Managing Member

By: _____
Name: _____
Title: _____

[Signature Page to Fourth Amendment to Lease]

IN WITNESS WHEREOF, the parties hereto have duly executed this Amendment as of the date first above written.

RUSH OAK BROOK ORTHOPAEDIC CENTER, LLC,
an Illinois limited liability company

By: _____
Name: _____
Title: _____

YORK ROAD EW LLC, a Delaware limited liability company

By: Buck York Road, L.L.C., an Illinois
limited liability company, its Managing Member

By: _____
Name: Steven Schiltz
Title: Authorized Signatory

THIS FIFTH AMENDMENT TO PURCHASE AND SALE AGREEMENT ("Amendment") is dated as of February 11, 2016, and is entered into by and between **YORK ROAD EW LLC**, a Delaware limited liability company ("Seller"), and **RUSH OAK BROOK ORTHOPAEDIC CENTER, LLC**, an Illinois limited liability company ("Purchaser").

RECITALS

A. Purchaser and Seller entered into that certain *Purchase and Sale Agreement*, dated as of September 1, 2015 (as amended by that certain instrument captioned *First Amendment to Purchase and Sale Agreement*, dated September 14, 2015, as further amended by that certain instrument captioned *Second Amendment to Purchase and Sale Agreement*, dated September 18, 2015, as further amended by that certain instrument captioned *Third Amendment to Purchase and Sale Agreement* dated October 9, 2015, as further amended by that certain instrument captioned *Fourth Amendment to Purchase and Sale Agreement* dated November 5, 2015, the "Fourth Amendment"), as amended hereby, (together the "Contract"), pertaining to the purchase by Purchaser and the sale by Seller of the land commonly known as 2011 York Center, Oak Brook, Illinois, and the "Property" therein described.

B. Purchaser and Seller desire to amend the Contract in accordance with the terms and provisions herein contained.

NOW, THEREFORE, in consideration of the foregoing recitals, the mutual covenants set forth in this Amendment, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Purchaser and Seller hereby agree as set forth herein.

Article I
Incorporation / Defined Terms

1.01 Incorporation. The preambles to this Amendment are fully incorporated herein by this reference thereto with the same force and effect as though restated herein.

1.02 Defined Terms. To the extent not otherwise defined herein to the contrary, all capitalized terms and capitalized phrases used in this Amendment shall have the respective meanings ascribed to them in the Contract.

Article II
Amendment to Contract

2.01 Amendments to the Contract. The Contract is amended effective as of the date of this Amendment, unless another date is specifically provided for below, as follows:

(a) Section 5.3.1 Title and Survey/Purchaser's Right to Terminate for Title Objection. Pursuant to the Fourth Amendment, Purchaser's right to terminate the Contract pursuant to *Section 5.3.1. Title and Survey* of the Contract with respect to the Transmission Line Title Exception was extended to 6:00 p.m. Chicago time on February 11, 2016. The parties wish to further extend Purchaser's right to terminate the Contract pursuant to *Section 5.3.1 Title and Survey* with respect to the Transmission Line Title Exception to 6:00 p.m. Chicago time on March 11, 2016. In furtherance thereof, reference to "January

11, 2016" in *Section 5.3.1. Title and Survey* as amended by the Fourth Amendment is hereby deleted and replaced with *"March 11, 2016"* and the penultimate sentence of *Section 2.01(c) Section 5.3.1. Title and Survey* of the Fourth Amendment is hereby deemed deleted.

(b) Edison Contract; Investigation of Transmission Lines Relocation Cost and Timing. Pursuant to *Section 2.01(d) Edison Contract; Investigation of Transmission Lines Relocation Cost and Timing* of the Fourth Amendment, the Edison Contract Deadline was extended to 6:00 p.m. Chicago time on February 11, 2016. The parties wish to further extend the Edison Contract Deadline pursuant to *Section 2.01(d) Edison Contract; Investigation of Transmission Lines Relocation Cost and Timing* of the Fourth Amendment to 6:00 p.m. Chicago time on March 11, 2016. In furtherance thereof, reference to "January 11, 2016" in *Section 2.01(d) Edison Contract; Investigation of Transmission Lines Relocation Cost and Timing* of the Fourth Amendment is hereby deleted and replaced with *"March 11, 2016"* and the last sentence of said section is hereby deemed deleted.

(c) Section 8.3 Recorded Documents. That portion of the first sentence of Section 8.3 Recorded Documents of the Contract which reads: *"Escrow Agent shall first cause the Amended and Restated Declaration, second the Deed, and third if applicable, the Lot 2 deed, in that order (the "Order of Priority)"*, is hereby deleted and replaced with the following: *"Escrow Agent shall first cause the Deed, second the Lot 2 deed, and third the Amended and Restated Declaration, in that order (the "Order of Priority)"*.

(d) Amended and Restated Declaration. The parties hereto acknowledge that Purchaser is negotiating directly with the Lot 1 Owner in connection the Amended and Restated Declaration. Nothing contained in this Amendment, including the amendment to Section 8.3 of the Contract set forth above, shall be deemed to amend the provisions of Section 3.1.8 Amended and Restated Declaration of the Contract, nor waive any of the rights of Purchaser and/or Seller therein contained or elsewhere contained in the Contract. The Amended and Restated Declaration, in form and substance acceptable to Purchaser and Seller, remains a condition to Purchaser's obligation to close the transaction contemplated by the Contract. It is acknowledged and agreed by Purchaser and Seller, that the amendment to the language of Section 8.3 as provided above, is to address a change to the Amended and Restated Declaration requested by the Lot 1 Owner, and which is agreeable to Purchaser and Seller provided resolution of other issues with the Lot 1 Owner are resolved to the satisfaction of Purchaser and Seller.

Article III
Confirmation

3.01 Confirmation. The terms and provisions of the Contract as modified hereby are hereby ratified, confirmed and adopted by the parties hereto.

3.02 Authorization. The undersigned individual(s) executing this Amendment on behalf of Purchaser and Seller are each fully empowered and authorized to execute this Amendment.

3.03 Full Force and Effect. Purchaser and Seller do each hereby represent and warrant to the other that the Contract as amended hereby is in full force and effect.

[Signature Page Follows]

[Signature Page to Fifth Amendment to Lease]

IN WITNESS WHEREOF, the parties hereto have duly executed this Amendment as of the date first above written.

RUSH OAK BROOK ORTHOPAEDIC CENTER, LLC,
an Illinois limited liability company

By: _____
Name: Michael J. Dandorph
Title: MANAGER

YORK ROAD EW LLC, a Delaware limited liability company

By: Buck York Road, L.L.C., an Illinois limited liability company, its Managing Member

By: _____
Name: _____
Title: _____

[Signature Page to Fifth Amendment to Lease]

IN WITNESS WHEREOF, the parties hereto have duly executed this Amendment as of the date first above written.

RUSH OAK BROOK ORTHOPAEDIC CENTER, LLC,
an Illinois limited liability company

By: _____
Name: _____
Title: _____

YORK ROAD EW LLC, a Delaware limited liability company

By: Buck York Road, L.L.C., an Illinois
limited liability company, its Managing Member

By: _____
Name: Steven Schiltz
Title: Authorized Signatory

THIS SIXTH AMENDMENT TO PURCHASE AND SALE AGREEMENT ("Amendment") is dated as of March 11, 2016, and is entered into by and between **YORK ROAD EW LLC**, a Delaware limited liability company ("Seller"), and **RUSH OAK BROOK ORTHOPAEDIC CENTER, LLC**, an Illinois limited liability company ("Purchaser").

RECITALS

A. Purchaser and Seller entered into that certain Purchase and Sale Agreement, dated as of September 1, 2015 (as amended by that certain instrument captioned *First Amendment to Purchase and Sale Agreement*, dated September 14, 2015, as further amended by that certain instrument captioned *Second Amendment to Purchase and Sale Agreement*, dated September 18, 2015, as further amended by that certain instrument captioned *Third Amendment to Purchase and Sale Agreement* dated October 9, 2015, as further amended by that certain instrument captioned *Fourth Amendment to Purchase and Sale Agreement* dated November 5, 2015), as further amended by that certain instrument captioned *Fifth Amendment to Purchase and Sale Agreement* dated February 11, 2016 (the "Fifth Amendment"), as amended hereby, (together the "Contract"), pertaining to the purchase by Purchaser and the sale by Seller of the land commonly known as 2011 York Center, Oak Brook, Illinois, and the "Property" therein described.

B. Purchaser and Seller desire to amend the Contract in accordance with the terms and provisions herein contained.

NOW, THEREFORE, in consideration of the foregoing recitals, the mutual covenants set forth in this Amendment, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Purchaser and Seller hereby agree as set forth herein.

Article I
Incorporation / Defined Terms

1.01 Incorporation. The preambles to this Amendment are fully incorporated herein by this reference thereto with the same force and effect as though restated herein.

1.02 Defined Terms. To the extent not otherwise defined herein to the contrary, all capitalized terms and capitalized phrases used in this Amendment shall have the respective meanings ascribed to them in the Contract.

Article II
Amendment to Contract

2.01 Amendments to the Contract. The Contract is amended effective as of the date of this Amendment, unless another date is specifically provided for below, as follows:

(a) Section 5.3.1 Title and Survey/Purchaser's Right to Terminate for Title Objection. Pursuant to the Fifth Amendment, Purchaser's right to terminate the Contract pursuant to Section 5.3.1. Title and Survey of the Contract with respect to the Transmission Line Title Exception was extended to 6:00 p.m. Chicago time on March 11, 2016. The parties wish to further extend Purchaser's right to terminate the Contract pursuant to Section 5.3.1 Title and Survey with respect to the Transmission Line Title Exception to 6:00 p.m. Chicago time on April 11, 2016. In furtherance thereof, reference to "March 11, 2016" in

Section 5.3.1. Title and Survey as amended by the Fifth Amendment is hereby deleted and replaced with "April 11, 2016".

(b) Edison Contract; Investigation of Transmission Lines Relocation Cost and Timing. Pursuant to Section 2.01(b) Edison Contract; Investigation of Transmission Lines Relocation Cost and Timing of the Fifth Amendment, the Edison Contract Deadline was extended to 6:00 p.m. Chicago time on March 11, 2016. The parties wish to further extend the Edison Contract Deadline pursuant to Section 2.01(b) Edison Contract; Investigation of Transmission Lines Relocation Cost and Timing of the Fifth Amendment to 6:00 p.m. Chicago time on April 11, 2016. In furtherance thereof, reference to "March 11, 2016" in Section 2.01(b) Edison Contract; Investigation of Transmission Lines Relocation Cost and Timing of the Fifth Amendment is hereby deleted and replaced with "April 11, 2016".

(c) Section 3.1 Conditions to Purchaser's Obligations to Purchase. Section 3.1.9. *Seller Has Secured All Approvals for Seller's Work* of the Contract is deleted in its entirety and replaced with the following:

> *"**3.1.9. Seller Has Secured All Approvals for, and Completed, Seller's Work.** Seller has secured all required approvals from all third parties, including, without limitation, the Village, the Lot 1 Owner and the Lot 2 Owner (each as defined in the Original Declaration), and delivered copies of same to Purchaser, for Seller's Work (as defined in Article 17) and Seller has completed Seller's Work as required under this Agreement."*

(d) Seller's Work to be Performed Prior to Closing. It is acknowledged and agreed that Seller is obligated to complete all of Seller's Work prior to Closing, and in connection therewith, the Contract is amended in accordance with the following changes:

> (i) Section 16.8 *Survival of Warranties*, the phrase "for a period of one (1) year after the Closing" is added after the phrase "the recording of the Deed" in the penultimate sentence thereof.
>
> (ii) Section 17.1 *Seller's Work*, the first grammatical paragraph thereof, is hereby restated as follows:
>
> > *"**17.1 Seller's Work.** Pursuant to Section 2.1 of the Original Declaration, Seller, at its sole cost and expense, commissioned a Drainage Study (as defined in the Original Declaration) to determine whether additional drainage facilities and/or improvements to the existing Detention Ponds (as defined in the Original Declaration) shall be required to be made in order for the Project (as defined in the Original Declaration) to comply with the requirements of the Village or any other governmental or quasi-governmental authority once a 122,500 square foot building is constructed on Lot 3. Purchaser hereby acknowledges that Seller has delivered a copy of the Drainage Study to Purchaser. As a condition to Purchaser's obligation to Close, Seller shall deliver to Purchaser prior to Closing evidence of the approval of Lot 1 Owner and copies of all permits, approvals, licenses and the like from applicable governmental authorities (collectively, the **"Authorizations"**) that are required in order to permit Seller to complete Seller's Work. On or before Closing, Seller shall construct, at Seller's sole cost and expense, any additional*

*drainage facilities and/or improvements to the existing Detention Ponds which are determined to be required pursuant to the Drainage Study or by the Village ("**Seller's Work**"). Seller's Work shall be performed in a good and workmanlike manner, lien-free and in compliance with all applicable laws and the Original Declaration, as the same may be amended by the Amended and Restated Declaration."*

(iii) Section 17.1.1. *Seller's Sidewalk Work*, is hereby amended by deleting the reference to "June 30, 2016" and inserting in lieu thereof: *"Closing"*.

(iv) Section 17.1.2. *Seller's Relocation of Transmission Lines Work*, is hereby amended by deleting the reference to "June 30, 2016" and inserting in lieu thereof: "Closing".

(v) Section 17.2 *License to Enter/Indemnification/Insurance*, is amended by deleting the first sentence thereof in its entirety, and by deleting the first three words of the second sentence (i.e. "Notwithstanding the foregoing"). In addition, the last sentence of Section 17.2 is amended by deleting the clause "on to the Property," such that the last sentence commences as follows *"Prior to entering on to neighboring property..."*. In addition, Section 17.2 is hereby retitled "Section 17.2 *Indemnification/Insurance*". In addition, Section 17.2 is hereby amended by deleting the reference to "two (2) years" and inserting in lieu thereof: "one (1) year."

(vi) Section 17.3 *Delay*, is hereby amended by deleting the reference to "June 30, 2016" and inserting in lieu thereof: "Closing".

(vii) Section 17.4 *Cooperation*, is hereby deleted.

(viii) Section 17.5.1 *Plans and Specifications*, is hereby amended by deleting the penultimate sentence and the third to last sentence in their entirety.

(ix) Section 17.5.2 *Completion*, is hereby deleted and replaced with the following:

*"**17.5.2 Completion.** All of Seller's Work shall: (i) be completed lien free, (ii) in compliance with the Original Declaration, and as applicable, the Amended and Restated Declaration, (iii) in compliance with all applicable laws, (iv) in accordance with the Plans, and (v) at Seller's sole cost and expense. Seller shall keep the Property and the Lot 1 Owner's property free of mechanics liens and the like. If any mechanics liens are created, caused or permitted by Seller to attach in connection with the performance of Seller's Work, Seller at its expense, shall no later than Closing, discharge or insure over, as provided below, any such lien by payment, or by the issuance of a title indemnity in form, amount and issued by a title insurance company satisfactory to Purchaser in its reasonable discretion, indemnifying Purchaser against all costs and liabilities resulting from such lien. If Seller delivers such title indemnity to Purchaser with respect to any such lien, Seller shall thereafter have the right to diligently contest such lien; provided that Seller shall, in any event, have any such lien released of record prior to final enforcement thereof."*

(x) Section 17.6 *Survival*, the phrase "for a period of one (1) year" is hereby added at the end of said Section.

(e) Amended and Restated Declaration. The penultimate sentence of Section 3.1.8. *Amended and Restated Declaration* of the Contract is hereby amended by deleting the reference to "the Outside Termination Date" and inserting in lieu thereof "June 30, 2016."

(f) Good Faith Efforts to Complete. Seller shall use its good faith reasonable efforts to complete Seller's Work by July 1, 2016.

Article III
Confirmation

3.01 Confirmation. The terms and provisions of the Contract as modified hereby are hereby ratified, confirmed and adopted by the parties hereto.

3.02 Authorization. The undersigned individual(s) executing this Amendment on behalf of Purchaser and Seller are each fully empowered and authorized to execute this Amendment.

3.03 Full Force and Effect. Purchaser and Seller do each hereby represent and warrant to the other that the Contract as amended hereby is in full force and effect.

[Signature Page Follows]

IN WITNESS WHEREOF, the parties hereto have duly executed this Amendment as of the date first above written.

RUSH OAK BROOK ORTHOPAEDIC CENTER, LLC,
an Illinois limited liability company

By: _____
Name: Michael Dandorf
Title: Manager

YORK ROAD EW LLC, a Delaware limited liability company

By: Buck York Road, L.L.C., an Illinois limited liability company, its Managing Member

By: _____
Name: _____
Title: _____

IN WITNESS WHEREOF, the parties hereto have duly executed this Amendment as of the date first above written.

RUSH OAK BROOK ORTHOPAEDIC CENTER, LLC,
an Illinois limited liability company

By: _____
Name:_____
Title: _____

YORK ROAD EW LLC, a Delaware limited liability company

By: Buck York Road, L.L.C., an Illinois
limited liability company, its Managing Member

By: _____
Name: Steven Schiltz
Title: Authorized Signatory

THIS SEVENTH AMENDMENT TO PURCHASE AND SALE AGREEMENT ("Amendment") is dated as of April 11, 2016, and is entered into by and between **YORK ROAD EW LLC**, a Delaware limited liability company ("Seller"), and **RUSH OAK BROOK ORTHOPAEDIC CENTER, LLC**, an Illinois limited liability company ("Purchaser").

RECITALS

A. Purchaser and Seller entered into that certain Purchase and Sale Agreement, dated as of September 1, 2015 (as amended by that certain instrument captioned *First Amendment to Purchase and Sale Agreement*, dated September 14, 2015, as further amended by that certain instrument captioned *Second Amendment to Purchase and Sale Agreement*, dated September 18, 2015, as further amended by that certain instrument captioned *Third Amendment to Purchase and Sale Agreement* dated October 9, 2015, as further amended by that certain instrument captioned *Fourth Amendment to Purchase and Sale Agreement* dated November 5, 2015), as further amended by that certain instrument captioned *Fifth Amendment to Purchase and Sale Agreement* dated February 11, 2016, as further amended by that certain instrument captioned *Sixth Amendment to Purchase and Sale Agreement* dated March 11, 2016 (the "Sixth Amendment"), as amended hereby, (together the "Contract"), pertaining to the purchase by Purchaser and the sale by Seller of the land commonly known as 2011 York Center, Oak Brook, Illinois, and the "Property" therein described.

B. Purchaser and Seller desire to amend the Contract in accordance with the terms and provisions herein contained.

NOW, THEREFORE, in consideration of the foregoing recitals, the mutual covenants set forth in this Amendment, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Purchaser and Seller hereby agree as set forth herein.

Article I
Incorporation / Defined Terms

1.01 Incorporation. The preambles to this Amendment are fully incorporated herein by this reference thereto with the same force and effect as though restated herein.

1.02 Defined Terms. To the extent not otherwise defined herein to the contrary, all capitalized terms and capitalized phrases used in this Amendment shall have the respective meanings ascribed to them in the Contract.

Article II
Amendment to Contract

2.01 Amendments to the Contract. The Contract is amended effective as of the date of this Amendment, unless another date is specifically provided for below, as follows:

(a) Section 5.3.1 Title and Survey/Purchaser's Right to Terminate for Title Objection. Pursuant to the Sixth Amendment, Purchaser's right to terminate the Contract pursuant to Section 5.3.1. Title and Survey of the Contract with respect to the Transmission Line Title Exception was extended to 6:00 p.m. Chicago time on April 11, 2016. The parties wish to further extend Purchaser's right to terminate the Contract pursuant to Section 5.3.1 Title and Survey with respect to the Transmission Line Title Exception to 6:00 p.m. Chicago time on May 11, 2016. In furtherance thereof, reference to "April

11, 2016" in Section 5.3.1. Title and Survey as amended by the Sixth Amendment is hereby deleted and replaced with "May 11, 2016".

(b) Edison Contract; Investigation of Transmission Lines Relocation Cost and Timing. Pursuant to Section 2.01(b) Edison Contract; Investigation of Transmission Lines Relocation Cost and Timing of the Sixth Amendment, the Edison Contract Deadline was extended to 6:00 p.m. Chicago time on April 11, 2016. The parties wish to further extend the Edison Contract Deadline pursuant to Section 2.01(b) Edison Contract; Investigation of Transmission Lines Relocation Cost and Timing of the Sixth Amendment to 6:00 p.m. Chicago time on May 11, 2016. In furtherance thereof, reference to "April 11, 2016" in Section 2.01(b) Edison Contract; Investigation of Transmission Lines Relocation Cost and Timing of the Sixth Amendment is hereby deleted and replaced with "May 11, 2016".

(c) Good Faith Efforts to Complete. Pursuant to Section 2.01(f) Good Faith Efforts to Complete of the Sixth Amendment, the deadline for completion of Seller's Work was stated as July 1, 2016. The parties wish to further extend such deadline for completion of Seller's Work pursuant to Section 2.01(f) Good Faith Efforts to Complete of the Sixth Amendment to August 1, 2016. In furtherance thereof, reference to "July 1, 2016" in Section 2.01(f) Good Faith Efforts to Complete of the Sixth Amendment is hereby deleted and replaced with "August 1, 2016".

Article III
Confirmation

3.01 Confirmation. The terms and provisions of the Contract as modified hereby are hereby ratified, confirmed and adopted by the parties hereto.

3.02 Authorization. The undersigned individual(s) executing this Amendment on behalf of Purchaser and Seller are each fully empowered and authorized to execute this Amendment.

3.03 Full Force and Effect. Purchaser and Seller do each hereby represent and warrant to the other that the Contract as amended hereby is in full force and effect.

[Signature Page Follows]

IN WITNESS WHEREOF, the parties hereto have duly executed this Amendment as of the date first above written.

RUSH OAK BROOK ORTHOPAEDIC CENTER, LLC,
an Illinois limited liability company

By: _____
Name: Michael Dandorph
Title: Manager

YORK ROAD EW LLC, a Delaware limited liability company

By: Buck York Road, L.L.C., an Illinois
limited liability company, its Managing Member

By: _____
Name: _____
Title: _____

IN WITNESS WHEREOF, the parties hereto have duly executed this Amendment as of the date first above written.

RUSH OAK BROOK ORTHOPAEDIC CENTER, LLC,
an Illinois limited liability company

By: _____
Name: _____
Title: _____

YORK ROAD EW LLC, a Delaware limited liability company

By: Buck York Road, L.L.C., an Illinois
limited liability company, its Managing Member

By: Steven Schiltz
Name: Steven Schiltz
Title: Authorized Signatory