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2015 070961

STATE OF INDIANA  
LAKE COUNTY  
FILED FOR RECORD

2015 OCT 20 AM 8:40

MICHAEL B. BROWN  
RECORDER

**MORTGAGE  
and  
Assignment of Rents  
And Security Agreement**

THIS MORTGAGE (herein "Instrument") is made this 18th day of September, 2015, between the Mortgagor, **AJS BUSINESS PROPERTIES LLC**, an Indiana limited liability company, with a principal place of business at 1075 Pontiac Drive, Batavia, Illinois 60510 ("Mortgagor") and, for purposes of Notice hereunder, a mailing address of 1075 Pontiac Drive, Batavia, Illinois 60510 with a copy to Lyons Law Group, LLC of 5333 Main Street, Downers Grove, Illinois 60515, and the Mortgagee, **STEPHEN W. CHAMBERS**, 1250 Crestview Drive, Batavia, Illinois, 60510 ("Mortgagee").



WHEREAS, Mortgagor is providing to the Mortgagee the real property described in Exhibit "H-1" as collateral for a Promissory Note between the Payor on the Promissory Note, **AJS BUSINESS PROPERTIES LLC**, an Indiana limited liability company, and the Payee, **STEPHEN W. CHAMBERS**, the indebtedness referenced herein is evidenced by a Promissory Note of even date herewith (herein "Note"), executed by a representative of **AJS BUSINESS PROPERTIES LLC**. The Mortgagee herein and Mortgagor herein acknowledge and agree that the Mortgagor is providing the referenced real estate as collateral for the Promissory Note between the Payor and the Payee and as security for the performance of the guaranty of payment in the amount of \$120,000.00 (One Hundred Twenty Thousand Dollars).

WHEREAS, Mortgagee and Mortgagor acknowledge this Mortgage is a second and junior Mortgage on the real estate described in Exhibit "H-1" to a primary or senior mortgage, Centier Bank (herein "Primary or Senior Mortgage"). The first and primary Mortgage on the subject real estate described in Exhibit "H-1" is between **AJS Business Properties, LLC**, Mortgagor, and Centier Bank; and, in this regard, Mortgagee acknowledges he may be required to execute a subordination agreement in favor of the Primary and Senior Mortgagee.

TO SECURE TO MORTGAGEE (a) the repayment of the indebtedness evidenced by the Note, with interest thereon, and all renewals, extensions and modifications thereof; (b) the repayment of any future advances, with interest thereon, made by Mortgagee to Mortgagor; (c) the payment of all other sums, with interest thereon, advanced in accordance herewith to protect the security of this Instrument; (d) the performance of the guaranty and other covenants and agreements of Mortgagor herein contained; and (e) all other liabilities of the Mortgagee in favor of the Mortgagor, direct or indirect, absolute or contingent, primary or secondary, matured or unmatured, whether or not related to or of the same class as any specific debt secured hereby, now existing or hereafter arising;

AMOUNT \$ 44  
CASH \_\_\_\_\_ CHARGE \_\_\_\_\_  
CHECK # 21967  
OVERAGE \_\_\_\_\_  
COPY \_\_\_\_\_  
NON - COM \_\_\_\_\_  
CLERK MB

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Mortgagor does hereby mortgage, warrant, grant, convey and assign to Mortgagee its successors and assigns, the following described property in Lake County, State of Indiana, to wit:

(See Exhibit "H-1" attached hereto and incorporated herein by reference),

together with all buildings, improvements, and tenements now or hereafter erected on the property, and all easements, rights, right-of-ways, driveways, pavement, curb, and street front privileges, appurtenances, leases, rents, royalties, mineral, oil and gas rights and profits, water, water rights, and water stock appurtenant to the property, and all fixtures, machinery, equipment, engines, boilers, building materials, appliances and goods of every nature whatsoever now or hereafter located in, or on, or used, or intended to be used in connection with the property, including, but not limited to, those for the purposes of supplying or distributing heating, cooling, electricity, gas, water, air and light; and all elevators, and related machinery and equipment, fire prevention and sinks, ranges, stoves, refrigerators, dishwashers, disposals, washers, dryers, awnings, storm windows, store doors, screens, blinds, shades, curtains and certain reds, cabinets, paneling, rugs, attached floor coverings, furniture, pictures, antennas, trees and plants; all of which, including improvements, replacements and additions thereto, shall be deemed to be and remain a part of the real property covered by this Instrument, whether actually physically annexed to said property or not; and all of the foregoing, together with said property are herein referred to as the "Property."

Mortgagor covenants that Mortgagor is lawfully seized of the estate hereby conveyed and has the right to mortgage, grant, convey and assign the Property, that the Property is not encumbered by any other mortgage prior to this mortgage, and that Mortgagor will warrant and defend generally the title to the Property against claims and demands, subject to any easements, covenants, conditions and restrictions of record listed in the schedule of exceptions to coverage in any title insurance policy insuring Mortgagee's interest in the Property.

Covenants. Mortgagor hereby covenants and agrees as follows:

1. **PAYMENT OF PRINCIPAL AND INTEREST.** Mortgagor shall promptly pay when due the principal of and interest on the indebtedness evidenced by the Note, any prepayment and late charges provided in the Note and all other sums secured by this Instrument.
2. **MORTGAGOR BREACH; RIGHT OF MORTGAGEE.** Upon Mortgagor's breach of any covenant or agreement of Mortgagor in this Instrument, Mortgagee may pay, in any amount and in any order as Mortgagee shall determine, in Mortgagee's sole discretion, any rents, taxes, assessments, insurance premiums, judgment liens, tax liens, mechanic's liens and other impositions which are now or will hereafter become due which shall then become immediately due and owing by the Mortgagor to the Mortgagee.

3. **APPLICATION OF PAYMENTS.** Unless applicable law provides otherwise, all payments received by Mortgagee from Mortgagor under the Note or this Instrument shall be applied by Mortgagee in the following order of priority: (i) amounts payable to Mortgagee by Mortgagor under Paragraph 2 hereof; (ii) interest payable on the Note; (iii) principal of the Note; (iv) interest payable on advances made pursuant to Paragraph 8 hereof; (v) principal of advances made pursuant to Paragraph 8 hereof; (vi) interest payable on any Future Advance, provided that if more than one Future Advance is outstanding, Mortgagee may apply payments received among the amounts of interest payable on the Future Advances in such order as Mortgagee, in Mortgagee's sole discretion, may determine; (vii) principal of any Future Advance, provided that if more than one Future Advance is outstanding, Mortgagee may apply payments received among the principal balances of the Future Advances in such order as Mortgagee, in Mortgagee's sole discretion, may determine; and (viii) any other sums secured by this Instrument in such order as Mortgagee, at Mortgagee's option, may determine; provided, however, that Mortgagee may, at Mortgagee's option, apply any sums payable pursuant to Paragraph 8 hereof prior to interest on and principal of the Note, but such application shall not otherwise affect the order of priority of application specified in this Paragraph 3.

4. **CHARGES; LIENS.** Mortgagor shall pay all water and sewer rates, taxes, assessments, premiums, and other impositions, attributable to the property. Mortgagor shall promptly furnish to Mortgagee, upon written request, all notices of amounts due under this Paragraph 4, and in the event Mortgagor shall make payment directly, Mortgagor shall, upon written request, promptly furnish to Mortgagee receipts evidencing such payments. With the exception of the Primary and Senior Mortgage referenced in the Recitals of this Agreement, Mortgagor shall promptly discharge any lien which has or may have, priority over or equality with, the lien of this Instrument, and Mortgagor shall pay, when due, the claims of all persons supplying labor or materials to or in connection with the Property; provided that Mortgagor shall not be required to discharge any such lien so long as Mortgagor shall agree in writing to the payment of the obligation secured by such lien in a manner acceptable to Mortgagee; or shall in good faith contest such lien by, or defend enforcement of such lien in, legal proceedings which operate to prevent the enforcement of the lien or forfeiture of the Property or any part hereof.

5. **HAZARD INSURANCE.** Mortgagor shall keep the improvements now existing or hereafter erected on the Property insured by carriers at all times satisfactory to Mortgagee against loss by fire, hazards included with the terms "extended coverage", and such other hazards, casualties, liabilities and contingencies as Mortgagee shall require, and in such amounts and for such periods as Mortgagee shall require but such requirement of insurance shall not exceed that hazard insurance required by the Primary and Senior Mortgagee. All premiums on insurance policies shall be paid, when due, directly to the carrier.

All insurance policies and renewals thereof shall be in a form acceptable to Mortgagee and shall include a standard mortgage clause in favor of Mortgagee and in form acceptable to Mortgagee. All insurance policies and renewals thereof shall be valued at not less than One Hundred Twenty Thousand Dollars (\$120,000.00) greater than the debt owed to the Primary or Senior Mortgagee. Mortgagee shall receive a copy of the Mortgagor's certificate(s) of insurance naming Mortgagee as the second loss payee behind the Primary or Senior Mortgagee; and Mortgagor shall promptly furnish to Mortgagee all renewal notices and all receipts of said premiums. Mortgagor shall deliver to Mortgagee a renewal policy in the same form satisfactory to the Primary or Senior Mortgagee upon renewal of the policy.

In the event of Loss, Mortgagor shall give immediate written notice to the insurance carrier and to Mortgagee. If the Property is abandoned by Mortgagor, or if Mortgagor fails to respond to Mortgagee within 30 days from the date notice is mailed by Mortgagee to Mortgagor that the insurance carrier offers to settle a claim for insurance benefits, Mortgagor authorizes and empowers Mortgagee as attorney-in-fact for Mortgagor to adjust and compromise any claim under the insurance policy(ies), to appear in and prosecute any action arising from such insurance policies, to collect and receive insurance proceeds, and to deduct therefrom Mortgagee's expenses incurred in the collection of such proceedings; provided, however, that nothing contained in this Paragraph 5 shall require Mortgagee to incur any expense or take any action hereunder.

Unless Mortgagee and Mortgagor otherwise agree in writing, insurance proceeds shall be first applied to the sums secured by this mortgage with the excess, if any, paid to Mortgagor. Any such application to the sums secured by this mortgage shall not postpone the Mortgagor's obligations to make the next scheduled payment of interest and principal.

If the insurance proceeds are held by Mortgagee to reimburse Mortgagor for the cost of restoration and repair of the Property, the Property shall be restored to the equivalent of its original condition or such other condition as the parties may mutually approve in writing. Mortgagee may, at Mortgagee's option, condition disbursement of said proceeds on Mortgagee's approval of waivers of liens, sworn statements of mechanics and materialmen and such other evidence of costs, percentage completion of construction, application of payments, and satisfaction of liens as Mortgagee may reasonably require. If the insurance proceeds are applied to the payment of the sums secured by this mortgage, any such application of proceeds to the obligation shall not extend or postpone the due dates of the payments referred to in Paragraphs 1 and 2 hereof or change the amount(s) of such installment(s). If the Property is sold pursuant to Paragraph 25 hereof, or if Mortgagee acquires title to the Property, Mortgagee shall have all of the right, title and interest of Mortgagor in and to any insurance policies and unearned premiums thereon, and in and to the proceeds resulting from any damage to the Property prior to such sale or acquisition.

6. **PRESERVATION AND MAINTENANCE OF PROPERTY.** Mortgagor (a) shall not commit waste or permit impairment or deterioration of the Property, (b) shall not abandon the Property, (c) shall keep the Property, including improvements thereof, in good repair, (d) shall comply with all laws, ordinances, regulations and requirements of any governmental body applicable to the Property, (e) shall give notice in writing to Mortgagee of and, unless otherwise directed in writing by Mortgagee, appear in and defend any action or proceeding purporting to affect the Property, the security to this Instrument or the rights or powers of Mortgagee. Without the written consent of Mortgagee, Mortgagor shall not remove, demolish or alter any improvement now existing or hereafter erected on the property.

7. **USE OF PROPERTY.** Unless required by applicable law or unless Mortgagee has otherwise agreed in writing, Mortgagor shall not allow changes in the use for which all or any part of the Property was intended at the time this instrument was executed. Mortgagor shall not initiate or acquiesce in a change in the zoning classification of the Property without Mortgagee's written consent.

8. **PROTECTION OF MORTGAGEE'S SECURITY.** If Mortgagor fails to perform the covenants and agreements contained in this Instrument, or if any action or proceeding is commenced which affects the Property or title thereto or the interest of Mortgagee therein, including, but not limited to, eminent domain, insolvency, code enforcement, or arrangements or proceedings involving a bankrupt or a decedent, then Mortgagee, at Mortgagee's option, may make such appearances, disburse such sums and take such action as Mortgagee deems necessary, in his sole discretion, to protect Mortgagee's interest, including, but not limited to, (i) disbursement of attorney's fees, (ii) entry upon the Property to make repairs, (iii) procurement of satisfactory insurance as provided in Paragraph 5 hereof.

Any amounts disbursed by Mortgagee pursuant to this Paragraph 8, with interest thereon, shall become additional indebtedness of Mortgagor secured by this Instrument. Unless Mortgagor and Mortgagee agree to other terms of payment, such amounts shall be immediately due and payable and shall bear interest from the date of disbursement at the rate stated in the Note, unless collection from Mortgagor of interest at such rate would be contrary to applicable law, in which event such amounts shall bear interest at the highest rate which may be collected from Mortgagor under applicable law. Mortgagor hereby covenants and agrees that Mortgagee shall not be subrogated to the lien of any mortgage or other lien not discharged, in whole or in part, by the indebtedness secured hereby. Nothing contained in this Paragraph 8 shall require Mortgagee to incur any expense or take any action hereunder.

9. **INSPECTION.** Mortgagee may make or cause to be made reasonable entries upon and inspections of the Property.

10. **BOOKS AND RECORDS.** Mortgagor shall keep and maintain at all times at Mortgagor's address, or such other place as Mortgagee may approve in writing, complete and accurate books of accounts and records adequate to reflect correctly the results of the operation of the Property and copies of all written contracts, leases and other instruments which affect the Property. Such books, records, contracts, leases and other instruments shall be subject, in the event of default of the Mortgagor, to examination and inspection at any reasonable time by Mortgagee.

11. **CONDEMNATION.** Mortgagor shall promptly notify Mortgagee of any action or proceeding relating to any condemnation or other taking, whether direct or indirect, of the Property, or part thereof, and Mortgagor shall appear, defend and/or prosecute any such action or proceeding unless otherwise directed by Mortgagee in writing. Mortgagor authorizes Mortgagee, at Mortgagee's option, as attorney-in-fact for Mortgagor, to commence, appear in, defend and/or prosecute, in Mortgagee's or Mortgagor's name, any action or proceeding relating to any condemnation or other taking of any claim in connection with such condemnation or other taking. The proceeds of any award, payment or claim for damages, direct or sequential, in connection with any condemnation or other taking, whether direct or indirect, of the Property, or part hereof, or for conveyances in lieu of condemnation, are hereby assigned to and shall be paid to Mortgagee for application as set out below.

In the event of a total taking of the Property, Mortgagor authorizes Mortgagee to apply such awards, payments, proceeds or damages, after the deduction of the applicable expenses incurred in the collection of such amounts by Mortgagee to the payment of the sums secured by this mortgage instrument, whether or not then due, in the order of application as to this Mortgagee as set forth in Paragraph 3 hereof, with the balance, if any, to Mortgagor. In the event of a partial taking of the Property, unless Mortgagor and Mortgagee otherwise agree in writing, there shall be applied to the sums secured first to Mortgagee's mortgage lien such proportion of the proceeds as is equal to that proportion which the amount of the sums secured by this mortgage document immediately prior to the date of taking bears to the fair market value of the property immediately prior to the date of taking, with the balance of proceeds paid to Mortgagor. Unless Mortgagor and Mortgagee otherwise agree in writing, any application of proceeds to principal shall not extend or postpone the due date of any installments referred to in Paragraphs 1 and 2 hereof, or change the amount of such installments. Mortgagor agrees to execute such further evidence of assignment of any awards, proceeds, damages or claims arising in connection with such condemnation or taking as Mortgagee may require.

12. **MORTGAGOR AND LIEN NOT RELEASED.** From time to time, Mortgagee may, at Mortgagee's option, without giving notice to or obtaining the consent of Mortgagor, Mortgagor's successors or assigns, or any junior lienholder or guarantors, without liability on Mortgagee's part and notwithstanding Mortgagor's breach of any covenant or agreement of Mortgagor in this Instrument, extend the time for payment of

said indebtedness or any part thereof, reduce the payments thereon, release anyone liable of any of said indebtedness, accept a renewal note or notes therefrom, modify the terms and time of payment of said indebtedness, release from the lien of this Instrument any part of the Property, take or release other or additional security, reconvey any part of the Property, consent to any map or plan of the Property, consent to the granting of any easement, join in any extension or subordination agreement, and agree in writing with Mortgagor to modify the rate of interest or period of amortization of the Note or change the amount of the monthly installments payable thereunder. Any actions taken by Mortgagee pursuant to the terms of this Paragraph 12 shall not affect the obligation of Mortgagor or Mortgagor's successors or assigns to pay the sums secured by this Instrument and to observe the covenants of Mortgagor contained herein, shall not affect the guaranty of any person, corporation, partnership or other entity for payment of the indebtedness secured hereby and shall not affect the lien or priority of lien hereof on the Property. Mortgagor shall pay Mortgagee a reasonable service charge, together with such title insurance premiums and attorney's fees as may be incurred at Mortgagee's option, for any such action if taken at Mortgagor's request.

13. **FORBEARANCE BY MORTGAGEE NOT A WAIVER.** Any forbearance by Mortgagee in exercising any right or remedy hereunder, or otherwise afforded by applicable law, shall not be a waiver of or preclude the exercise of any right or remedy. The acceptance by Mortgagee of payment of any sum secured by this Instrument after the due date of such payment shall not be a waiver of Mortgagee's right to either require prompt payment when due of all other sums so secured or to declare a default for failure to make prompt payment. The procurement of insurance or the payment of taxes or other liens or charges by Mortgagee shall not be a waiver of Mortgagee's right to accelerate the maturity of the indebtedness secured by this Instrument, nor shall Mortgagee's receipt of any awards, proceeds or damages under Paragraphs 5 and 11 hereof operate to cure or waive Mortgagor's default in payment of sums secured by this Instrument.

14. **ESTORPEL CERTIFICATE.** Mortgagor shall within ten (10) days of written request from Mortgagee furnish Mortgagee with a written statement, duly acknowledged, setting forth the sums secured by this Instrument and any right of set-off, counterclaim or other defense which exists against such sums and the obligations of this Instrument.

15. **UNIFORM COMMERCIAL CODE SECURITY AGREEMENT.** This Instrument is intended to be a security agreement pursuant to the Indiana Uniform Commercial Code for any of the items specified above as part of the Property which, under applicable law, may be subject to a security interest pursuant to the Uniform Commercial Code, and Mortgagor hereby grants and transfers to Mortgagee a security interest in said items, now owned or hereafter acquired, and the proceeds thereof, to include insurance proceeds and tort claims or settlements. Mortgagor agrees that Mortgagee may file this Instrument, or a reproduction thereof, in the real estate records or other appropriate index, as a financing statement for any of the items specified above as part of the

Property. Any reproduction of this Instrument or of any other security agreement or financing statement shall be sufficient as a financing statement. Mortgagor hereby authorizes the Mortgagee at the expense of the Mortgagor to execute and file a financing statement or statements on its behalf in those public offices deemed necessary by Mortgagee to protect his security interest. In addition, Mortgagor agrees to execute and deliver to Mortgagee, upon Mortgagee's request, any financing statements, as well as extensions, renewals and amendments thereof, and reproductions of this Instrument in such form as Mortgagee may require to perfect a security interest with respect to said items. Mortgagor shall pay all costs of filing such financing statements and any extensions, renewals, amendments and releases thereof, and shall pay all reasonable costs and expenses of any record searches for financing statements Mortgagee may reasonably require. Upon Mortgagor's breach of any covenant or agreement of Mortgagor contained in this Instrument, including the covenants to pay when due all sums secured by this Instrument, Mortgagee shall have the remedies of a secured party under the Uniform Commercial Code and, at Mortgagee's option, may also invoke the remedies provided in Paragraph 25 of this Instrument as to such items. In exercising any of said remedies, Mortgagee may proceed against the items of personal property specified above as part of the Property separately or together and in any order whatsoever, without in any way affecting the availability of Mortgagee's remedies under the Uniform Commercial Code or of the remedies provided in Paragraph 25 of this Instrument.

16. **REMEDIES CUMULATIVE.** Each remedy provided in this Instrument is distinct and cumulative to all other rights or remedies under this Instrument or afforded by law or equity, and may be exercised concurrently, independently, or successively, in any order whatsoever.

17. **ACCELERATION IN CASE OF MORTGAGOR'S INSOLVENCY.** If Mortgagor shall voluntarily file a petition under the Federal Bankruptcy Act, as such Act may from time to time be amended, or under any similar or successor Federal statute relating to bankruptcy, insolvency, insolvency act, or file an answer in an involuntary proceeding admitting insolvency or inability to pay debts, or if Mortgagor shall fail to obtain a vacation or stay of involuntary proceedings brought for the reorganization, dissolution or liquidation of Mortgagor, or if Mortgagor shall be adjudged a bankrupt, or if a trustee or receiver shall be appointed for Mortgagor or Mortgagor's property, or if the Property shall become subject to the jurisdiction of a Federal Bankruptcy Court or similar state court, or if Mortgagor shall make an assignment for the benefit of Mortgagor's creditors, or if there is an attachment, execution or other judicial seizure of any portion of Mortgagor's assets and such seizure is not discharged within ten (10) days, then Mortgagee may, at Mortgagee's option, declare all of the sums secured by this Instrument to be immediately due and payable without prior notice to Mortgagor, and Mortgagee may invoke any remedies permitted by Paragraph 25 of this Instrument. Any attorney's fees and other expenses incurred by Mortgagee in connection with Mortgagor's bankruptcy or any of the other aforesaid events shall be additional indebtedness of Mortgagor secured by this Instrument pursuant to Paragraph 8.



18. **TRANSFERS OF THE PROPERTY OR BENEFICIAL INTERESTS IN MORTGAGOR; ASSUMPTION.** On sale or transfer of (i) all or any part of the Property, or any interest therein, or (ii) beneficial interests in Mortgagee, Mortgagee may, at Mortgagee's option, declare all of the sums secured by this Instrument to be immediately due and payable, and Mortgagee may invoke any remedies permitted by Paragraph 25 of this Instrument.

19. **NOTICE.** Except for any notice required under applicable law to be given in another manner, (a) any notice to Mortgagee provided for in this Instrument or in the Note shall be given by mailing such notice by certified mail addressed to Mortgagee at Mortgagee's address or at such other address as Mortgagee may designate by notice to Mortgagee as provided herein, and (b) any notice to Mortgagee shall be given by certified mail, return receipt requested, to Mortgagee's address stated herein or to such other address as Mortgagee may designate by notice to Mortgagee as provided herein. Any notice provided for in this Instrument or in the Note shall be deemed to have been given to Mortgagee or Mortgagee when given in the manner designated herein.

20. **SUCCESSORS AND ASSIGNS BOUND; JOINT AND SEVERAL LIABILITY; AGENTS; CAPTIONS.** The covenants and agreements herein contained shall bind, and the rights hereunder shall inure to, the respective successors and assigns of Mortgagee and Mortgagee, subject to the provisions of Paragraph 18 hereof. All covenants and agreements of Mortgagee shall be joint and several. In exercising any right hereunder or taking any actions provided for herein, Mortgagee may act through his employees, agents or independent contractors as authorized by Mortgagee. The captions and headings of the Paragraphs of this Instrument are for convenience only and are not to be used to interpret or define the provisions hereof.

21. **GOVERNING LAW; SEVERABILITY.** This Instrument shall be governed by the laws of the jurisdiction in which the Property is located. In the event that any provision of this Instrument or the Note conflicts with applicable law, such shall not affect other provisions of this Instrument or the Note which can be given effect with the conflicting provisions, and to this end the provisions of this Instrument and the Note are declared to be severable. In the event that any applicable law limiting the amount of interest or other charges permitted to be collected from Mortgagee is interpreted so that any charge provided for in this Instrument or in the Note, whether considered separately or together with other charges levied in connection with this Instrument and the Note, violates such law, and Mortgagee is entitled to the benefit of such law, such charge is hereby reduced to the extent necessary to eliminate such violation. The amounts, if any, previously paid to Mortgagee in excess of the amounts payable to Mortgagee pursuant to such charges as reduced shall be applied by Mortgagee to reduce the principal of the indebtedness evidenced by the Note. For the purpose of determining whether any applicable law limiting the amount of interest or other charges permitted to be collected from Mortgagee has been violated, all indebtedness which is secured by this Instrument or evidenced by the Note and which constitutes interest, as well as other charges levied in connection with such indebtedness which constitutes interest, shall be deemed to be

allocated and spread over the stated term of the Note. Unless otherwise required by applicable law, such allocation and spreading shall be effected in such a manner that the rate of interest computed thereby is uniform throughout the stated term of the Note.

22. **WAIVER OF MARSHALLING.** Notwithstanding the existence of any other security interest in the Property held by Mortgagee or by any other party, Mortgagee shall have the right to determine the order in which any or all of the Property shall be subjected to the remedies provided herein. Mortgagee shall have the right to determine the order in which any or all portions of the indebtedness secured hereby are satisfied from the proceeds realized upon the exercise of the remedies provided herein. Mortgagor, any party who consents to this Instrument and any party who now or hereafter acquires a security interest in the Property and who has actual or constructive notice hereof hereby waives any and all right to require the marshalling of assets in connection with the exercise of any of the remedies permitted by applicable law or provided herein.

23. **ASSIGNMENT OF RENTS, APPOINTMENT OF RECEIVER; MORTGAGEE IN POSSESSION.** As part of the consideration for the indebtedness evidenced by the Note, Mortgagor hereby unconditionally assigns and transfers to Mortgagee all the rents and revenues of the Property, including those now due, past due, or to become due by virtue of any lease or other agreement for the occupancy or use of all or any part of the Property regardless of to whom the rents and revenues of the Property are payable. Mortgagor hereby authorizes Mortgagee or Mortgagee's agents to collect the aforesaid rents and revenues and hereby directs each tenant of the Property to pay such rents first to Mortgagee or Mortgagee's agents; provided, however, that prior to written notice given by Mortgagee to Mortgagor of the breach by Mortgagor of any covenant or agreement of Mortgagor in this Instrument, Mortgagor shall collect and receive all rents and revenues of the Property as trustee for the benefit of Mortgagee and Mortgagor, to appropriately apply the rents and revenue so collected to the sums secured by this Instrument in the order provided in Paragraph 3 hereof with the balance, so long as no such breach has occurred, to the account of Mortgagor, it being intended by Mortgagor and Mortgagee that this assignment of rents to Mortgagee constitutes an absolute assignment and not an assignment for additional security only. Upon delivery of written notice by Mortgagee to Mortgagor of the breach by Mortgagor of any covenant or agreement of Mortgagor in this Instrument, and without the necessity of Mortgagee entering upon and taking and maintaining full control of the Property in person, by agent or by a court-appointed receiver, Mortgagee shall immediately be entitled to possession of all rents and revenues of the Property as specified in this Paragraph 24 as the same become due and payable, including but not limited to rents then due and unpaid, and all such rents shall immediately upon delivery of such notice be held by Mortgagor as trustee for the benefit of Mortgagee only; provided, however, that the written notice by Mortgagee to Mortgagor of the breach by Mortgagor shall contain a statement that Mortgagee exercises its available rights to such rents. Mortgagor agrees that commencing upon delivery of such written notice of Mortgagor's breach by Mortgagee to Mortgagor, each tenant of the Property shall make such rents payable to and pay such rents to Mortgagee or Mortgagee's agents, as it is applicable on Mortgagee's written demand to each

tenant therefore, delivered to each tenant personally, by mail or by delivering such demand to each rental unit, without any liability on the part of said tenant to inquire further as to the existence of a default by Mortgagor.

Mortgagor hereby covenants that Mortgagor has not performed, and will not perform, any act(s) or has not executed, and will not execute, any instrument which would prevent Mortgagee from exercising his rights under this Paragraph 24, and that at the time of execution of this Instrument there has been no anticipation or prepayment of any of the rents of the Property for more than two months prior to the due dates of such rents. Mortgagor covenants that Mortgagor will not hereafter collect or accept payment of any rents of the Property subject to Mortgagee's mortgage more than two months prior to the due dates of such rents. Mortgagor further covenants that Mortgagor will execute and deliver to Mortgagee such further assignments of rents and revenues of the Property as Mortgagee may from time to time request.

Upon Mortgagor's breach of any covenant or agreement of Mortgagor in this Instrument, Mortgagee may in person, by agent or by a court-appointed receiver, regardless of the adequacy of Mortgagee's security, enter upon and take and maintain full control of the Property in order to perform all acts necessary and appropriate for the operation and maintenance thereof including but not limited to, the execution, cancellation or modification of leases, the collection of all rents and revenues of the Property, the making of repairs to the Property and the execution or termination of contracts providing for the management or maintenance of the Property, all on such terms as are deemed best to protect the security of this Instrument. In the event Mortgagee elects to seek the appointment of a receiver for the Property upon Mortgagor's breach of any covenant or agreement of Mortgagor in this Instrument, Mortgagor hereby expressly consents to the appointment of such receiver. Mortgagee or the receiver shall be entitled to receive a reasonable fee for so managing the Property.

All rents and revenues collected subsequent to delivery of written notice by Mortgagee to Mortgagor of the Breach by Mortgagor of any covenant or agreement of Mortgagor in this Instrument shall be applied first to the costs, if any, of taking control of and managing the Property and collecting the rents, including, but not limited to, attorney's fees, receiver's fees, premiums on receiver's bonds, costs of repairs to the Property, and the costs of discharging any obligation or liability of Mortgagor as lessor and landlord of the Property and then to the sums secured by this Instrument. Mortgagee or the receiver shall have access to the books and records used in the operation and maintenance of the Property and shall be liable to account only for those rents actually received. Mortgagee shall not be liable to Mortgagor, anyone claiming under or through Mortgagor or anyone having an interest in the Property by reason of anything done or left undone by Mortgagee under this Paragraph 24.

If the rents of the Property are not sufficient to meet the costs, if any, of taking control of and managing the Property and collecting the rents, any funds expended by Mortgagee for such purposes shall become indebtedness of Mortgagor to Mortgagee secured by this Instrument pursuant to Paragraph 8 hereof.

Unless Mortgagee and Mortgagor agree in writing to other terms of payment, such amounts shall be payable upon notice from Mortgagee to Mortgagor requesting payment thereof, and shall bear interest from the date of disbursement at the rate stated in the Note unless payment of interest at such rate would be contrary to applicable law, in which event such amounts shall bear interest at the highest rate which may be collected from Mortgagor under applicable law.

Any entering upon and taking and maintaining of control of the Property by Mortgagee or the receiver and any application of rents as provided herein shall not cure or waive any default hereunder or invalidate any other right or remedy of Mortgagee under applicable law or provided herein. This assignment of rents of the Property shall terminate at such time as this instrument ceases to secure indebtedness held by Mortgagee.

24. **ACCELERATION, REMEDIES.** Upon Mortgagor's breach of any covenant, warranty or condition or agreement of Mortgagor in this instrument, including but not limited to, the covenants to pay when due any sums secured by this Instrument, Mortgagee may foreclose this Instrument by judicial proceedings, and may invoke any other remedies permitted by applicable law or provided herein, subject to the terms and conditions of the Mortgagor and Mortgagee's Settlement Agreement of even date herewith. Mortgagee shall be entitled to collect all costs and expenses incurred in pursuing such remedies, including, but not limited to, attorney's fees, appraisal fees, expert witness fees, costs of court reporters, travel expenses, costs of documentary evidence, abstracts and title reports.

25. **RELEASE.** Upon payment of all sums secured by this Instrument, Mortgagee shall release this Instrument by instructing the Escrow Agent identified in the Settlement Agreement of even date herewith to send the executed Release of Mortgage to the Mortgagor's address provided in the Notice section of the Binding Arbitrator's Escrow Agreement and Mortgagor shall be responsible and liable for recording the Release of Mortgage and any associated attorney fees and costs, and recording fees.

26. **OTHER ENCUMBRANCES.** With the exception of the Primary or Senior Mortgage, Mortgagor will not further mortgage or encumber the Property in any way without the express written consent of the Mortgagee.

27. **WAIVER OF VALUATION AND APPRAISEMENT.** Mortgagor hereby waives all right of valuation and appraisal.

28. **FURTHER ADVANCES.** Upon request of Mortgagor, Mortgagee, at Mortgagee's option and discretion so long as this Instrument secures the indebtedness held by Mortgagee, may make Future Advances to Mortgagor. Such Future Advances, with interest thereon, shall be secured by this Instrument.

29. **HAZARDOUS WASTE.** Mortgagor represents that no hazardous substance (as defined in section 101(14) of the Comprehensive Environmental Response, Compensation and Liability Act, as amended, 42 U.S.C. section 9601(14)) is present on the Real Estate. Furthermore, Mortgagor represents and warrants that it will not use, generate, treat, store, dispose of or otherwise introduce any such hazardous substance, without limitation, into or on the Real Estate. Mortgagor represents and warrants that there is no current, and will be no future, unlawful physical (including environmental, natural, artificial, structural or chemical) hazard or potential hazard (including, without limitation, the presence, accumulation or storage of any toxin, toxic waste, toxic effluent or discharge) condition in, on or affecting the property or the health of persons in or about the Real Estate. Mortgagor covenants and agrees to indemnify, defend and save harmless Mortgagee from all liability, claims, obligations, losses, damages, actions, causes of action, costs and expenses (including, without limitation, reasonable attorneys' fees) which may arise or occur because of Mortgagor's breach of the aforesaid representations and warranties.


30. **PROOF OF ESCROWED TAXES.** In order to more fully protect the security of this mortgage, Mortgagor shall provide Mortgagee with proof of escrowed funds with Primary or Senior Mortgagee sufficient to pay for the real estate taxes as they become due and owing.

31. **REPRESENTATION AND REVIEW.** Mortgagor acknowledges that Mortgagor is represented by legal counsel and that before executing and delivering this Instrument and the accompanying Note, such documents and the rights of Mortgagor were fully explained to Mortgagor and that Mortgagor understands the nature and extent of the obligations thereby undertaken.

32. **RECITALS.** The Recitals set forth at the beginning of this Agreement are terms, conditions and provisions of the Agreement and all of the terms, conditions and provisions of the Agreement shall be construed in light of the Recitals.

IN WITNESS WHEREOF, Mortgagor has executed this Instrument or has caused the same to be executed by its representatives thereunto duly authorized.

**MORTGAGOR:  
AJS BUSINESS PROPERTIES LLC**

  
By: Andrew Duda, a Manager  
of AJS Business Properties LLC and  
authorized to sign this Mortgage for and on  
behalf of AJS Business Properties LLC

**Document is  
NOT OFFICIAL!  
This Document is the property of  
the Lake County Recorder!**

STATE OF ILLINOIS, COUNTY OF DePage, SS:

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared Andrew Duda, a Manager of AJS BUSINESS PROPERTIES LLC, and acknowledged the execution of the above and foregoing to be his voluntary act and deed.

WITNESS my hand and Notarial Seal this 18 day of September, 2015.

OFFICIAL SEAL  
KEVIN M LYONS  
Notary Public - State of Illinois  
My Commission Expires 10/21/17  
My Commission Expires Oct 21, 2017

  
  
Kevin M. Lyons  
Resident of DePage  
Notary Public  
County, Illinois

This Instrument Prepared By: Russell D. Millbranth, MILLBRANTH & BUSH, Attorneys and Counselors at Law, 2601 Chicago Street, Unit B, Valparaiso, IN 46383; Telephone: (219) 531-2552

I AFFIRM, UNDER THE PENALTIES FOR PERJURY, THAT I HAVE TAKEN REASONABLE CARE TO REDACT EACH SOCIAL SECURITY NUMBER IN THIS DOCUMENT, UNLESS REQUIRED BY LAW.

NAME: 

**Document is  
NOT OFFICIAL!**

**EXHIBIT F-1**  
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the Lake County Recorder!

**STOP**



# EXHIBIT H-1

## SUBJECT TO THE BANKERS MORTGAGE LIEN

FOR INFORMATION PURPOSES ONLY:

Permanent Index Number(s): 45-09-32-156-014.000-018

Address of Property: 314 Main Street, Hobart, IN 46342

LEGAL DESCRIPTION:

**Document is NOT OFFICIAL!**  
**This Document is the property of the Lake County Recorder!**

The Northerly 35 feet of the Southerly 41 feet of Lot 12, Town (now City) of Hobart, as per plat thereof, recorded in Deed Record "D", page 423, in the Office of the Recorder of Lake County, Indiana, EXCEPTING THEREFROM, the legal description as contained in a Warranty Deed recorded August 4, 2006, as Document No. 2006 067893, described as follows: A part of Lot 12 in the Original Town (now City) of Hobart, Indiana, the plat of which is recorded in Deed Record "D", page 423, in the Office of the Recorder of Lake County, Indiana, described as follows: Beginning on the Northern line of the Southerly 41 feet of said Lot South 65 degrees 31 minutes 32 seconds West 109.50 feet from the Eastern line of said Lot; thence South 24 degrees 28 minutes 28 seconds East parallel with the said Eastern line 18.00 feet; thence North 65 degrees 31 minutes 32 seconds East parallel with said Northern line 5.00 feet; thence South 24 degrees 28 minutes 28 seconds East parallel with said Eastern line 14.50 feet; thence North 65 degrees 31 minutes 32 seconds East parallel with said Northern line 39.50 feet; thence South 24 degrees 28 minutes 28 seconds East parallel with said Eastern line 2.50 feet to the Southern line of the Northerly 35 feet of the Southerly 41 feet of said Lot; thence South 65 degrees 31 minutes 32 seconds West along said Southern line 63.91 feet to the Southwestern line of said Lot; thence Northern 33 degrees 05 minutes 25 seconds West along said Southwestern line 35.40 feet to the Northern line of the Southerly 41 feet of said Lot; thence North 65 degrees 31 minutes 32 seconds East along said Northern line 24.71 feet to the Point of Beginning and containing 956 square feet, more or less.