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STATE OF INDIANA
LAKE COUNTY
FILED FOR RECORD

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MICHAEL B. BROWN
RECORDER

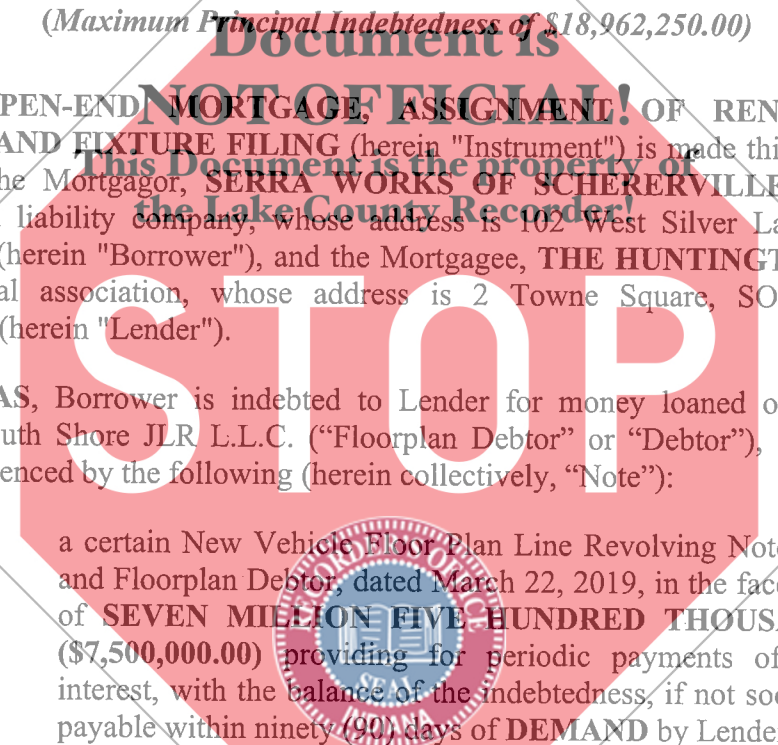
**OPEN-END MORTGAGE, ASSIGNMENT OF RENTS, SECURITY
AGREEMENT AND FIXTURE FILING**

(Maximum Principal Indebtedness of \$18,962,250.00)

**THIS OPEN-END MORTGAGE, ASSIGNMENT OF RENTS, SECURITY
AGREEMENT AND FIXTURE FILING** (herein "Instrument") is made this 25 day of June,
2019, between the Mortgagor, **SERRA WORKS OF SCHERERVILLE JLR, L.L.C.**, a
Michigan limited liability company, whose address is 102 West Silver Lake Road, Fenton,
Michigan 48430 (herein "Borrower"), and the Mortgagee, **THE HUNTINGTON NATIONAL
BANK**, a national association, whose address is 2 Towne Square, SOU607, Southfield,
Michigan 48076 (herein "Lender").

WHEREAS, Borrower is indebted to Lender for money loaned or to be loaned to
Borrower and South Shore JLR L.L.C. ("Floorplan Debtor" or "Debtor"), a related entity of
Borrower, as evidenced by the following (herein collectively, "Note"):

- (a) a certain New Vehicle Floor Plan Line Revolving Note, between Lender and Floorplan Debtor, dated March 22, 2019, in the face principal amount of **SEVEN MILLION FIVE HUNDRED THOUSAND DOLLARS (\$7,500,000.00)** providing for periodic payments of principal and/or interest, with the balance of the indebtedness, if not sooner paid, due and payable within ninety (90) days of **DEMAND** by Lender;
- (b) a certain Used Vehicle Floor Plan Line Revolving Note, between Lender and Floorplan Debtor, dated March 22, 2019, in the face principal amount of **ONE MILLION DOLLARS (\$1,000,000.00)** providing for periodic payments of principal and/or interest, with the balance of the indebtedness, if not sooner paid, due and payable within ninety (90) days of **DEMAND** by Lender;
- (c) a certain Commercial Loan Note, between Floorplan Debtor and Lender, dated March 22, 2019, in the face principal amount of **THREE MILLION SIX HUNDRED THOUSAND DOLLARS (\$3,600,000.00)** providing for periodic payments of principal and/or interest, with the



Community Title Company
File No. 1915880

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balance of the indebtedness, if not sooner paid, due and payable on the 1st day of April, 2024; and

- (d) a certain Commercial Loan Note, between Borrower and Lender, dated of even date, in the face principal amount of **SIX MILLION FOUR HUNDRED FORTY-SEVEN THOUSAND TWO HUNDRED FIFTY DOLLARS (\$6,447,250.00)** providing for periodic payments of principal and/or interest, with the balance of the indebtedness, if not sooner paid, due and payable on the 1st day of July, 2024.

WHEREAS, Borrower desires to enter into various interest rate swap transactions with Lender relating to the Note and other indebtedness of Borrower to Lender pursuant to the terms of various interest rate swap, cap, collar, floor, option, forward, or other type of interest rate protection, foreign exchange or derivative transactions, including transactions pursuant to an International Swaps and Derivatives Association Master Agreement, entered into between Borrower and Lender, as the same may be amended from time to time (collectively "Swap Agreements") (estimated maximum credit exposure to Lender of \$415,000.00).

NOW THEREFORE, to induce Lender to advance the proceeds of the loan evidenced by the Note and **TO SECURE TO LENDER** (a) the repayment of the indebtedness evidenced by the Note and any other note or notes given in replacement or substitution thereof, with interest thereon, and all renewals, extensions and modifications of all or any portion thereof; (b) the payment of all other sums with interest thereon advanced in accordance herewith to protect the security of this Instrument; and (c) the payment and/or performance of all obligations, covenants and agreements of Borrower contained herein and in the Note and in all other agreements, certificates or any other instruments related to the Note; and (d) the repayment of any and all debts, obligations or liabilities of every kind and description of Borrower to Lender, now due or to become due, direct or indirect, absolute or contingent, presently existing or hereafter arising, joint or several, secured or unsecured, whether for payment or performance, regardless of how the same arise or by what instrument, if any, except that if such debts, liabilities or obligations shall be created in a "consumer credit transaction" as defined in Title I Consumer Credit Protection Act, 15 U.S.C.A. Sections 1601 et seq., as amended, or any successor federal statute containing substantially similar provisions, they shall not be secured by this Instrument, and in order to charge the properties, interests and rights hereinafter described with such payment, performance and observance, and for other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Borrower does hereby mortgage, grant, convey and assign to Lender the real estate located in Lake County, Indiana, and more particularly described as follows:

**SEE LEGAL DESCRIPTION ATTACHED AS EXHIBIT A
AND INCORPORATED HEREIN BY REFERENCE**

TOGETHER with all buildings, improvements, structures and tenements now situated or hereafter erected on said premises, and all heretofore or hereafter vacated alleys and streets abutting said premises, and all easements, rights, appurtenances, rents, royalties, mineral, oil and gas rights and profits, water, water rights, and water stock appurtenant to said premises, and all fixtures, machinery, equipment, engines, boilers, incinerators, building materials, appliances and goods of every nature whatsoever now or hereafter owned and located in, on or about said premises, or used or intended to be used in connection with said premises, or intended and designated (wherever located) to be incorporated into the structure(s) situated on said premises, including without limitation fixtures and equipment for supplying or distributing heating, cooling, electricity, gas, water, sewage, air and light, elevators and related machinery and equipment, fire prevention and extinguishing apparatus, security and access control apparatus, bath tubs, water heaters, water closets, sinks, ranges, stoves, refrigerators, dishwashers, disposals, washers, dryers, awnings, storm windows, storm doors, screens, blinds, shades, curtains and curtain rods, mirrors, cabinets, paneling, unattached rugs, carpet and other attached floor coverings, furniture, furnishings, pictures, antennas, trees, plants and tools; and all permits, licenses and approvals necessary to construct and/or operate the improvements; all cash, accounts, rents, issues, profits and other income whether now existing or hereafter acquired; all proceeds or sums payable in lieu of or as compensation for the loss or damage to improvements or personal property or to the premises upon which the said property covered hereby is or may be located including without limitation the buildings or improvements now or hereafter located thereon, and all rights in and to all pertinent present and future fire, hazard, business interruption, rental interruption and other insurance policies maintained by Borrower on improvements, personal property or the premises; all payment and performance bonds received in connection with any construction or other matter and all rights thereunder; all plans, specifications, drawings, studies, surveys, appraisals and other similar work product; all contracts for design, architectural, engineering or construction services and all rights and claims thereunder; all other contract rights and agreements for the protection of property or services to or in connection with, or otherwise benefiting the foregoing property, including without limitation all management agreements and cable television agreements; all permits, licenses, variances, approvals and/or consents issued by any governmental entity, utility or other entity; all awards made by any public body or created by any competent jurisdiction for the taking or the degradation of value in any eminent domain proceedings, or purchase in lieu thereof; all of Borrower's interest and rights as lessor or lessee in and to all leases now or hereafter affecting the said premises or part thereof; all contracts for the sale of all or any portion of said real property and all contract rights relating to the purchase and maintenance of any equipment; all of which, including replacements and additions thereto, being hereby deemed a part of the premises encumbered by this Instrument and being hereinafter referred to as the "Property." Lender is hereby subrogated to the rights of all mortgages, lienholders and owners paid off by the proceeds of the loan evidenced by the Note secured hereby.

Borrower covenants that Borrower is lawfully seized of the Property hereby conveyed, that Borrower is the owner in fee simple of the Property, and has the right to mortgage, grant, convey and assign the Property, that the Property is unencumbered except encumbrances listed in the title report or title insurance policy delivered in conjunction herewith and acceptable to Lender and taxes and assessments not yet due ("Permitted Encumbrances"), and that Borrower will warrant and defend generally the title to the Property against all claims and demands whatsoever except Permitted Encumbrances.

Borrower and Lender covenant and agree as follows:

1. **PAYMENT OF PRINCIPAL AND INTEREST.** Borrower and/or Debtor shall promptly pay when due the principal of and interest on the indebtedness evidenced by the Note, the Swap Agreements, and all other sums secured by this instrument (herein "Indebtedness").
2. **APPLICATION OF PAYMENTS.** Unless applicable law provides otherwise, all payments received by Lender from Borrower shall be applied by Lender against the Indebtedness in such order as Lender, at Lender's option, may determine.
3. **CHARGES; LIENS.** Borrower shall pay all water and sewer rates, rents, taxes, assessments, premiums, and other impositions attributable to the Property (herein collectively "Impositions"), by making payment, when due, directly to the payee thereof, or in such other reasonable manner as Lender may designate in writing. Borrower shall promptly furnish to Lender all notices of amounts due under this paragraph, and in the event Borrower shall make payment directly, Borrower shall promptly furnish to Lender receipts evidencing such payments. Borrower shall promptly discharge any lien which has, or may have, priority over or equality with, the lien of this Instrument, and Borrower shall pay, when due, the claims of all persons supplying labor or materials to or in connection with the Property. Without Lender's prior written permission, Borrower shall not allow any lien, encumbrance or other interest in the Property inferior to the lien of this Instrument to be perfected against the Property.

Notwithstanding the foregoing, Borrower shall have the right to contest any such lien or claim of any person supplying such labor or materials, provided, that such contest shall preclude enforcement of collection out of and from the sale of the Property in satisfaction of such lien, Borrower shall furnish Lender with a bond or other security satisfactory to Lender, and such contest shall not otherwise create a failure on the part of Borrower to comply with any other provisions or conditions hereof.

Upon the occurrence of any event of default under this Instrument, Lender may require Borrower to pay to Lender, in advance, such funds ("Funds") for Impositions which Lender shall reasonably deem necessary to protect Lender's Interests. Unless otherwise provided by applicable law, Lender, at Lender's option, may required Funds for Impositions to be paid by Borrower in a lump sum or in periodic installments. The Funds shall be held by Lender in a non-interest bearing account for the payment of such charges. Lender shall give to Borrower, without charge,

an annual accounting of the Funds in Lender's normal format showing credits and debits to the Funds and the purpose for which each debit to the Funds was made. The Funds are pledged as additional security for the sums secured by this Instrument and shall be subject to the right of setoff.

4. **INSURANCE.**

(a) **Hazard Insurance.** Borrower shall keep the improvements now existing or hereafter erected on the Property insured by carriers at all times satisfactory to Lender against loss by fire, hazards included within the term "extended coverage," rent loss and such other hazards, casualties, liabilities and contingencies as Lender shall require and in such amounts and for such periods as Lender shall require. All premiums on insurance policies shall be paid, at Lender's option, in the manner provided herein, or by Borrower making payment, when due, directly to the carrier or in such other manner as Lender may designate in writing.

(b) **Federal Flood Insurance.** In the event the Director of the Federal Emergency Management Agency, at any time from the date herein until the Indebtedness is paid in full and terminated, deems the Project to be located in a special flood hazard area (herein "Flood Area") in accordance with the National Flood Insurance Act of 1968, as amended, Borrower agrees to obtain and maintain federal flood insurance on the Project in an amount greater than or equal to the full unpaid principal sum due under the Indebtedness and any and all other Permitted Encumbrances on the Property, up to the maximum policy limits under the federal Flood Insurance Program or as otherwise required by Lender, within forty-five (45) days after notice is provided to Borrower by Lender that the Project is located in a Flood Area.

Borrower shall purchase a federal flood insurance policy for the Property under the federal Flood Insurance Program or from any carrier satisfactory to Lender in its sole and absolute discretion. Proof of such insurance shall be provided by Borrower to Lender, in form and manner satisfactory to Lender including, but not limited to, any and all receipts evidencing payment in full of any premiums thereon, within forty-five (45) days after receiving notice from Lender that the Project is located in a Flood Area, and Borrower shall maintain such insurance until the Indebtedness is paid in full and terminated.

Borrower hereby acknowledges and agrees that upon any failure of Borrower to obtain or maintain federal flood insurance as set forth above, Lender may purchase such insurance on the Project at the expense of Borrower which such expense, at the option of Lender, may be added to the Indebtedness. Borrower further acknowledges that if Lender purchases federal flood insurance due to any failure of Borrower, such insurance will only provide limited protection against physical damage to the Project up to an amount equal to the lesser of (a) the Indebtedness exclusive of any unearned interest, or (b) the value of the Property less any equity of Borrower; and may not provide any public liability or property damage indemnification nor meet the requirements of any financial responsibility laws. For purposes of obtaining federal flood

insurance, Borrower authorizes Lender to provide to any person (including any insurance agent(s) or company) any and all information Lender deems necessary with regard to the Property, guarantor, the Indebtedness and/or other financial accommodations.

(c) **Applicable to All Insurance.** All insurance policies and renewals thereof shall be in a form acceptable to Lender and shall name and endorse Lender as a standard loss payee. Any such policy shall provide that it will not be cancelled or modified without thirty (30) days prior written notice to Lender. Lender shall have the right to hold the policies, and Borrower shall promptly furnish to Lender all renewal notices and all receipts of paid premiums. At least thirty (30) days prior to the expiration date of a policy, Borrower shall deliver to Lender a renewal policy in form satisfactory to Lender.

In the event of loss, Borrower shall give immediate written notice to the insurance carrier and to Lender. Borrower hereby authorizes and empowers Lender as attorney-in-fact for Borrower to make proof of loss, to adjust and compromise any claim under insurance policies, to appear in and prosecute any action arising from such insurance policies, to collect and receive insurance proceeds, and to deduct therefrom Lender's expenses incurred in the collection of such proceeds; provided, however, that nothing contained in this paragraph shall require Lender to incur any expense or take any action hereunder. Borrower further authorizes Lender, at Lender's option, (a) to hold the balance of such proceeds to be used to reimburse Borrower for the cost of reconstruction or repair of the Property; or (b) to apply the balance of such proceeds to the payment of the sums secured by this Instrument, whether or not then due.

If the insurance proceeds are held by Lender to reimburse Borrower 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 Lender may approve in writing. Lender may, at Lender's option, condition disbursement of said proceeds on Lender's approval of such plans and specifications of an architect satisfactory to Lender, contractor's cost estimates, architect's certificates, 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 Lender may reasonably require. If the insurance proceeds are applied to the payment of the sums secured by this Instrument, any such application of proceeds to principal shall not extend or postpone the due dates of or change the amount of any monthly installments of the Indebtedness. If the Property is sold pursuant hereto or if Lender acquires title to the Property, Lender shall have all of the right, title and interest of Borrower 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.

5. **PRESERVATION AND MAINTENANCE OF PROPERTY.** Borrower (a) shall not commit waste or permit impairment or deterioration of the Property, (b) shall not abandon the Property, (c) shall restore or repair promptly and in a good and workmanlike manner all or any part of the Property to the equivalent of its original condition, or such other condition as Lender

may approve in writing, in the event of any damage, injury or loss thereto, whether or not insurance proceeds are available to cover in whole or in part the costs of such restoration or repair, (d) shall keep the Property, including improvements thereon, in good repair, (e) shall comply with all laws, ordinances, regulations and requirements of any governmental body applicable to the Property, (f) shall give notice in writing to Lender of and, unless otherwise directed in writing by Lender, appear in and defend any action or proceeding purporting to affect the Property, the security of this Instrument or the rights or powers of Lender. Neither Borrower nor any tenant or other person shall remove, demolish or alter any improvements now existing or hereafter erected on the Property or any fixture, equipment, machinery or appliance in or on the Property except when incident to the replacement of fixtures, equipment, machinery and appliances with items of like kind or pursuant to plans approved by Lender.

6. **USE OF PROPERTY.** Unless required by applicable law or unless Lender has otherwise agreed in writing, Borrower 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. Borrower shall not initiate or acquiesce in a change in the zoning classification of the Property without Lender's prior written consent.

7. **PROTECTION OF LENDER'S SECURITY.** If Borrower 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 Lender therein, including, but not limited to, eminent domain, insolvency, code enforcement, or arrangements or proceedings involving a bankrupt or decedent, then Lender at Lender's option may make such appearances, disburse such sums and take such action as Lender deems necessary, in its sole discretion, to protect Lender's interest, including, but not limited to, (a) disbursement of attorney's fees, (b) entry upon the Property to make repairs, and (c) procurement of satisfactory insurance as provided herein.

Any amounts disbursed by Lender pursuant to this paragraph, with interest thereon, shall become additional indebtedness of Borrower secured by this Instrument. Unless Borrower and Lender 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 Borrower 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 Borrower under applicable law. Borrower hereby covenants and agrees that Lender shall be subrogated to the lien of any mortgage or other lien discharged, in whole or in part, by the indebtedness secured hereby. Nothing contained in this paragraph shall require Lender to incur any expense or take any action hereunder.

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

9. **BOOKS AND RECORDS.** Borrower shall keep and maintain at all times 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 to examination and inspection at any reasonable time by Lender. Borrower shall furnish, upon Lender's request, a rent schedule for the Property, certified by Borrower, showing the name of each tenant and for each tenant, the space occupied, the lease expiration date, the rent payable and the rent paid.

10. **CONDEMNATION.** Borrower shall promptly notify Lender of any action or proceeding relating to any condemnation or other taking, whether direct or indirect, of the Property, or part thereof, and Borrower shall appear in and prosecute any such action or proceedings unless otherwise directed by Lender in writing. The proceeds of any award, payment or claim for damages, direct or consequential, in connection with any condemnation or other taking, whether direct or indirect, of the Property, or part thereof, or for conveyances in lieu of condemnation, are hereby assigned to and shall be paid to Lender.

Borrower authorizes Lender to apply such awards, payments, proceeds or damages, after the deduction of Lender's expenses incurred in the collection of such amounts, at Lender's option, to restoration or repair of the Property or to payment of the sums secured by this Instrument, whether or not then due, with the balance, if any, to Borrower. Unless Borrower and Lender otherwise agree in writing, any application of proceeds to principal shall not extend or postpone the due date of or change the amount of any required monthly installments. Borrower agrees to execute such further evidence of assignment of any awards, proceeds, damages or claims arising in connection with such condemnation or taking as Lender may require.

11. **BORROWER AND LIEN NOT RELEASED.** From time to time, Lender may, at Lender's option, without giving notice to or obtaining the consent of Borrower, Borrower's successors or assigns or of any junior lienholder or guarantors, without liability on Lender's part and notwithstanding Borrower's breach of any covenant or agreement of Borrower in this Instrument, extend the time for payment of the Indebtedness or any part thereof, reduce the payments thereon, release anyone liable on any of the Indebtedness, accept a renewal note or notes therefor, modify the terms and time of payment of the 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, agree in writing with Borrower 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 Lender pursuant to the terms of this paragraph shall not affect the obligation of Borrower or Borrower's successors or assigns to pay the sums secured by this Instrument and to observe the covenants of Borrower contained herein, shall not affect the guaranty of any person, corporation, partnership or other entity for the payment of the indebtedness secured hereby, and shall not affect the lien or priority of lien

hereof on the Property. Borrower shall pay Lender a reasonable service charge, together with such title insurance premiums and reasonable attorney's fees as may be incurred at Lender's option for any such action if taken at Borrower's request.

12. FORBEARANCE BY LENDER NOT A WAIVER. Any forbearance by Lender 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 Lender of payment of any sum secured by this Instrument after the due date of such payment shall not be a waiver of Lender'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 Lender shall not be a waiver of Lender's right to accelerate the maturity of the indebtedness secured by this Instrument. Lender's receipt of any awards, proceeds or damages shall not operate to cure or waive Borrower's default in payment of sums secured by this Instrument.

13. ESTOPPEL CERTIFICATE. Borrower shall, within ten (10) days of a written request from Lender, furnish Lender with a written statement, duly acknowledged, setting forth the sums secured by this Instrument and any right of setoff, counterclaim or other defense which exists against such sums and the obligations of this Instrument.

14. LEASES OF THE PROPERTY. Borrower shall comply with and observe Borrower's obligations as landlord under all leases of the Property or any part thereof. Borrower, at Lender's request, shall furnish Lender with executed copies of all leases now existing or hereafter made of all or any part of the Property, and all leases now or hereafter entered into will be in form and substance subject to the approval of Lender. Unless otherwise directed by Lender, all leases of the Property shall specifically provide that such leases are subordinate to this Instrument; that the tenant attorns to Lender, such attornment to be effective upon Lender's acquisition of title to the Property; that the tenant agrees to execute such further evidences of attornment as Lender may from time to time request, that the attornment of the tenant shall not be terminated by foreclosure; and that Lender may, at Lender's option, accept or reject such attornments. Borrower shall not, without Lender's written consent, execute, modify, surrender or terminate, either orally or in writing, any lease now existing or hereafter made of all or any part of the Property providing for a term of one (1) year or more, permit an assignment or sublease of such a lease without Lender's written consent, or request or consent to the subordination of any lease of all or any part of the Property to any lien subordinate to this Instrument. If Borrower becomes aware that any tenant proposes to do, or is doing, any act or thing which may give rise to any right of setoff against rent, Borrower shall (a) take such steps as shall be reasonably calculated to prevent the accrual of any right to a setoff against rent, (b) notify Lender thereof and of the amount of said setoffs, and (c) within ten (10) days after such accrual, reimburse the tenant who shall have acquired such right to setoff or take such other steps as shall effectively discharge such setoff and as shall assure that rents thereafter due shall continue to be payable without setoff or deduction.

Borrower does hereby assign to Lender all leases now existing or hereafter made of all or any part of the Property and all security deposits made by tenants in connection with such leases of the Property. Lender shall have all of the rights and powers possessed by Borrower prior to such assignment and Lender shall have the right to modify, extend or terminate such existing leases and to execute new leases, in Lender's sole discretion.

15. **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.

16. **ACCELERATION IN CASE OF BORROWER'S INSOLVENCY.** If Borrower or any guarantor shall voluntarily file a petition under the Federal Bankruptcy Code, as such Code may from time to time be amended, or under any similar or successor Federal Statute relating to bankruptcy, insolvency, arrangements or reorganizations, or under any state bankruptcy or insolvency act, or file an answer in an involuntary proceeding admitting insolvency or failure to pay debts as they come due, or if Borrower or any guarantor shall fail within sixty (60) days to obtain a vacation, stay or dismissal of involuntary proceedings brought for the reorganization, dissolution or liquidation of Borrower or any guarantor, or if an order for relief under the Federal Bankruptcy Code shall be entered against the Borrower or any guarantor, or if a trustee, receiver or custodian shall be appointed for Borrower or any guarantor or for any property of any of them, or if the Property shall become subject to the jurisdiction of a Federal bankruptcy court or similar state court, or if Borrower or any guarantor shall make an assignment for the benefit of creditors, or if there is an attachment, execution or other judicial seizure of any portion of Borrower's or any guarantor's assets and such seizure is not discharged within sixty (60) days, then Lender may, at Lender's option, declare all of the sums secured by this Instrument to be immediately due and payable without prior notice to Borrower or any guarantor, and Lender may invoke any remedies permitted by this Instrument. Any attorney's fees and other expenses incurred by Lender in connection with Borrower's bankruptcy or any of the other aforesaid events shall be additional indebtedness of Borrower secured by this Instrument.

17. **TRANSFERS OF THE PROPERTY OR BENEFICIAL INTEREST IN BORROWER; ASSUMPTION.** On sale, encumbrance or transfer of all or any part of the Property, or any interest therein, or of any beneficial interest in Borrower, if Borrower is an unnatural person, without Lender's prior written consent, Lender may at Lender's option declare all of the sums secured by this Instrument to be immediately due and payable, and Lender may invoke any remedies provided herein. This option shall not apply in case of: (a) transfers or dispositions pursuant to replacement or repair in accordance herewith of fixtures and equipment; (b) transfers or dispositions pursuant to the laws of testate or intestate succession provided the lien of this Instrument is not affected thereby; or (c) leases permitted hereunder.

18. **NOTICE.** Except for any notice required under applicable law to be given in another manner, (a) any notice to Borrower provided for in this Instrument shall be given by mailing

such notice by certified mail addressed to Borrower at Borrower's address as shown on Lender's records or at such other address as Borrower may designate by notice to Lender as provided herein, and (b) any notice to Lender shall be given by certified mail, return receipt requested, to Lender's principal place of business as provided above or to such other address as Lender may designate by notice to Borrower as provided herein. Any notice provided for in this Instrument or in the Note shall be deemed to have been given to Borrower or Lender when given in the manner designated herein.

19. 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 heirs, successors and assigns of Lender and Borrower, subject to the provisions herein. All covenants and agreements of Borrower shall be joint and several. In exercising any rights hereunder or taking any actions provided for herein, Lender may act through its employees, agents or independent contractors as authorized by Lender. 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.

20. GOVERNING LAW; SEVERABILITY. This Instrument shall be governed by the law of the jurisdiction in which the Property is located. In the event that any provision of this Instrument conflicts with applicable law, such conflict shall not affect other provisions of this Instrument which can be given effect without the conflicting provisions, and to this end the provisions of this Instrument are declared to be severable.

21. WAIVER OF STATUTE OF LIMITATIONS. Borrower hereby waives the right to assert any statute of limitations as a bar to the enforcement of the lien of this Instrument or to any action brought to enforce any obligation secured by this Instrument.

22. WAIVER OF MARSHALLING. In the event of foreclosure of the lien of this Instrument, the Property may be sold in one or more parcels or as an entirety as Lender may elect. Notwithstanding the existence of any other security interests in the Property held by Lender or by any other party, Lender shall have the right to determine the order in which any or all of the Property shall be subjected to the remedies provided herein. Lender 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. Borrower, 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. ACCELERATION; REMEDIES. Upon an event of default under the Note or under the terms of this Instrument, Lender, at Lender's option, may declare all of the sums secured by this Instrument to be immediately due and payable without further demand and may foreclose this Instrument by judicial proceedings and may invoke any other remedies permitted by applicable

law or as provided herein. Lender shall be entitled to collect all costs and expenses reasonably incurred in pursuing such remedies, including, but not limited to costs of documentary evidence, abstracts and title reports, court costs and reasonable attorneys' fees.

24. ASSIGNMENT OF RENTS; APPOINTMENT OF RECEIVER; LENDER IN POSSESSION. As part of the consideration for the indebtedness evidenced by the Note, Borrower hereby absolutely and unconditionally assigns and transfers to Lender 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; together with any liens securing such rents or revenues whether arising by contract, statute or common law. Borrower hereby authorizes Lender or Lender's agents to collect the aforesaid rents and revenues and hereby directs each tenant of the Property to pay such rents to Lender or Lender's agents; provided, however, that prior to written notice given by Lender to Borrower of the breach by Borrower of any covenant or agreement of Borrower in this Instrument, Borrower shall collect and receive all rents and revenues of the Property as trustee for the benefit of Lender and Borrower, to apply the rents and revenues so collected to the sums secured by this Instrument in the order provided herein with the balance, so long as no such breach has occurred, to the account of Borrower, it being intended by Borrower and Lender that this assignment of rents constitutes an absolute assignment and not an assignment for additional security only. Upon delivery of written notice by Lender to Borrower of the breach by Borrower of any covenant or agreement of Borrower in this Instrument, and without the necessity of Lender entering upon and taking and maintaining full control of the Property in person, by agent or by a court-appointed receiver, Lender shall immediately be entitled to possession of all rents and revenues of the Property as specified in this paragraph 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 Borrower as trustee for the benefit of Lender only; provided, however, that the written notice by Lender to Borrower of the breach by Borrower shall contain a statement that Lender exercises its rights to such rents. Borrower agrees that commencing upon delivery of such written notice of Borrower's breach by Lender to Borrower, each tenant of the Property shall make such rents payable to and pay such rents to Lender or Lender's agents on Lender's written demand to each tenant therefor, delivered to each tenant personally, by mail or 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 Borrower.

Borrower hereby covenants that Borrower has not executed any prior assignment of said rents, that Borrower has not performed, and will not perform, any acts, or has not executed, and will not execute, any instrument which would prevent Lender from exercising its rights under this paragraph, 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. Borrower covenants that Borrower will not hereafter collect or accept payment of any rents of the Property more than one month prior to the due dates of such rents. Borrower

further covenants that Borrower will execute and deliver to Lender such further assignments of rents and revenues of the Property as Lender may from time to time request.

Upon an event of default as defined in the Loan Agreement between Borrower and Lender dated of even date herewith (the "Loan Agreement"), Lender may in person, by agent or by a court-appointed receiver, regardless of the adequacy of Lender'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 Lender elects to seek the appointment of a receiver for the Property upon Borrower's breach of any covenant or agreement of Borrower in this Instrument, Borrower hereby expressly consents to the appointment of such receiver. Lender 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 Lender to Borrower of the breach by Borrower of any covenant or agreement of Borrower 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, premiums on insurance policies, taxes, assessments and other charges on the Property, and the costs of discharging any obligation or liability of Borrower as lessor or landlord of the Property and then to the sums secured by this Instrument. Lender 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. Lender shall not be liable to Borrower, anyone claiming under or through Borrower or anyone having an interest in the Property by reason of anything done or left undone by Lender under this paragraph.

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 Lender for such purposes shall become indebtedness of Borrower to Lender secured by this Instrument pursuant herein. Unless Lender and Borrower agree in writing to other terms of payment, such amounts shall be payable upon notice from Lender to Borrower requesting payment thereof and shall bear interest from the date of disbursement at the rate stated in the Note.

Any entering upon and taking and maintaining control of the Property by Lender 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 Lender under applicable law or as provided herein. This assignment of rents shall terminate at such time as this Instrument ceases to secure indebtedness held by Lender.

25. **RELEASE.** Upon payment of all sums secured by this Instrument, Lender shall discharge this Instrument. Borrower shall pay Lender's costs incurred in discharging this Instrument.

26. **LOAN ADVANCES.** This Instrument shall secure unpaid balances of loan advances which Lender may make after this Instrument is delivered to the County Recorder for recording. The maximum amount of the unpaid principal balance of the Indebtedness, including such advances, in the aggregate and exclusive of interest accrued thereon and advances and reimbursable expenses of Lender, which may be secured hereby at any time is **\$18,962,250.00**.

27. **WAIVER OF EXEMPTION.** To the extent permitted by law with respect to the Indebtedness secured hereby or any renewals or extensions thereof, Borrower waives and renounces any and all homestead and exemption rights, as well as the benefit of all valuation and appraisal privileges, and stay, redemption and moratoriums under and by virtue of the constitution and laws of the state wherein the Property is located, and of any other state or the United States, now existing or hereafter enacted.

28. **UNIFORM COMMERCIAL CODE SECURITY AGREEMENT; FIXTURE FILING.**

(a) In addition to being an open-end mortgage and assignment of rents, this Instrument is intended to be a security agreement pursuant to the Uniform Commercial Code ("UCC") 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 UCC (collectively, the "Chattels"), and Borrower hereby grants Lender a security interest in said items. Borrower agrees that Lender 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. In addition, Borrower authorizes Lender to file any financing statements, as well as extension, renewals and amendments thereof, and reproductions of this Instrument in any office and in such form as Lender may deem necessary or desirable to perfect a security interest with respect to said items. Borrower shall pay all costs of filing such financing statements and any extensions, renewals, amendments and releases thereof, and shall pay all costs and expenses of any record searches for financing statements Lender may reasonably require. Without the prior written consent of Lender, Borrower shall not create or suffer to be created pursuant to the UCC any other security interest in said items, including replacements and additions thereto. Upon Borrower's breach of any covenant or agreement of Borrower contained in this Instrument, including the covenants to pay when due all sums secured by this Instrument, Lender shall have the remedies of a secured party under the UCC and, at Lender's option, may also invoke the remedies provided in this Instrument as to such items. In exercising any of said remedies, Lender may proceed against the items of real property and any 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 Lender's remedies under the UCC or of the remedies provided in this Instrument.

(b) **Fixture Filing.** This Instrument shall constitute a security agreement under Article 9 of the UCC with respect to the Chattels covered by this Instrument. Borrower and Lender agree, to the extent permitted by law, that: (i) all of the goods described within the definition of the word "Fixtures" here are, or are to become, fixtures on the real estate which is included within the Property; (ii) this Instrument, upon recording in the real estate records of the proper office, shall constitute a "fixture filing" within the meaning of Sections 9-334 and 9-502 of the UCC; (iii) the address of the Borrower and Lender as "Debtor" and "Secured Party," respectively, are as set forth in the introductory paragraph of this Instrument; and (iv) a carbon, photographic, or other reproduction of this Instrument, or of any financing statement relating hereto, shall be sufficient for filing purposes.

29. **HAZARDOUS SUBSTANCES.** Borrower hereby covenants and agrees with Lender that the following terms shall have the following meanings:

"**Environmental Laws**" mean all federal, state and local laws, statutes, ordinances and codes relating to the use, storage, treatment, generation, transportation, processing, handling, production or disposal of any Hazardous Substance and the rules, regulations, policies, guidelines, interpretations, decisions, orders and directives with respect thereto.

"**Hazardous Substance**" means, without limitation, any flammable explosives, radioactive materials, asbestos, urea formaldehyde foam insulation, polychlorinated biphenyls, petroleum and petroleum based products, methane, hazardous materials, hazardous wastes, hazardous or toxic substances or related materials, as defined in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. Sections 9601, et seq.), the Hazardous Materials Transportation Act, as amended (49 U.S.C. Sections 1801, et seq.), the Resource Conservation and Recovery Act, as amended (42 U.S.C. Sections 6901, et seq.), the Toxic Substances Control Act, as amended (15 U.S.C. Sections 2601, et seq.), or any other applicable Environmental Laws.

"**Indemnitee**" means Lender, its participants in the Loan evidenced by the Note and all subsequent holders of this Instrument, their respective successors and assigns, their respective officers, directors, employees, agents, representatives, contractors and subcontractors and any subsequent owner of the Property who acquires title thereto from or through Lender.

"**Release**" has the same meaning as given to that term in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. Sections 9601, et seq.), and the regulations promulgated thereunder.

Except as disclosed to and acknowledged by the Lender in writing and as set forth in the Phase I Environmental Site Assessment dated June 16, 2017, issued by PM Environmental, Inc.,

Borrower represents and warrants to Lender that, to its knowledge after due investigation: (a) the Property is not being and has not been used for the storage, treatment, generation, transportation, processing, handling, production or disposal of any Hazardous Substance in violation of any Environmental Laws; (b) the Property does not contain any Hazardous Substances in violation of any Environmental Laws; (c) there has been no Release of any Hazardous Substance on, at or from the Property or any property adjacent to or within the immediate vicinity of the Property and Borrower has not received any form of notice or inquiry with regard to such a Release or the threat of such a Release; (d) no event has occurred with respect to the Property which, with the passage of time or the giving of notice, or both, would constitute a violation of any applicable Environmental Laws; (e) there are no agreements or orders or directives of any federal, state or local governmental agency or authority relating to the Property which require any work, repair, construction, containment, clean up, investigations, studies, removal or other remedial action with respect to the Property; and (f) there are no actions, suits, claims or proceedings, pending or threatened, which seek any remedy that arises out of the condition, ownership, use, operation, sale, transfer or conveyance of the Property and (i) a violation or alleged violation of any applicable Environmental Laws, (ii) the presence of any Hazardous Substance or a Release of any Hazardous Substance or the threat of such a Release, or (iii) human exposure to any Hazardous Substance.

Borrower covenants and agrees with Lender as follows:

- (a) Borrower shall keep, and shall cause all operators, tenants, subtenants, licensees and occupants of the Property to keep the Property free of all Hazardous Substances, except for Hazardous Substances stored, treated, generated, transported, processed, handled, produced or disposed of in the normal operation of the Property in accordance with all Environmental Laws.
- (b) Borrower shall comply with, and shall cause all operators, tenants, subtenants, licensees and occupants of the Property to comply with, all Environmental Laws.
- (c) Borrower shall promptly provide Lender with a copy of all notifications which Borrower gives or receives with respect to any past or present Release of any Hazardous Substance or the threat of such a Release on, at or from the Property or any property adjacent to or within the immediate vicinity of the Property.
- (d) Borrower shall undertake and complete all investigations, studies, sampling and testing for Hazardous Substances required by Lender and, in accordance with all Environmental Laws, all removal and other remedial actions necessary to contain, remove and clean up all Hazardous Substances that are determined to be present at the Property in violation of any Environmental Laws.

(e) Lender shall have the right, but not the obligation, to cure any violation by Borrower of the Environmental Laws and Lender's cost and expense to so cure shall be secured by this Instrument.

Borrower covenants and agrees, at its sole cost and expense, to indemnify, defend and save harmless Indemnitee from and against any and all damages, losses, liabilities, obligations, penalties, claims, litigation, demands, defenses, judgments, suits, actions, proceedings, costs, disbursements and/or expenses (including, without limitation, reasonable attorneys' and experts' fees and expenses) of any kind or nature whatsoever which may at any time be imposed upon, incurred by or asserted or awarded against Indemnitee arising out of the condition, ownership, use, operation, sale, transfer or conveyance of the Property and (a) the storage, treatment, generation, transportation, processing, handling, production or disposal of any Hazardous Substance; (b) the presence of any Hazardous Substance or a Release of any Hazardous Substance or the threat of such a Release; (c) human exposure to any Hazardous Substance; (d) a violation of any Environmental Laws; or (e) a material misrepresentation or inaccuracy in any representation or warranty or material breach or failure to perform any covenant made by Borrower herein (collectively the "Indemnified Matters").

The liability of Borrower to Indemnitee hereunder shall in no way be limited, abridged, impaired or otherwise affected by (a) the repayment of all sums and the satisfaction of all obligations of Borrower under the Note, this Instrument or other loan documents, (b) the foreclosure of this Instrument or the acceptance of a deed in lieu thereof, (c) any amendment or modification of the Note, this Instrument or other loan documents by or for the benefit of Borrower or any subsequent owner of the Property, (d) any extensions of time for payment or performance required by any of the Note, this Instrument or other loan documents, (e) the release or discharge of this Instrument or of Borrower, any guarantor of the loan evidenced by the Note or any other person from the performance or observance of any of the agreements, covenants, terms or conditions contained in the Note, this Instrument or other loan documents whether by Lender, by operation of law or otherwise, (f) the invalidity or unenforceability of any of the terms or provisions of the Note, this Instrument or other loan documents, (g) any exculpatory provision contained in the Note, this Instrument or other loan documents limiting Lender recourse to property encumbered by this Instrument or to any other security or limiting Lender rights to a deficiency judgment against Borrower, (h) any applicable statute of limitations, (i) the sale or assignment of the Note or this Instrument, (j) the sale, transfer or conveyance of all or part of the Property, (k) the dissolution or liquidation of Borrower, (l) the death or legal incapacity of Borrower, (m) the release or discharge, in whole or in part, of Borrower in any bankruptcy, insolvency, reorganization, arrangement, readjustment, composition, liquidation or similar proceeding, or (n) any other circumstances which might otherwise constitute a legal or equitable release or discharge, in whole or in part, of Borrower under the Note or this Instrument.

The foregoing indemnity shall be in addition to any and all other obligations and liabilities Borrower may have to Lender at common law.

30. **APPRAISAL OF THE PROPERTY.** If an Event of Default, as defined in the Loan Agreement, has occurred and Lender reasonably believes that the value of the premises has reduced, Lender shall have the right to request an appraisal of the real property compiled by an appraiser selected by the Lender. Borrower shall reimburse Lender or any such appraisal. Borrower shall cooperate with Lender's appraiser in providing reasonable access to the real property and such other information as Lender and/or such appraiser reasonably requires for purposes of completing the appraisal. Any such appraisal shall be of the property of Borrower. Moreover, upon the occurrence and during the continuance of an Event of Default, if any such appraisal demonstrates that there has been a material decline in the value of the Property such that the loan to value ratio (as defined below) no longer meets Lender's underwriting requirements, Lender reserves the right to demand from Borrower a principal reduction payment in an amount sufficient to reduce the loan to value ratio to meet such guidelines.

NOT OFFICIAL!
[Signature page immediately follows.]

**This Document is the property of
the Lake County Recorder!**



IN WITNESS WHEREOF, Borrower has executed this Instrument.

SERRA WORKS OF SCHERERVILLE JLR, L.L.C.,
a Michigan limited liability company.

BY: _____
JOSEPH O. SERRA, Manager

STATE OF Michigan
COUNTY OF Genesee

§
§

Before me, the undersigned Notary Public, personally appeared **JOSEPH O. SERRA**, the Manager of **SERRA WORKS OF SCHERERVILLE JLR, L.L.C.**, a Michigan limited liability company, for and on its behalf, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE THIS 25 DAY OF June, 2019.

(SEAL)

My Commission Expires: 12-26-2025

Lynn Wolverton
NOTARY PUBLIC

LYNN WOLVERTON
Notary Public, State of Michigan
County of Saginaw
My Commission Expires Dec. 26, 2025
Acting in the County of Genesee

AFFIRMATION BY PREPARER

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.

David M. Dirr

THIS INSTRUMENT WAS PREPARED BY:

DAVID M. DIRR
Dressman Benzinger LaVelle psc
Attorneys-at-Law
207 Thomas More Parkway
Crestview Hills, KY 41017-2596
(859) 341-1881

EXHIBIT A
(Legal Description)

PARCEL 1: LOT 1, IN BURR STREET CROSSING, AN ADDITION TO THE TOWN OF SCHERERVILLE, AS PER PLAT THEREOF, RECORDED IN PLAT BOOK 100, PAGE 93, IN THE OFFICE OF THE RECORDER OF LAKE COUNTY, INDIANA.

TOGETHER WITH AN INGRESS/EGRESS EASEMENT FOR THE PURPOSE OF VEHICULAR AND PEDESTRIAN TRAFFIC THROUGH AND ACROSS SUCH ROADS ESTABLISHED IN DECLARATION OF PROTECTIVE COVENANTS, RESTRICTIONS AND EASEMENTS DATED JANUARY 18, 2007 AND RECORDED FEBRUARY 9, 2007 AS DOCUMENT NO. 2007012271, MADE BY MID-AMBURR/30, LLC, AN ILLINOIS LIMITED LIABILITY COMPANY AND BP PRODUCTS NORTH AMERICA, INC., A MARYLAND CORPORATION.

Tax I.D. no. 45-11-24-177-061.000-036

PARCEL 2: LOT 3, IN BURR STREET CROSSING, AN ADDITION TO THE TOWN OF SCHERERVILLE, AS PER PLAT THEREOF, RECORDED IN PLAT BOOK 100, PAGE 93, IN THE OFFICE OF THE RECORDER OF LAKE COUNTY, INDIANA.

TOGETHER WITH AN INGRESS/EGRESS EASEMENT FOR THE PURPOSE OF VEHICULAR AND PEDESTRIAN TRAFFIC THROUGH AND ACROSS SUCH ROADS ESTABLISHED IN DECLARATION OF PROTECTIVE COVENANTS, RESTRICTIONS AND EASEMENTS DATED JANUARY 18, 2007 AND RECORDED FEBRUARY 9, 2007 AS DOCUMENT NO. 2007012271, MADE BY MID-AMBURR/30, LLC, AN ILLINOIS LIMITED LIABILITY COMPANY AND BP PRODUCTS NORTH AMERICA, INC., A MARYLAND CORPORATION.

Tax I.D. no. 45-11-24-103-010.000-036

