



TOWN OF FRANKLIN

RESOLUTION 17 - 41

Chapter 61A – Non-exercise of 1st Refusal Option – 114.473 Acres located at 215 Prospect Street

WHEREAS, The Town has been notified by Attorney for the owner of Chapter 61A land at 215 Prospect Street, Parcel No. 325-003-000-000, Title reference: Norfolk Registry of Deeds Book 11712 Page 405, of the owner's intent to convert the property to other use.

WHEREAS, the Town has 120 days to exercise its first refusal option; and

WHEREAS, the Town Council, after consideration, does not wish to exercise said option to acquire this parcel of land.

BE IT RESOLVED THAT THE TOWN OF FRANKLIN, acting by and through the Town Council and pursuant to Section 14, MGL Chapter 61A, hereby declares that it will not exercise the first refusal option on the parcel of land at 215 Prospect Street containing 114.473 acres of land known as Assessors' Parcel ID No.: 325-003-000-000, Title reference: Norfolk Registry of Deeds Book 11712 Page 405.

This resolution shall become effective according to the provisions of the Town of Franklin Home Rule Charter.

DATED: _____ **2017**

VOTED: _____

UNANIMOUSLY: _____

A TRUE RECORD ATTEST:

YES: ____ **NO:** ____

ABSTAIN: ____ **ABSENT:** ____

Teresa M. Burr
Town Clerk

Judith Pond Pfeffer, Clerk
Franklin Town Council



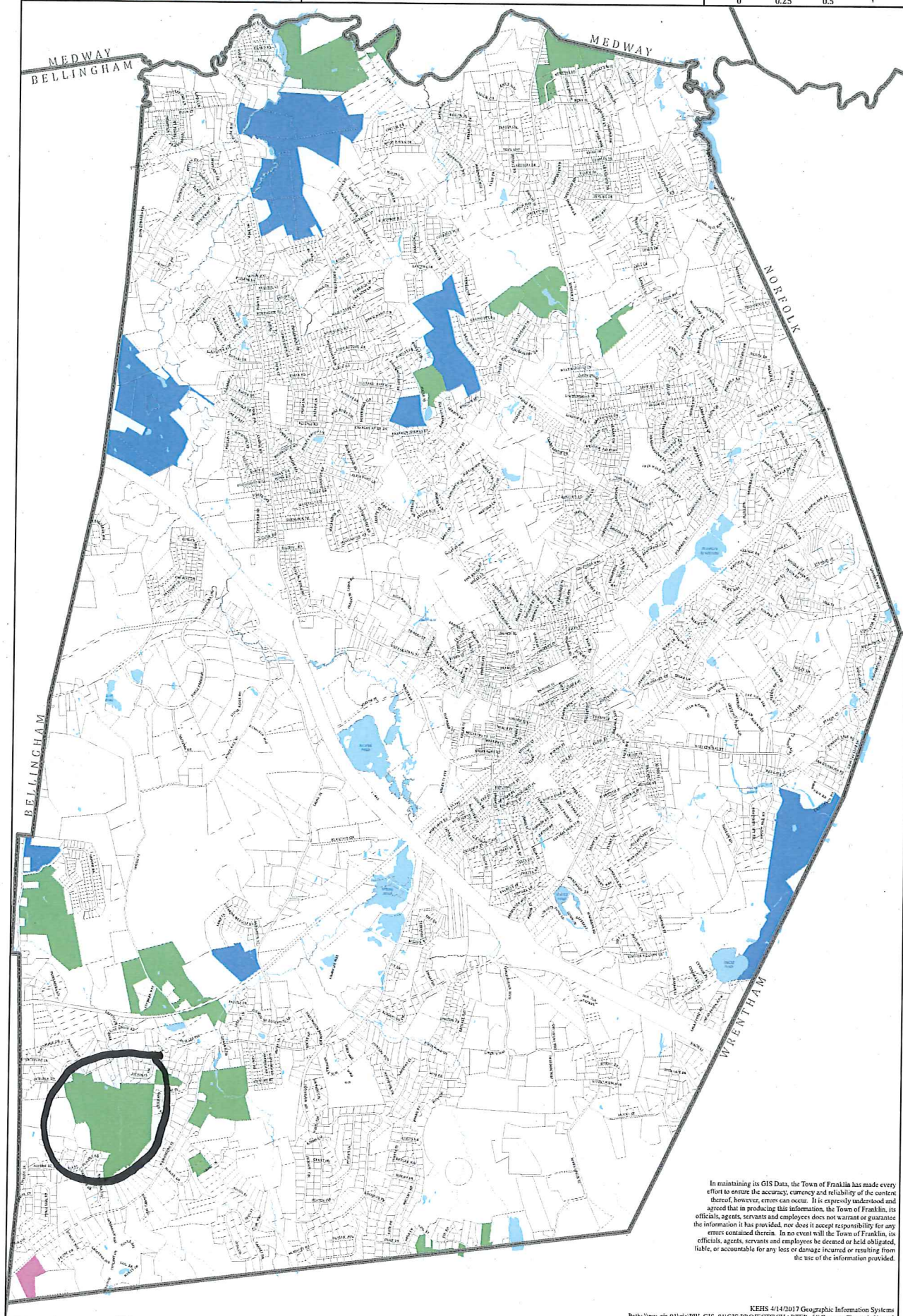
Franklin

MASSACHUSETTS

- Chapter 61
- Chapter 61A
- Chapter 61B
- Parcel Line

- Water
- Municipal Boundary

0 0.25 0.5
Kilometers
0 0.25 0.5
Miles



In maintaining its GIS Data, the Town of Franklin has made every effort to ensure the accuracy, currency and reliability of the content thereof, however, errors can occur. It is expressly understood and agreed that in producing this information, the Town of Franklin, its officials, agents, servants and employees does not warrant or guarantee the information it has provided, nor does it accept responsibility for any errors contained therein. In no event will the Town of Franklin, its officials, agents, servants and employees be deemed or held obligated, liable, or accountable for any loss or damage incurred or resulting from the use of the information provided.



Rubenstein & Associates

10 Speen Street, First Floor
Framingham, MA 01701
Telephone 508-969-9988
Facsimile 508-969-5138

Andrew Rubenstein
Andrew@raalaw.com

June 16, 2017

Jeff Nutting
Town Administrator
c/o Town Clerk
Town of Franklin
355 East Central Street
Franklin, MA 02038

RECEIVED
JUN 20 2017
TOWN ADMINISTRATOR
TOWN OF FRANKLIN

Re: 215 Prospect Street Franklin, MA
Parcel No. 325-003-000-000
Request for Waiver of Right of
First Refusal and Release of
Agricultural Tax Lien

NOTICE OF INTENT TO SELL FOR OTHER USE

Dear Mr. Nutting:

I represent the Schmidt's Farm Inc. which owns the property located at 215 Prospect Street, Franklin, MA. The Corporation is now in the process of selling the property to a third party and is requesting a Waiver of the Right of First Refusal and a Release of Agricultural Tax Lien from the Town of Franklin in order to clear the title in connection with the sale. The property being conveyed is known as 215 Prospect Street, Franklin, MA and identified as Parcel No. 325-003-000-000. The parcel contains approximately 14.473 acres according to the Assessor's records. A copy of the Assessor's plan is attached for your file. The purchaser intends to use the property for building lots for the construction of single family homes. An original copy of the Purchase and Sale Agreement for the property is attached for your file.

The address and telephone number of the landowner is:

Schmidt Farm, Inc.
215 Prospect Street
Franklin, MA 02038
Tel: 508 369 1642

The address and telephone number of the landowner's attorney is:

Andrew M. Rubenstein, Esq.
Rubenstein and Associates
10 Speen Street, First Floor
Framingham, MA 01701
508-969-9988
508-969-5138 fax
andrew@raalaw.com

Please feel free to contact me with any additional questions.

Very truly yours,



Andrew M. Rubenstein, Esq.

CC: Franklin Town Council c/o Franklin Town Clerk
CC: Franklin Board of Assessors
CC: Franklin Planning Board
CC: Franklin Conservation Commission
CC: State Forester c/o Commission of the Department of Conservation and Recreation

**PURCHASE AND SALE AGREEMENT
215 PROSPECT STREET
FRANKLIN, MA**

This 15th day of June, 2017 ("Effective Date").

1. PARTIES AND MAILING ADDRESSES

SCHMIDT'S FARM INC. of 215 Prospect Street, hereinafter called the SELLER, agrees to SELL and **MADDI NORTH STREET DEVELOPMENT, LLC OR ITS ASSIGNEE**, of PO Box 411 Franklin, MA 02038 hereinafter called the BUYER, agrees to BUY, upon the terms hereinafter set forth;

2. DESCRIPTION/PROPERTY

The property includes one (1) parcel owned by the SELLER, consisting of 114.47 acres located at 215 Prospect Street, Franklin, MA per the deed recorded at the Norfolk County Registry of Deeds at Book 11712 Page 405 (the "PROPERTY").

The BUYER is purchasing the Property for a new residential subdivision to be approved and fully permitted for the development and construction of sixty (60) for-sale, four-bedroom single family homes in a residential community with all applicable site infrastructure, public water, private septic, gas and electric utilities, and rights of way pursuant to the existing Town of Franklin Zoning By-Laws (the "APPROVED HOMES").

Buyer agrees that Seller will retain one (1) lot in the new subdivision to be at least 1.5 acres in size, (the "Retained Lot"), in the general area of Lot 1 on the Conceptual Subdivision Plan, attached hereto. The exact location and size of the Retained Lot to be determined by BUYER based on infrastructure, area needed for other lots, drainage, costs, aesthetics and changes suggested by the Town of Franklin, including the Planning Board, to the proposed subdivision plan, provided however that the Retained Lot shall be at least 1.5 acres in size.

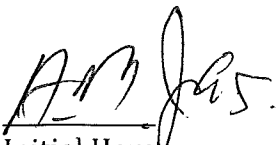
3. PURCHASE AND SALE OF PROPERTY

Subject to the terms and conditions herein contained SELLER agrees to sell and BUYER agrees to purchase the Property and all rights, appurtenant thereto for utilities, ingress and egress or other appurtenant rights.

The Property shall include all privileges, rights, easements and appurtenances belonging to such land and right, title and interest (if any) of SELLER in and to any property, easements, streets, alleys, passages or other rights-of-way or appurtenances included in, adjacent to or used in connection with such land, the right to access abutting public roads for all purposes for which public ways may be used in Massachusetts including without limitation the right to pass and repass and install utilities, and all right, title and interest (if any) of SELLER in all mineral rights appurtenant to such land.

4. TITLE AND SURVEY

- (a) Subject to the rights of the Buyer regarding title and survey issues set forth below, said Property are to be conveyed by good and sufficient quitclaim deed running to the BUYER, or to the


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nominee designated by the BUYER by written notice to the SELLER at least seven (7) days before the deed is to be delivered as herein provided, and said deed shall convey a good and clear record and marketable and insurable title thereto, free from encumbrances, except:

- (1) Provisions of existing building and zoning laws;
 - (2) Such taxes for the then current year as are not due and payable on the date of the delivery of such deed;
 - (3) Any liens for municipal betterments assessed after the date of the closing and recording of the deed;
 - (4) Easements, restrictions and reservations of record, if any, but subject to the provisions below, so long as the same do not interfere with the Buyer's intended use of the Property;
- (b) Title Commitment. BUYER shall at BUYER's sole expense, obtain an ALTA Title Insurance Commitment showing all matters affecting title to the Property (the "Title Commitment"). BUYER shall furnish to SELLER a copy of the Title Commitment and any amendments to the Title Commitment promptly upon BUYER's receipt of the same. Buyer shall not be required to expend any funds for Survey, title or due diligence until after the Town of Franklin's right of first refusal has been extinguished to Buyer's reasonable satisfaction.
- (c) Survey. BUYER shall, at BUYER's sole expense, employ an Engineer, to prepare a survey of the Property (the "Survey"). BUYER shall furnish to SELLER a copy of the Survey and any amendments to the Survey promptly upon BUYER's receipt of the same.
- (d) BUYER's Title Objections. BUYER may furnish to SELLER a written statement specifically identifying any liens, encumbrances, encroachments or other objections to the title to the Property, the ("BUYER's Title Notice"). A copy of the Title Commitment and the Survey shall accompany BUYER's Title Notice if the same have not been previously provided to SELLER. If SELLER does not receive BUYER's Title Notice on or before 5:00 p.m. on the date that is the greater of one hundred eighty (180) days from the Effective Date or ninety (90) days from the date of Buyer's receipt of the 61A Termination Notice, as defined herein, then BUYER shall be deemed to have waived BUYER's right to object to matters of title or matters of survey that were of record or in existence on the Effective Date.
- (e) SELLER's Obligation to Cure. Prior to the Closing, SELLER shall remove those objections listed on BUYER's Title Notice that (i) are mortgages or other liens created by, through or under SELLER which secure solely the payment of a stated indebtedness, (ii) were voluntarily placed on the record title by SELLER after the Effective Date.
- (f) SELLER's Election to Cure. If objections appear on BUYER's Title Notice that SELLER is not obligated to remove pursuant to Section 4(e), then SELLER, within fourteen (14) days of SELLER's receipt of BUYER's Title Notice, shall send written notice to BUYER indicating which, if any, of the remaining objections SELLER has elected to eliminate prior to the Closing ("SELLER's Title Notice"). BUYER, within fourteen (14) days of BUYER's receipt of SELLER's Title Notice, shall either (i) elect to terminate this Agreement, in which case the


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Deposit shall be refunded to BUYER, or (ii) elect to proceed subject to the title and survey matters SELLER has elected not to remove without any abatement of the Purchase Price. ("Buyer's title election reply"). If SELLER fails to send SELLER's Title Notice within Seller's said fourteen (14) day period, then SELLER shall be deemed to have elected to terminate the Agreement and return the BUYER's Deposit with no further recourse to either party. If BUYER fails to make BUYER's title election reply within said fourteen (14) day period, then BUYER shall be deemed to have elected clause (i) above.

- (g) New Title and Survey Matters. BUYER shall have the right to object to any title matters or survey matters that first arise after the effective date of the Title Commitment or the Survey, as the case may be, in which case said matters shall be resolved in the manner set forth in this Section and, if required, the Closing Date shall be extended to provide the parties with the time periods set forth above.

5. PURCHASE PRICE

The agreed purchase price for said Property is **Five Million Dollars (\$5,000,000.00)**, of which

\$ 5,000.00	Initial Deposit has been to Rubenstein & Associates, escrow agent in a non-interest bearing IOLTA.
\$20,000.00	Deposit has been paid this day to Rubenstein & Associates, escrow agent in a non-interest bearing IOLTA.
\$3,475,000.00	are to be paid at the time of delivery of the deed in cash, or by certified, cashier's, treasurer's or bank check(s), via wire transfer or Attorney IOLTA check drawn from a Boston clearing house bank, to SELLER or SELLER's designee by written notice to conveyance attorney, subject to the provisions of Section 8.
\$1,500,000.00	in the form of a Note Payable attached as Addendum A , herein after referred to as "SELLER FINANCING" as further defined in Section 11
\$5,000,000.00	TOTAL

6. DOCUMENTS

Within five (5) days after the Effective Date of this Agreement or as soon as practically possible, SELLER shall deliver to BUYER the "Due Diligence Information" which shall consist of all instruments, contracts, licenses, permits, reports, documents and agreements which affect the ownership, operation, or use of the Property, including, but not limited to, (i) any title information, policies, reports, a copy of the deed(s), any and all leases, security deposit agreements, service contracts, utility agreements, construction contracts, licenses, permits (including water, waste water and storage tanks, if any), (ii) all development permits applicable to the Property, (iii) all development plans, plats, architectural drawings, plans, specifications, renderings, floor plans, engineering plans, (iv) any environmental and toxic waste reports, studies, and information (including wetlands and endangered species habitat located on the Property and any Phase I environmental report with respect to the Property that has been completed by a reputable


Initial Here

environmental consultant within the last thirty-six (36) months), (v) surveys, site plans, soil and substrata studies, construction plans or contracts, utility schemes, and landscape plans available to SELLER covering, affecting, or relating to any of the Property, and (vi) any other documents that pertain to the Property and the BUYER's plans for the Property, reasonably requested by the BUYER.

7. INVESTIGATIONS; ENVIRONMENTAL MATTERS

- A. Subject to the terms of this Agreement, BUYER may perform a due diligence investigation of the Property, and in this regard BUYER shall have the full opportunity to (i) inspect, take measurements, conduct surveys and perform tests, (ii) show the Property, to contractors, architects, surveyors, engineers, insurers, banks and other lenders and investors, and (iii) make legal, financial, zoning, engineering, accounting and other reviews or investigations of the Property. Provided that BUYER first provides written notice to SELLER, BUYER may perform soil and groundwater testing for the presence of Hazardous Materials. As used in this Agreement, "Hazardous Materials" means all chemicals, materials, substances, pollutants, contaminants and wastes, including, without limitation, oil, petroleum, petroleum containing substances, PCBs, asbestos containing materials, mold, mildew, fungus, microbial contaminants or pathogenic organisms or any other chemicals, materials, substances, pollutants, contaminants or wastes regulated under the Comprehensive Environmental Response Compensation and Liability Act of 1980, the Superfund Amendments and Reauthorization Act, the Resource Conservation and Recovery Act, Chapter 21E and Chapter 21C of the Massachusetts General Laws, all regulations promulgated under the foregoing and any other federal, state or local law, ordinance, bylaw or regulation applicable to the Property. BUYER shall, immediately at the conclusion of BUYER's investigation of the Property, at BUYER's sole cost and expense, restore the same to as near the condition which existed immediately prior to BUYER's investigations as is reasonably possible, including replacing paving and landscaping. BUYER, its employees, agents, contractors, subcontractors, consultants and other representatives ("BUYER's Representatives") shall take all necessary precautions to minimize the impact of BUYER's investigations on the Property.
- B. If BUYER's investigations of the Property are not satisfactory to BUYER, in BUYER's sole and absolute discretion, then BUYER may terminate this Agreement by written notice delivered to SELLER not later than the day that is the greater of one hundred eighty (180) days from the Effective Date or ninety (90) days from the BUYER's receipt of the 61A Termination Notice from the Seller (the "Due Diligence End Date"). If BUYER shall not have terminated this Agreement by written notice delivered to SELLER on or before 5:00 p.m. on the Due Diligence End Date, then BUYER shall have no right to terminate this Agreement pursuant to this Section. If BUYER terminates this Agreement as set forth in this Section, then the Deposit shall be refunded to BUYER.

8. TOWN OF FRANKLIN 61A RIGHT OF FIRST REFUSAL

Within 5 days of the Effective Date, SELLER shall take all steps necessary under the State of Massachusetts General Law to notify the Town of Franklin of this Agreement and SELLER's intent to sell the Property; request the Property's withdrawal from the 61A program and revert to residential zoning; and begin the Town's 120-day right of first refusal period (the "61A PERIOD"). SELLER shall have one hundred twenty-five (125) days from the Effective Date to obtain the Town of Franklin's refusal to purchase the Property under its right of first refusal according to Massachusetts General Law. SELLER


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shall take all reasonable steps to cause the termination of the Town of Franklin's right of first refusal as contained in Ch. 61A, shall copy BUYER on all correspondence with the Town of Franklin and shall deliver written notice of the termination of the Town of Franklin's right of first refusal (the "61A Termination Notice" to the Buyer as provided in the notice section of this Agreement.). If SELLER fails to obtain the Town of Franklin's refusal, then BUYER shall have the right to terminate this Agreement with no recourse to either Party pursuant to this Section, and the Deposit shall be refunded to BUYER.

BUYER shall pay up to a maximum of \$40,000 for the 61A tax payment to the Town of Franklin in order to transfer the property from agricultural to residential zoning. Said payment shall be made at the Closing on the Property. The Seller shall be responsible for any sum owed to the town of Franklin for the 61A tax payment in excess of said \$40,000 payment to be made by the Buyer.

9. APPROVAL PERIOD

Following the 61A PERIOD, BUYER shall pursue, at BUYER's cost, all legal, engineering, percolation tests, permits and approvals, and any other processes that are required for the development and construction of at least sixty (60) APPROVED HOMES with all applicable site infrastructure and public utilities pursuant to the Town of Franklin Zoning By-Laws. BUYER shall seek to receive all permits and approvals necessary beyond any/all applicable appeal periods, utilizing every diligent and reasonable effort to secure said permits and approvals within an eighteen (18) month period following the 61A PERIOD ("Approval Period") as described in Section 8. If after using reasonable efforts and diligently pursuing the permits and approvals, the BUYER has made significant progress, but has not secured the permits and approvals from all governing bodies in accordance with the terms of this Agreement, the BUYER and SELLER shall agree to extend the Approval Period for up to three (3) additional ninety (90) day extensions. All deposits and all Approval Period Extension Payments, if any, shall be applied to the Purchase Price should BUYER receive all permits and approvals to construct the APPROVED HOMES as contemplated in this Agreement. To the extent a third party has appealed any approval received by the BUYER for the Property or if there is any litigation commenced on the Property, the Parties mutually agree to extend the Approval Period, Closing and deadlines related thereto until the final resolution of all litigation or appeals having been resolved to Buyer's satisfaction to a final approval or judgment, with all appeal periods having expired.

The BUYER shall provide to SELLER copies of all correspondence and other materials submitted to the Town of Franklin and SELLER shall agree to sign any necessary permits or documents, as that may be required from the SELLER of the property. All permits, plans, engineering, and materials associated with the permitting of the property as contemplated herein shall be assigned to SELLER should the BUYER be unable to obtain the sixty (60) Approved Home permits and BUYER opts to terminate this Agreement.

10. CLOSING, CLOSING DOCUMENTS, CONDITIONS AND DELIVERABLES

- (a) Following the expiration of the Approval Period, with any extensions thereon, the consummation of the transaction contemplated by this Agreement (the "Closing") shall occur at 10:00 a.m. at the office of the BUYER's attorney, or, at BUYER's option, at the office of counsel to the party providing the BUYER with financing, or, such other location as the parties may agree, on a date no more than sixty (60) days after the expiration of the Financing Approval Period, as may be extended by the parties. The Closing date shall be established by a written notice from BUYER to SELLER which shall establish a Closing date not sooner than ten (10) days after the date of the notice and no later than sixty (60) days after the expiration of the Financing Approval Period, as


Initial Here

may be extended by the parties.

- (b) SELLER's Closing Deliverables. At the Closing, SELLER shall deliver, or cause to be delivered at SELLER's expense, each of the following items to BUYER:
- (1) A duly executed and acknowledged Deed conveying the Property to BUYER or BUYER's nominee, and the Deed shall provide that SELLER is not taxed as a corporation for federal income tax purposes, or if SELLER is taxed as a corporation for federal income tax purposes, then the Deed shall provide that the sale of the Property does not constitute the sale of all or substantially all of the SELLER's Massachusetts assets, or if SELLER is unable to make such statement then SELLER shall deliver a corporate excise tax lien waiver;
 - (2) A duly executed certificate of non-foreign status from SELLER in the form mutually agreed upon;
 - (3) Customary affidavits sufficient for BUYER's title insurer to delete any exceptions for parties in possession and mechanic's or material men's liens from BUYER's title insurance policy;
 - (4) Evidence reasonably satisfactory to BUYER and BUYER's title insurer of SELLER's authority to convey the Property pursuant to this Agreement in form and substance reasonably satisfactory to BUYER and BUYER's title insurer;
 - (5) Certificates of legal existence and good standing for SELLER;
 - (6) A counterpart original of the Closing Statement setting forth the Purchase Price and the adjustments;
 - (7) Key to the House Property; and
 - (8) A certificate that all representations and warranties of the SELLER remain true and correct as of the Closing.
- (c) BUYER's Closing Deliverables. On the Closing Date, BUYER shall deliver, or cause to be delivered at BUYER's expense, each of the following to SELLER:
- (1) The Purchase Price as reflected on the Closing Statement;
 - (2) The note and mortgage as set forth in Section 11;
 - (3) A counterpart original of the Closing Statement setting forth the Purchase Price and the adjustments;
 - (4) Such other instruments and certificates as SELLER may reasonably request to effectuate the transaction contemplated by this Agreement without additional liability to BUYER, including, without limitation, evidence reasonably satisfactory to SELLER of BUYER's authority to purchase the Property.


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- (d) Conditions to BUYER's Obligation to Close. The obligation of BUYER to consummate the transaction contemplated by this Agreement is conditioned upon (i) SELLER having performed SELLER's obligations under this Agreement and having tendered all deliverables listed above to be made on or before the Closing, including, without limitation, the Deed to the Property and (ii) no material adverse change having occurred to the Property.
- (e) Conditions to SELLER's Obligation to Close. The obligation of SELLER to consummate the transaction contemplated by this Agreement is conditioned upon BUYER having performed BUYER's obligations under this Agreement and having tendered all deliverables listed above to be made on or before Closing, including, without limitation, payment of the Purchase Price.

11. SELLER FINANCING

At the Closing, BUYER agrees to execute a Note and Mortgage for the benefit of the SELLER or SELLER's nominee for \$1,500,000 per **Addendum A** ("SELLER FINANCING"). SELLER agrees that SELLER FINANCING shall at all times be subordinate to BUYER's financing for the Property and construction of the APPROVED HOMES and loans for the construction of improvements upon the Property and any mortgage to secure such financing. Seller further agrees to sign any agreement required by a lender providing such financing to effect such subordination. The provisions of this paragraph shall survive the Closing.


12. INTENTIONALLY DELETED

13. EXTENSION TO PERFECT TITLE

Except as otherwise provided herein, if the SELLER shall be unable to give title to make conveyance, or to deliver possession of the Property, all as herein stipulated, or if at the time of the delivery of the deed the Property do not conform with the provisions hereof, the SELLER shall use reasonable efforts to remove any defects in title, or to deliver possession as provided herein, or to make the said Property conform to the provisions hereof, as the case may be, and thereupon the time for performance hereof, as specified in Paragraph 10, as may have been extended there under, shall be extended for a period of up to sixty (60) days as specified in a written notice of SELLER to BUYER. Other than for construction and improvement related items, reasonable efforts shall not require the SELLER to expend more than \$100,000.00, exclusive of tax liens, voluntary liens, sums payable by insurance company, or mortgage loans and or attachments of record.

14. FAILURE TO PERFECT TITLE

If the SELLER elects to not expend more than the amount in Paragraph 13 above to perfect or cure any issues contemplated by Paragraph 4, or if at the expiration of the extended time, as aforementioned, the SELLER shall have failed so to remove any defects in title, or deliver possession, or as the case may be, all as herein agreed, or if at any time during the period of this Agreement or any extension thereof, the holder of a mortgage on said Property shall refuse to permit the insurance proceeds, if any, to be used for such purposes, then all obligations of the parties hereto shall cease and this Agreement shall be void without recourse to the parties hereto and all deposits shall be refunded to BUYER, unless BUYER elects to proceed with the purchase of the Property as set forth in Section 4(f) or 4(g).


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15. ACCEPTANCE

The acceptance and recording of a deed by the BUYER or its nominee as the case may be, shall be deemed to be a full performance and discharge of every Agreement and obligation herein contained or expressed, except such as are, by the terms hereof, to be performed after the delivery of said deed, including without limitations the provisions of Paragraph 31, or which expressly survive the Closing.

16. USE OF MONEY TO CLEAR TITLE

To enable the SELLER to make conveyance as herein provided, the SELLER may, at the time of delivery of the deed, use the purchase money or any portion thereof to clear the title of any or all encumbrances or interests, provided that all instruments so procured are recorded simultaneously with the delivery of said deed, except that for institutional mortgages that are satisfied in full pursuant to a written payoff statements, an instrument may be recorded as soon as practical after recording of the deed and as is in accordance with customary conveyance practice.

17. INSURANCE

Until the delivery of the deed, the SELLER shall maintain insurance on said Property as presently insured. Risk of loss shall remain with the SELLER until the Deed is recorded with the Norfolk County Registry of Deeds.

18. ADJUSTMENTS

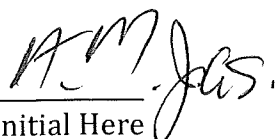
Real Estate Taxes for the then current fiscal year, shall be apportioned, as of the day of performance of this Agreement and the net amount thereof shall be added to or deducted from, as the case may be, the purchase price payable by the BUYER at the time of delivery of the deed.

19. ADJUSTMENT OF UNASSESSED AND ABATED TAXES

If the amount of said taxes is not known at the time of the delivery of the deed, they shall be apportioned on the basis of the taxes assessed for the preceding fiscal year, with a reapportionment as soon as the new tax rate and valuation can be ascertained; and, if the taxes which are to be apportioned shall thereafter be reduced by abatement, the amount of such abatement, less the reasonable cost of obtaining the same, shall be apportioned between the parties, provided that neither party shall be obligated to institute or prosecute proceedings for an abatement unless herein otherwise agreed.

20. BROKER'S FEE

The BUYER and SELLER represent and warrant to the other that each has not contacted any real estate broker(s) in connection with this transaction and were not directed to the other as a result of any services or facilities of any real estate broker. BUYER agrees to indemnify against and to hold the SELLER harmless from any claim, loss, damage, cost or liability for any brokerage commission or fee which may be asserted against SELLER in connection with an allegation that BUYER engaged a real estate broker. SELLER agrees to indemnify against and to hold the BUYER harmless from any claim, loss, damage, cost or liability for any brokerage commission or fee which may be asserted against BUYER in connection with an allegation that SELLER engaged a real estate broker. The provisions of this Paragraph shall survive delivery of the deed.


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21. DEPOSIT

The Deposit will be held in an insured, non- interest-bearing account by SELLER's attorney Rubenstein and Associates P.C., 10 Speen Street, First Floor, Framingham, MA (the "Escrow Agent").

The Escrow Agent shall not be liable for any action or non-action taken in good faith in connection with the performance of the Escrow Agent's duties under this Agreement, but the Escrow Agent shall be liable for the Escrow Agent's own gross negligence or willful misconduct. Notwithstanding anything contained in this Agreement to the contrary, should any dispute arise with respect to the delivery of the Deposit or the Final Payment, or ownership or right to possession of the Deposit or the Final Payment, then the Escrow Agent shall have no liability to any party to this Agreement for retaining dominion and control over such amount until such dispute shall have been settled:

- (a) by written mutual agreement between the parties, or
- (b) by final order, decree or judgment by a court of competent jurisdiction in Norfolk County, Massachusetts (and no such order, decree or judgment shall be deemed to be "final" unless and until the time of the appeal has expired and no appeal has been perfected);

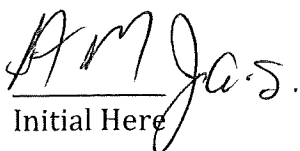
in which case the Escrow Agent shall make payment of such amount as the parties may have mutually agreed in writing or in accordance with such final order, decree or judgment. In no event shall the Escrow Agent be under any duty whatsoever to institute or defend any such proceeding. The Escrow Agent has acknowledged agreement to these provisions by signing in the place indicated on the signature page of this Agreement.

24. LIABILITY OF TRUSTEE, SHAREHOLDER, BENEFICIARY, ETC.

If the SELLER or BUYER executes this Agreement in a representative or fiduciary capacity, only the principal or the estate represented shall be bound, and neither the SELLER or BUYER so executing, nor any shareholder or beneficiary of any trust, shall be personally liable for any obligation, express or implied, hereunder.

25. WARRANTIES AND REPRESENTATIONS

- (a) The BUYER acknowledges that the BUYER has not been influenced to enter into this transaction nor has BUYER or its affiliates relied upon any warranties and representations not set forth and incorporated in this Agreement.
- (b) SELLER's Representations and Warranties. SELLER represents and warrants to BUYER as of the execution of this Agreement as follows:
 - 1. Ability to Perform. SELLER has legal authority to execute, deliver and carry out the terms and provisions of this Agreement. The person signing this Agreement on behalf of SELLER is authorized to do so;
 - 2. SELLER is a corporation duly organized, validly existing and in good standing under the laws of the Commonwealth of Massachusetts, registered to do business in and are in good standing under the laws of the Commonwealth of Massachusetts and have all necessary


Initial Here

power and authority to execute and deliver this Agreement and to perform all of its obligations hereunder. This Agreement has been duly authorized by all requisite action on the part of SELLER and represents the valid and binding obligation of SELLER enforceable against SELLER in accordance with its terms. SELLER has full right, power and authority to sell the Property as herein contemplated without the consent or approval of any third party.

3. No Conflict. Neither the execution and delivery of this Agreement by SELLER, nor the performance of SELLER's obligations hereunder, will result in a breach, violation or default by SELLER of any provision of its organizational documents or any other document to which it is bound or to which its assets are subject;
4. Not a Foreign Person. SELLER is not a foreign person within the meaning of Section 1445(f)(3) of the Internal Revenue Code of 1986, as amended;
5. Litigation. SELLER has received no written notice of litigation affecting the Property or SELLER's ability to fulfill its obligations under this Agreement, nor has any such action been threatened in writing;
6. Insolvency/Bankruptcy. SELLER has not (i) commenced a voluntary case, or had entered against it a petition, for relief under the federal Bankruptcy Act or any similar petition, order or decree under the federal or state law or statute relative to bankruptcy, insolvency or other relief for debtors, or (ii) caused, suffered or consented to the appointment of a receiver, trustee, administrator, conservator, liquidator or similar functionary in any federal, state or foreign judicial or nonjudicial proceeding, to hold, administer and/or liquidate any of its assets;
7. No Condemnation. There are no pending or, to SELLER's knowledge, contemplated condemnation, eminent domain or similar proceedings with respect to all or any portion of the Real Property;
8. Mechanic's Liens. All bills and claims for labor performed and materials furnished to or for the benefit of SELLER with respect to the Property shall be paid in full by SELLER at or before the Closing Date;
9. Leases. There are no leases, licenses, occupancy agreements or other rental agreements (written or verbal) that grant any possessory interest in and to any portion of the Property, with the exception of the right of first refusal held by the Town of Franklin, as detailed in Paragraph 8 herein;
10. No Mortgage. With respect to the Property, there is no lender or other party having an interest in the Property that must consent to this Agreement or SELLER's performance under this Agreement;
11. Hazardous Materials. SELLER has no knowledge of any Hazardous Materials, as described in Section 7, during SELLER's ownership, which have been generated, stored, treated or disposed on or about the Property and SELLER has no knowledge of any substances or conditions in or on the Property which would support a claim or cause of

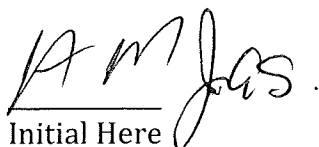

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action under a federal, state or local environmental statutes, regulations, ordinances or other environmental regulatory requirements;

12. Notices. SELLER has not received any written notices that remain outstanding or unresolved relating to (i) any violation of any laws, ordinances, bylaws or other governmental regulations applicable to the Property (ii) any pending or threatened condemnation proceedings regarding any portion of the Property or (iii) any proposed changes to the zoning bylaw affecting the Property; and
13. Sale Proceeds. The sale proceeds to be paid to SELLER at Closing are sufficient to obtain releases of any and all mortgages on the Property.
14. Financial Ability. SELLER has the financial ability to perform the SELLER's obligations under this Agreement.

(c) BUYER's Representations and Warranties. BUYER represents and warrants to SELLER as of the Effective Date as follows:

1. Ability To Perform. BUYER has the full power to execute, deliver and carry out the terms and provisions of this Agreement, BUYER has taken all necessary action to authorize the execution, delivery and performance of this Agreement and the person signing this Agreement on behalf of BUYER is authorized to do so; and
2. BUYER is a Massachusetts limited liability company duly organized, validly existing and in good standing under the laws of the Commonwealth of Massachusetts, is registered to do business in and is in good standing under the laws of the Commonwealth of Massachusetts and has all necessary power and authority to execute and deliver this Agreement and to perform all of its obligations hereunder. This Agreement has been duly authorized by all requisite action on the part of BUYER and represents the valid and binding obligation of BUYER enforceable against BUYER in accordance with its terms. BUYER has full right, power and authority to purchase the Property as herein contemplated without the consent or approval of any third party.
3. No Conflict. Neither the execution and delivery of this Agreement by BUYER, nor the performance of BUYER's obligations hereunder, will result in a breach, violation or default by BUYER of any provision of its organizational documents or any other document to which it is bound or to which its assets are subject.
4. No Impediments. There is no action, suit, arbitration, unsatisfied order or judgment, government investigation or proceeding pending against BUYER which, if adversely determined, could individually or in the aggregate materially interfere with the consummation of the transactions contemplated by this Agreement.
5. Insolvency/Bankruptcy. BUYER has not (i) commenced a voluntary case, or had entered against it a petition, for relief under the federal Bankruptcy Act or any similar petition, order or decree under the federal or state law or statute relative to bankruptcy, insolvency or other relief for debtors, or (ii) caused, suffered or consented to the appointment of a receiver, trustee, administrator, conservator, liquidator or similar functionary in any


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federal, state or foreign judicial or non-judicial proceeding, to hold, administer and/or liquidate any of its assets;

6. Financial Ability. BUYER has the financial ability to perform BUYER's obligations under this Agreement.

26. CONSTRUCTION OF AGREEMENT

This instrument, executed in multiple counterparts, is to be construed as a Massachusetts contract, is to take effect as a sealed instrument, sets forth the entire contract between the parties, is binding upon and endures to the benefit of the parties hereto and their respective heirs, devisees, executors, administrators, successors and assigns, and may be cancelled, modified or amended only by a written instrument executed by both the SELLER and the BUYER. If two or more persons are named herein as BUYER their obligations hereunder shall be joint and several. The captions and marginal notes are used only as a matter of convenience and are not to be considered a part of this Agreement or to be used in determining the intent of the parties to it.

27. FINANCING CONTINGENCY

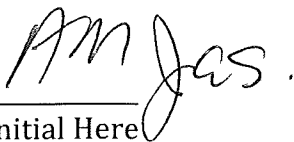
In order to help finance the acquisition of the Property, the BUYER shall apply for a conventional bank or other institutional mortgage loan of up to **\$3,500,000** at prevailing rates, terms and conditions. If, despite the BUYER'S diligent efforts, a commitment for such loan cannot be obtained on or before Sixty (60) days after the end of the Approval Period (the "Financing Approval Period"), the BUYER may terminate this agreement by written notice to the SELLER and/or the Broker(s), as agent(s) for the SELLER, prior to the expiration of such time, whereupon any payments made under this agreement shall be forthwith refunded and all other obligations of the parties hereto shall cease and this agreement shall be void without recourse to the parties hereto. BUYER need only apply to one lender to satisfy its obligation to seek financing.

28. NOTICES

Except as otherwise provided herein All notices or other communications required or provided to be sent by either party shall be in writing and shall be sent by: (i) by United States Postal Service, certified mail, return receipt requested, (ii) by any nationally known overnight delivery service for next day delivery, (iii) delivered in person or (iv) sent by telecopier or facsimile machine which automatically generates a transmission report that states the date and time of the transmission, the length of the document transmitted and the telephone number of the recipient's telecopier or facsimile machine (v) by e-mail (with a copy thereof sent in accordance with clause (i), (ii) or (iii) above). All notices shall be deemed to have been given upon receipt. All notices shall be addressed to the parties at the addresses below:

To SELLER(s):

Andrew M. Rubenstein, Esq.
Rubenstein and Associates
10 Speen Street, First Floor
Framingham, MA 01701
508-969-9988
508-969-5138 fax
andrew@raalaw.com


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To BUYER:

Anthony Marinella, Manager
Maddi North Street Development LLC
P.O. Box 411
Franklin, MA 02038
Office Tel. 508-520-0613
FAX 508-541-7443
Email: anth2424@gmail.com

With a Copy to:

Michael P. Doherty, Esq.
Doherty, Ciechanowski, Dugan & Cannon, P.C.
124 Grove Street, Suite 220
Franklin, MA 02038
Tel (508) 541-3000
Fax (508) 541-3008
Email: MPD@dcdclaw.com

To Escrow Agent:

Andrew M. Rubenstein, Esq.
Rubenstein and Associates
10 Speen Street, First Floor
Framingham, MA 01701
508-969-9988
508-969-5138 fax
andrew@raalaw.com

Any address or name specified above may be changed by notice given to the addressee by the other party in accordance with this Paragraph. The inability to deliver notice because of a changed address of which no notice was given as provided above, or because of rejection or other refusal to accept any notice, shall be deemed to be the receipt of the notice as of the date of such inability to deliver or rejection or refusal to accept. Any notice to be given by any party hereto may be given by the counsel for such party.

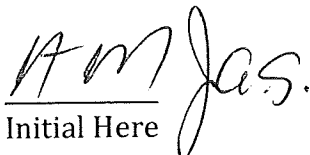
29. CONFIDENTIAL NATURE OF TRANSACTION

BUYER and SELLER acknowledge the confidential nature of this transaction and agree not to disclose the terms of the Agreement or share any of the Documents described herein to any other parties other than employees, agents, consultants, advisors, lenders, and lawyers, etc. working on behalf of the parties to this transaction.

30. DEFAULT

SELLER's Default. If SELLER shall default in the performance of SELLER's obligations under this Agreement, then BUYER may elect to either: (i) obtain specific performance against SELLER, and its reasonable costs and attorney's fees to obtain such specific performance; or (ii) terminate this Agreement by delivering written notice to SELLER, in which case the Deposit with all accrued interest shall be refunded to BUYER.

BUYER's Default. The parties acknowledge that in the event of BUYER's failure to pay the Purchase Price for the Property at the Closing it is impossible to compute exactly the damage that SELLER would suffer due to such failure. The parties have taken these facts into account in setting the amount of the Deposit and agree that (i) the Deposit is the best estimate of the damage SELLER would suffer, (ii) the Deposit represents damage and not a penalty against BUYER, and (iii) if this Agreement shall be terminated by SELLER by reason of BUYER's failure to pay the Purchase Price for the Property at the Closing, then the Escrow Agent shall pay the Deposit to SELLER as SELLER's full and liquidated damages in lieu of any additional recovery on account of BUYER's failure to pay the Purchase Price for the Property at the Closing.


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31. ADDITIONAL PROVISIONS

Eminent Domain. If, prior to the Closing, all or any portion of the Property, is taken by eminent domain (or is the subject of a pending taking which has not yet been consummated), then SELLER shall notify BUYER of such fact and BUYER shall have the right to terminate this Agreement by giving written notice to the other not later than thirty (30) days after the giving of SELLER's notice, in which case the Deposit, but no other payments, shall be refunded to BUYER. If BUYER does not elect to terminate this Agreement, then there shall be no abatement of the Purchase Price and SELLER shall assign to BUYER (without recourse) at the Closing the right of SELLER to the awards, if any, for the taking, and BUYER shall be entitled to receive and keep all awards for the taking of the Property.

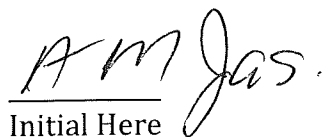
Binding Effect. This Agreement shall be binding upon and inure to the benefit of the parties hereto and to their respective heirs, legal representatives, successors and permitted assigns.

Entire Agreement; Modifications. This Agreement embodies the entire contract between the parties hereto with respect to the Property being purchased hereunder and the subject matter hereof and supersedes any and all prior negotiations, agreements and understandings, written or oral, formal or informal, all of which are deemed to be merged herein. No representations, statements, warranties, covenants, undertakings or promises of SELLER or any representative or agent of SELLER, whether oral, implied or otherwise and whether made before or after the date hereof, shall be considered a part hereof or binding upon SELLER unless set forth herein or agreed to by the parties in writing, nor shall any term or provision of this Agreement be supplemented, terminated, modified or waived except by a writing signed by both parties. No modification or amendment to this Agreement of any kind whatsoever, shall be made or claimed by SELLER or BUYER, and no notice of any extension, change, modification or amendment made or claimed by SELLER or BUYER shall have any force or effect whatsoever unless the same shall have been reduced to writing and fully signed by SELLER and BUYER.

Pronouns; Joint and Several Liability. All pronouns and nouns and any variations thereof shall be deemed to refer to the masculine, feminine or neuter, singular or plural, as the identity of the parties or the context may require.

Invalidity; Ambiguity. If any term or provision of this Agreement shall to any extent or for any reason be held invalid, illegal or unenforceable, such invalidity, illegality or unenforceability shall not affect any other term or provision of this Agreement, but the remainder of this Agreement and each term and provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law, subject to such modification hereof as may be necessitated by such invalidity. This Agreement is a fully negotiated document by and between SELLER and BUYER and their respective counsel, and no term or provision hereof that is ambiguous shall be interpreted against either party despite its counsel having initially drafted this Agreement and/or such specific term or provision.

Applicable Law. This Agreement shall be deemed made in Massachusetts and shall be governed by, and construed and enforced in accordance with, the internal laws of said state, without regard to principles of conflicts of law. Each of the parties submits to the exclusive jurisdiction of any state or federal court sitting in the county in which the Property is located in any action or proceeding arising out of or relating to this Assignment. Each of the parties waives any defense of inconvenient forum to the maintenance of any action or proceeding so brought and waives any bond, surety or other security that might be required of any party with respect thereto.


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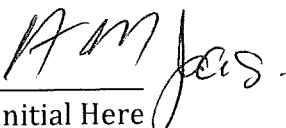
Waivers; Extensions. No waiver of any breach of any agreement or provision herein contained shall be deemed a waiver of any preceding or succeeding breach thereof or of any other agreement or provision herein contained. No extension of time for the performance of any obligation or act shall be deemed an extension of time for the performance of any other obligation or act.

Schedules and Exhibits. All schedules and exhibits attached to this Agreement are hereby incorporated by this reference into this Agreement.

Counterparts; Execution. This Agreement may be signed on separate signature pages and shall be effective once this Agreement has been signed by both of the parties and all signature pages have been attached to one another, it not being necessary for the parties to have physically signed the same signature pages of this Agreement. Such signatures may also be by facsimile or other electronic means, which the undersigned all specifically agree shall be deemed to be binding upon each of them and each other as if an original signature.

One or more of Seller's shareholders, officer and directors ("Schmidts") reside at the exiting home located at 215 Prospect Street, Franklin Massachusetts the ("House Property"). The Schmidts will enter into a Use and Occupancy Agreement with Buyer to be executed at the Closing to allow the Schmidts to reside at the House Property without payment for use and occupancy. In the event that the Sellers or the Schmidts enter into a contract with the Buyer for construction of a new home on the Retained Lot, the Seller and the Schmidts shall vacate the House Property on or before 4 days after the certificate of occupancy is issued by the Town of Franklin for the new home on the Retained Lot. In the event that the Schmidts do not enter into a contract with the Buyer for construction of a new home on the Retained Lot, the Schmidts will have the right to occupy the House Property for up to 150 days after closing. Thereafter, the Schmidts shall vacate the House Property, whereupon any remaining property or items left behind shall be deemed to have been abandoned and the Buyer may demolish the House Property and discard any personal property or other items left behind by the Schmidts. Notwithstanding anything herein to the contrary, the Seller agrees to remove all vehicles, farm equipment, personal property and other debris from the Property, including the House Property, prior to Closing. Following the Closing, but prior to the Schmidts' vacating the House Property, the Buyer shall be entitled, in Buyer's sole discretion, to demolish and remove from the House Property, every barn, outbuilding or other structure, excluding, however, the existing home, located on the House Property. In the event that the Schmidts fail to so vacate within the then applicable above stated period, the Schmidts shall pay all of the Buyer's costs, damages and legal fees incurred to remove the Schmidt's from the House Property and shall indemnify and hold the Buyer harmless for such damages and costs and shall pay a penalty of \$300 per day for each day the Schmidt's delay the Buyer's ability to take possession of and demolish the House Property.

The parties shall, within sixty (60) days following the expiration of the 61A Period, agree to the terms of a contract that either (a) Buyer will construct a home for the Schmidts on the Retained Lot or (b) that the Schmidts will construct the home on the Retained Lot. In the event that the Schmidts elect to construct the home on the Retained Lot, the contract will include detailed plans showing the location, elevation, materials and other details of the new home satisfactory to the Town of Franklin and the contract will also include that the Schmidts shall obtain Buyer's written approval of all modifications to the plans for the new home on the Retained Lot, its location on the Retained Lot and that the Schmidts will provide to Buyer written evidence that they and any of their subcontractors have and will maintain Workers compensation insurance and general liability insurance. In all events, the location, size, building materials and building style of the new home on the Retained Lot will be subject to the Buyer's prior written


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approval. In addition, the Schmidts and Seller shall self-insure their liability for any injury, loss, casualty or claim on the House Property. Further, in the event that the Schmidts and Seller do not enter into a contract with the Buyer to build a home on the Retained Lot, the Schmidts shall maintain insurance for the Retained Lot, until they obtain a Certificate of Occupancy, naming Buyer or Buyer's nominee as an additional insured, said insurance to be a minimum of \$1,000,000 per occurrence and \$2,000,000 in the aggregate of general liability insurance and fire, and casualty property coverage. In addition, for as long as the Schmidts reside at the House Property subsequent to Closing, the Seller shall indemnify and hold the Buyer harmless from and against all actions, suits, claims, liabilities, losses, damages, and costs, including reasonable attorney's fees, arising from the Schmidts' occupancy of the House Property, the Schmidts' negligence or the conditions of the House Property. In the event that Buyer should expend any money as a result of a claim arising due to the Schmidts' occupancy at the House Property, the Schmidt's construction of a new home on the Retained Lot or claims covered by the foregoing indemnity, such amount or amounts, as the case may be, may be, at the Buyer's sole discretion, either paid by Seller, paid by the Schmidts or offset against the Buyer's obligations under the Note attached here as **Addendum A**. Seller and the Schmidts waive any claim arising from the condition of the House Property

Buyers Retention of Rights on retained lot: The Seller shall grant in conjunction with the closing all necessary access and easements that do not materially infer with the Seller construction and use of a single- family home on the retained lot. Buyer agrees to properly restore, repair or complete any area which is disturbed by their use for said access the property to its finished state. Seller shall provide Buyer with all plans for Seller's construction of his new home on the retained lot at the closing and before any construction. Buyer and Seller must mutually agree regarding the lot Seller is to retain, the location, size, building material and appearance of the Seller's new home. Seller agrees that his construction of his new home will not interfere with or delay Buyer's construction of roads, infrastructure and homes in the new subdivision.

If the town shall require the installation of a water pump station, this cost shall be borne exclusively Buyer and have no effect on the purchase price.

[signature page to follow]


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IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the dates written below.

SELLER

SCHMIDT'S FARM INC.

Date: 6-15-17

By: John A. Schmidt President
(Print Name) _____
Its Duly Authorized Representative

BUYER

MADDI NORTH STREET DEVELOPMENT, LLC

Date: 6/15/17

By: [Signature]
Anthony Marinella, Manager

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ADDENDUM A

MORTGAGE DEED OF TRUST (215 Prospect Street, Franklin, MA 02038)

THIS MORTGAGE DEED OF TRUST AND SECURITY AGREEMENT (this "Mortgage") is granted as of this ____ day of , 201_ and between **MADDI NORTH STREET DEVELOPMENT, LLC.**, a Massachusetts **Limited Liability Company** with a principal place of business at **PO BOX 411 FRANKLIN, MA 02038**(the "Mortgagor") and **SCHMIDT FARM, INC.** a Massachusetts Corporation with a principal place of business at 215 Prospect Street, Franklin, Massachusetts 02038 (the "Mortgagee").

RECITALS

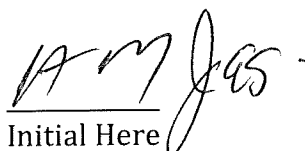
WHEREAS, the Mortgagor has requested that the Mortgagee make a term loan to the Mortgagor in the principal amount of **\$1,500,000.00** (the "Loan");

WHEREAS, it is a condition of the Mortgagee to making the Loan to the Mortgagor that, among other conditions, the Mortgagor enter into and grant the Mortgagee this Mortgage as security for the Mortgagor's payment and performance of its obligations under the Loan;

NOW, THEREFORE, in order to induce the Mortgagee to make the Loan to the Mortgagor, and in consideration thereof and in consideration of the mutual covenants contained herein and of the benefits to the Mortgagor derived from the Loan and this Mortgage, and for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Mortgagor agrees to the following terms and conditions.

ARTICLE 1- GRANT OF MORTGAGE INTEREST AND LIABILITIES

To secure the Mortgagor's prompt, punctual and faithful payment and performance of all and each of the Mortgagor's present and future Liabilities (as defined herein) to the Mortgagee, including, without limitation, those arising under that certain Commercial Promissory Note of even date herewith in the original principal amount of **\$1,500,000.00**, payable to the order of the Mortgagee in interest accruing over a sixty month period with a maturity date of _____ 1, 2022, at which time all principal, interest and other charges accrued and unpaid must be repaid by the Mortgagor, together with any and all extensions, renewals, substitutions, modifications or replacements thereof (hereinafter, the "Note"), the Mortgagor hereby grants, mortgages, assigns and transfers to the Mortgagee WITH MORTGAGE COVENANTS, subject to the terms and conditions of this Mortgage, the Collateral (as defined herein). The Mortgagor intends to convey and hereby does convey to the Mortgagee WITH MORTGAGE COVENANTS the Collateral as described in Section 3-3 herein.


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ARTICLE 2- GRANT OF SECURITY INTEREST AND ASSIGNMENT

2-1. Security Interest. To secure Mortgagor's prompt, punctual and faithful payment and performance of all and each of the present and future Liabilities to Mortgagee, including, without limitation, those arising under the Note, the Mortgagor hereby grants to the Mortgagee a continuing security interest in and to, and assigns to Mortgagee, the Collateral.

ARTICLE 3 - CERTAIN DEFINITIONS

As used herein, the following terms shall have the following meanings:

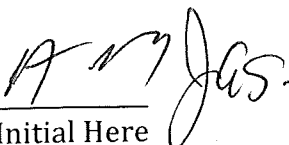
3-1. Liabilities. "Liabilities" include, without limitation, the Note, this Mortgage, and all other agreements, instruments and documents now executed by the Mortgagor (collectively, with the Note, this Mortgage, the "Loan Documents"); all obligations, responsibilities and duties are required to be performed under the Loan Documents; and any and all other liabilities, debts and obligation now or hereafter at any time owing by the Mortgagor to the Mortgagee, each of every kind, nature and description. "Liabilities" includes, without limitation:

- (a) all principal, interest and other amounts which accrue or become due or chargeable to the Mortgagor under the Loan Documents and/or which may be due from the Mortgagor to the Mortgagee from time to time under the Loan Documents;
- (b) all costs and expenses now or hereafter incurred or paid by the Mortgagee in respect of the Loan Documents or any agreement between the Mortgagor and the Mortgagee; and
- (c) all costs and expenses now or hereafter incurred or paid by the Mortgagee in respect of any agreement or instrument furnished to the Mortgagee by.

(Including, without limitation, Costs of Collection (as defined below), attorneys' reasonable fees and all court and litigation costs and expenses).

3-2. Costs of Collection. "Costs of Collection" include, without limitation, all reasonable fees and out-of-pocket expenses incurred by the Mortgagee's attorneys and all costs incurred by the Mortgagee, which costs and expenses are directly or indirectly related to or in respect of the Mortgagee's efforts to collect or enforce any of the Liabilities and/or to exercise or enforce any of the Mortgagee's rights, remedies or powers against or in respect of the Mortgagor (whether or not suit is instituted in connection with such efforts).

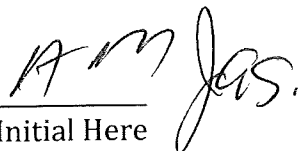
3-3. Collateral. "Collateral" shall include all and each of the following, whether singly or collectively, whether real property, personal property or a combination thereof, whether now owned or now due or now existing, or in which the Mortgagor has an interest, or hereafter, at any time in the future, acquired, arising or to become due, or in which the Mortgagor obtains an


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interest, and all proceeds, products, substitutions and accessions of or to any of the following:

- (a) the land, together with the buildings and improvements whether now existing or hereafter constructed or located thereon, situated at **215 Prospect Street, Franklin, MA 02038**, such land as more particularly described on Exhibit "A" annexed hereto (hereinafter, the "Mortgaged Premises"), together with
 - (i) all passages, water, water courses, water rights, riparian rights, other rights, liberties and privileges, including homestead rights and claims and any other claims in law or in equity as well as any after-acquired title, franchise or license, and the reversion and remainder thereof;
- (b) INTENTIONALLY OMITTED
- (c) All easements, rights of way, covenants and agreements, which are appurtenant to or benefit the Mortgaged Premises;
- (d) The right in the case of foreclosure hereunder of the encumbered property for Mortgagee to take and use the name by which the buildings and all other improvements situated on the Mortgaged Premises are commonly known and the right to manage and operate the said buildings under any such name and variants thereof;
- (e) All right, title and interest of Mortgagor in any and all buildings and improvements of every kind and description now or hereafter erected or placed on the said Mortgaged Premises hereafter owned by Mortgagor and attached to the Mortgaged Premises.
- (f) Together with all right, title and interest of Mortgagor, now or hereafter acquired, in and to any and all strips and gores of land adjacent to and used in connection with the Mortgaged Premises and all right, title and interest of Mortgagor, now owned or hereafter acquired, in, to, over and under the ways, streets, sidewalks and alleys adjoining the Mortgaged Premises.
- (g) all right, title and interest, of the Mortgagor, now owned or hereafter acquired, in and to any land lying with the right of way of any street, open or proposed, adjoining the Mortgaged Premises and in any and all sidewalks and alleys and strips of land adjacent to or used in connection with the Mortgaged Premises;
- (h) INTENTIONALLY OMITTED
- (i) all rights, remedies, representations, warranties and privileges pertaining to any of the foregoing Subparagraphs (a) through (h).

TO HAVE AND TO HOLD the same unto the Mortgagee, its successors and assigns forever, for

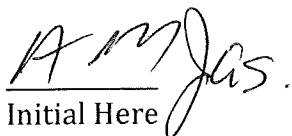

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the purposes and uses herein expressed.

ARTICLE 4- REPRESENTATIONS, WARRANTIES AND COVENANTS

4-1. Insurance Coverage. The Mortgagor hereby covenants and agrees to maintain public liability insurance, flood hazard insurance, all risk insurance, builder's risk insurance, boiler insurance and such other insurance against such casualties or contingencies as may be required by the Mortgagee, in coverage amounts satisfactory to the Mortgagee with a so-called "replacement cost" endorsement, in an amount not less than 100 percent of the full replacement cost of the improvements to the Mortgaged Premises, a so-called "agreed amount" endorsement.. If, however, a policy does contain a co-insurance provision, the Mortgagor shall insure the Mortgaged Premises and the improvements thereto in an amount that at all times shall prevent the application of the coinsurance provisions. If the Mortgaged Premises undergo construction, such insurance shall be in builders' risk completed value non-reporting form (including without limitation all risk, extended coverage and collapse). All policies shall name the Mortgagee as an additional insured with respect to liability policies, and with respect to hazard coverages, shall contain a noncontributory Standard Mortgagee Clause and a loss payee clause in favor of, and acceptable to, the Mortgagee, as well as a provision requiring at least thirty (30) days prior written notice to the Mortgagee before any cancellation or modification. All insurance on the Collateral shall be for the benefit of the Mortgagee. All companies issuing such insurance with respect to the Collateral must, be authorized and qualified to issue insurance in the State of Massachusetts and shall have ratings of "A VIII" or better in "Best's Insurance Reports" and shall be otherwise satisfactory to the Mortgagee. The Mortgagor shall furnish the Mortgagee with an original or a certified copy of each policy of insurance required hereunder. Thirty (30) days prior to the expiration of each insurance policy, the Mortgagor shall furnish the Mortgagee with satisfactory evidence of the re-issuance of a policy of continuing insurance in force as required by the Mortgagee. In all cases, the Mortgagor shall immediately give notice to the Mortgagee of any notice received by the Mortgagor of any expiration, cancellation, or modification of, or material reduction of coverage, under any insurance policy covering the Collateral.

4-2. Insurance Claims and Adjustments. After the occurrence of any casualty to the Collateral or any part thereof, the Mortgagor shall promptly advise the Mortgagee thereof and shall promptly submit a claim to the insurer for payment of insurance proceeds and shall promptly provide the Mortgagee with a copy of such claim and all documentation submitted therewith. At the Mortgagee's option in each instance, if the Mortgagor is in default under the Liabilities, the Mortgagor shall permit, authorize and appoint the Mortgagee, to the exclusion of the Mortgagor, to conduct the adjustment of each such claim. Subsequent to an Event of Default which remains uncured, the Mortgagor hereby appoints the Mortgagee as the Mortgagor's attorney-in-fact to obtain, adjust or settle any insurance claim or cancel any insurance described in this section and to endorse in favor of the Mortgagee any and all drafts and other instruments with respect to such insurance. The within appointment, being coupled with an interest, is irrevocable until this Agreement is terminated by a written instrument executed by a duly authorized officer of Mortgagee. The Mortgagee shall not be liable for any loss sustained on account of any exercise


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pursuant to said power unless such loss is caused by the willful misconduct, actual bad faith or gross negligence of the Mortgagee. During the continuance of an event of default under the Loan Documents, if the Mortgagee has exercised its Power of Attorney, the Mortgagee may, at its option, make any proceeds available to the Mortgagor to repair or reconstruct the Collateral (subject to such disbursement procedures as the Mortgagee may establish) or apply any proceeds of such insurance against the Liabilities, whether or not such have matured, in accordance with the terms hereof.

Any proceeds of insurance covering the Collateral (the "Insurance Proceeds") released to the Mortgagor (or paid or applied to the cost of restoration, repair or alteration of the Collateral) shall in no event be deemed a payment on the Liabilities. The Mortgagee shall not be responsible for any failure to collect the Insurance Proceeds under the terms of any policy, except as such failure is a direct result of the Mortgagee's willful misconduct. Notwithstanding the application of any Insurance Proceeds to the payment of a portion of the Liabilities, the unpaid portion of the Liabilities shall remain fully collectible from the Mortgagor and shall remain in full force and effect, and the Mortgagor shall not be excused from the payment thereof. The application or release by the Mortgagee of any Insurance Proceeds shall not cure or waive any event of default or notice of default under the Loan Documents or nor shall such invalidate any act done pursuant to such notice.

4-3. Eminent Domain. Should the Collateral, or any part thereof or interest therein, be taken or damaged by reason of any public improvement or condemnation proceeding, or in any other manner (a "Condemnation"), or should the Mortgagor receive any notice or other information regarding any such proceeding, the Mortgagor shall give prompt written notice thereof to the Mortgagee. The Mortgagee may participate in any such Condemnation proceedings, and the Mortgagor shall promptly deliver to the Mortgagee all instruments requested by the Mortgagee to permit such participation. The Mortgagor shall, at its expense, diligently prosecute any such proceedings and shall consult with the Mortgagee and its attorneys and experts, and cooperate with them in the carrying on or defense of any such proceedings. All proceeds of Condemnation awards or proceeds of sale in lieu of Condemnation with respect to the Collateral and all judgments, decrees and awards for injury or damage to the Collateral or any part thereof or interest therein shall be paid to the Mortgagee and shall be applied first to all costs and expenses incurred by the Mortgagee in obtaining the proceeds. The balance of the proceeds, if any, shall be applied at the option of the Mortgagee: (i) toward altering, restoring or rebuilding the Collateral or such portion thereof that may have been altered, damaged or destroyed; or (ii) against the Liabilities, in accordance with the provisions of the Loan Documents. If the Mortgagee elects not to apply all of the Condemnation proceeds for the restoration or repair of the Collateral, the Mortgagor shall not be required to repair or restore that portion of the Collateral affected by the election of the Mortgagee, and the failure to do so shall not constitute a breach by the Mortgagor of its obligation to maintain the Collateral set forth in Section 4.6 hereof.

4-4. Statutory Compliance. The Mortgagor shall comply with, shall not use any of the Collateral in violation of, and shall cause the Collateral to be in compliance with, every statute,


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regulation, ordinance, decision, directive, order, by-law or rule of any federal, state, municipal and other governmental authority that has or claims jurisdiction over the Mortgagor or any of the Collateral.

4-5. Title to Collateral. The Mortgagor is, and shall hereafter remain, the owner of the Collateral free and clear of all voluntary or involuntary liens, encumbrances, attachments, security interests, purchase money security interests, assignments, mortgages, charges or other liens or encumbrances of any nature whatsoever, with the exceptions of (a) the mortgage and security interest created herein, (b) liens for real estate taxes not yet due and payable, (c) those encumbrances, if any, as described on EXHIBIT A attached hereto; and sales of lots to third party buyers to allow partial payment of the debt secured by this Mortgage.

4-6. No Damages; No Litigation. The Mortgagor represents that

- (a) The Mortgaged Premises are not subject to any casualty damage;
- (b) The Mortgagor has not received any written notice of any eminent domain or condemnation proceeding affecting the Mortgaged Premises; and
- (c) To the best of Mortgagor's actual knowledge, , there are no actions, suits or proceedings pending, completed or threatened against or affecting Mortgagor or any person or entity owning an interest (directly or indirectly) in or managing or controlling the Mortgagor (collectively, "Interest Owner(s)") or any property of the Mortgagor or any Interest Owner in any court or before any arbitrator of any kind or before or by any governmental authority (whether local, state, federal or foreign) that, individually or in the aggregate, could reasonably be expected by Mortgagee to be material to the transaction contemplated hereby.

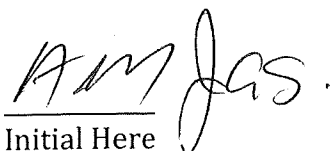
4.7 OFAC. The Mortgagor further represents and warrants that as of the date hereof and until the Indebtedness is paid in full:

- (i) The Mortgagor and each person or entity owning an interest in Mortgagor is not (i) identified on the Specially Designated Nationals and Blocked Persons List maintained by the Office of Foreign Assets Control, Department of the Treasury ("OFAC") and/or on any other similar list maintained by OFAC pursuant to any authorizing statute, executive order or regulation (collectively, the "List"), (ii) a person or entity with whom a citizen of the United States is prohibited to engage in transactions by any trade embargo, economic sanction, or other prohibition of United States law, regulation, or Executive Order of the President of the United States;
- (ii) None of the funds or other assets of the Mortgagor constitute property of, or are beneficially owned, directly or indirectly, by any Embargoed Person (as hereinafter defined);

- (iii) No Embargoed Person has any interest of any nature whatsoever in the Mortgagor (whether directly or indirectly);
- (iv) None of the funds of the Mortgagor have been derived from any unlawful activity with the result that the investment in the Mortgagor is prohibited by law or that the agreement is in violation of law;
- (v) The Mortgagor has and will continue to implement procedures, and has consistently and will continue to consistently apply those procedures, to ensure the foregoing representations and warranties remain true and correct at all times.
- (vi) The term "Embargoed Person" means any person, entity or government subject to trade restrictions under U.S. law, including but not limited to, the International Emergency Economic Powers Act, 50 U.S.C. §1701 et seq., The Trading with the Enemy Act, 50 U.S.C. App. 1 et seq., and any Executive Orders or regulations promulgated thereunder with the result that the investment in Mortgagor is prohibited by law or Mortgagor is in violation of law;
- (vii) The Mortgagor has complied and will continue to comply with all requirements of law relating to money laundering, anti-terrorism, trade embargos and economic sanctions, now or hereafter in effect; and
- (viii) The Mortgagor has not and will not use funds from any "Prohibited Person" (as such term is defined in the September 24, 2001 Executive Order Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism) to make any payment due to Mortgagee under the Loan Documents

The Mortgagor will immediately notify the Mortgagee in writing if any of the representations, warranties or covenants are no longer true or have been breached or if the Mortgagor has a reasonable basis to believe that they may no longer be true or have been breached. In addition, the Mortgagor will, at the request of Mortgagee, provide such information as may be requested by the Mortgagee to determine the Mortgagor's compliance with the terms hereof.

4-8. Maintenance and Condition of Collateral. The Collateral is, and shall hereafter remain, in good repair, well maintained and in good working order. The Mortgagor shall not cause or permit to be suffered any waste, destruction or loss (whether or not such loss is insured against) to Collateral or any part thereof, provided however that the now existing home at 215 Prospect Street may be demolished as provided in the Purchase and Sales Agreement between the parties. The Mortgagor shall: (i) keep the Collateral in good condition and repair, subject to reasonable and ordinary wear and tear; (ii) complete promptly and in a good and workmanlike manner any improvement, construction or restoration on the Mortgaged Premises and pay when due all claims for labor performed and materials furnished therefor; (iv) comply with all laws, ordinances, regulations, covenants, conditions and restrictions now or hereafter affecting the


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Collateral or any part thereof, including, without limitation, the Americans with Disabilities Act and the Fair Housing Act, if applicable to the Collateral, and all regulations promulgated pursuant thereto; (v) keep and maintain grounds, sidewalks, roads, parking and landscape areas in good and neat order and repair; and (vi) not commit, suffer or permit any act to be done in or upon the Collateral in violation of any law, ordinance or regulation. The Mortgagor shall have the right to contest by appropriate legal proceedings, at the Mortgagor's expense (and without any cost or expense to the Mortgagee), the validity of any laws, ordinances, orders, rules, regulations, covenants, conditions or restrictions affecting the Collateral or the business conducted on the Mortgaged Premises if compliance therewith is legally held in abeyance without the incurring of any charge or lien against the Collateral, and further provided such noncompliance or contest shall not otherwise adversely affect the validity or priority of this Mortgage; and in such event that the Mortgagor may postpone compliance therewith until the final determination of any such proceedings, provided that the Mortgagor shall at all times prosecute such proceedings diligently and in good faith to completion and shall maintain monetary reserves, sufficient in the sole judgment of the Mortgagee, to pay any amounts which may be payable if such final determination is unfavorable to the Mortgagor.

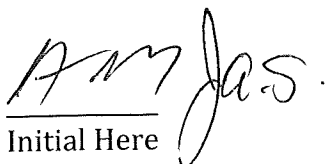
4-9. Taxes, Insurance Premiums and Other Costs. To the extent payment is not provided for in Section 4-11 herein, the Mortgagor shall pay when due all real and personal property taxes, assessments, charges and other taxes assessed against it, and all insurance premiums relative to the Collateral. The Mortgagor agrees that the Mortgagee may, at its option, and from time to time, pay any taxes or insurance premiums for which the payment thereof is then due, discharge any liens or encumbrances on any of the Collateral or take any other action that the Mortgagee may deem proper to repair, insure, maintain or preserve any of the Collateral or the Mortgagee's rights therein. The Mortgagor shall pay to the Mortgagee upon demand all amounts so paid or incurred by the Mortgagee.

4-10. Property of Third Parties. Except for the encumbrances listed in Paragraph 4-5 or Exhibit A as referred to herein, if any, the Mortgagor shall not suffer or permit any item of property owned by a third party to be affixed, attached or installed on, upon or within, or be located at, the Mortgaged Premises, or any portion or unit thereof, or any improvement or fixture thereto, which may be subject to any security interest, lien, encumbrance or charge which is prior or superior to the interest granted herein.

4-11. INTENTIONALLY OMITTED

4-12. INTENTIONALLY OMITTED

4-13. Hazardous Waste. The Mortgagor shall not store (except in compliance with all laws, ordinances and regulation pertaining thereto), or dispose of any hazardous material or oil. The Mortgagor further warrants and represents that there is no hazardous material or oil-related products located on the Mortgaged Premises.



Initial Here

4-14. Mortgage Conditions. This Mortgage and Security Agreement is upon the STATUTORY CONDITION, upon breach of which, the Mortgagee shall have the STATUTORY POWER OF SALE.

4-15-17. INTENTIONALLY OMITTED

4-18. The Mortgagor shall:

- (a) If other than a natural person, do all things necessary to preserve and keep in full force and effect its existence, franchises, rights and privileges under the laws of the state of its formation and, if other than its state of formation, the State where the Mortgaged Premises is located. The Mortgagor shall provide written notice the Mortgagee at least thirty (30) days prior to (i) any relocation of the Mortgagor's principal place of business to a different state or any change in the Mortgagor's state of formation, and/or (ii) if the Mortgagor is an individual, any relocation of the Mortgagor's principal residence to a different state;
- (b) do all things necessary to preserve and keep in full force and effect the Mortgagee's title insurance coverage insuring this Mortgage as a second mortgage,;
- (c) execute any and all documents which may be required to perfect the mortgage liens granted by this Mortgage;
- (d) without the Mortgagee's consent, which shall not be unreasonably withheld, delayed or conditioned,
 - (i) make or permit any use of the Mortgaged Premises that could with the passage of time result in the creation of any right of use, or any claim of adverse possession or easement on, to or against any part of the Mortgaged Premises in favor of any person or entity or the public;
 - (ii) allow any of the following to occur (unless a Permitted Transfer) except as expressly permitted herein:
 - (a) a Transfer of all or any portion of the Mortgaged Premises or any interest in the Mortgaged Premises;
 - (b) a Transfer of any ownership interest in Mortgagor or any entity which owns, directly or indirectly, an interest in Mortgagor at any level of the ownership structure; or
- (e) If any of such events occur, it shall be null and void and shall constitute an Event of Default under the Loan Documents.


Initial Here

(f) It is understood and agreed that the Liabilities evidenced by the Note is personal to the Mortgagor and in reliance upon the ownership structure of the Mortgagor and in accepting the same the Mortgagee has relied upon what it perceived as the willingness and ability of the Mortgagor and the Interest Owners to pay and perform its obligations under the Loan Documents. Furthermore, the Mortgagee may consent to a Transfer and expressly waive the Mortgagor's covenants contained in this foregoing subparagraph, in writing to the Mortgagor; however any such consent and waiver shall not constitute any consent or waiver of such covenant as to any Transfer other than that for which the consent and waiver was expressly granted. Furthermore, the Mortgagee's willingness to consent to any Transfer and waive the Mortgagor's covenants contained herein, implies no standard of reasonableness in determining whether or not such consent shall be granted and the same may be based upon what the Mortgagee deems to be in its best interest in its sole and subjective discretion.

(g) For purposes of the Loan Documents, the following terms shall have the respective meanings set forth below:

(i.) "Transfer" or "Transferred" shall mean with respect to the Collateral, an interest in the Collateral, or an ownership interest or interest therein:

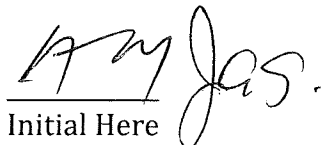
- (a) a sale, assignment, transfer, conveyance or other disposition (whether voluntary, involuntary or by operation of law);
- (b) the creation, sufferance or granting of any lien, encumbrance, security interest or collateral assignment (whether voluntarily, involuntarily or by operation of law), other than this Mortgage, the leases of the Collateral assigned to Mortgagee, the Permitted Encumbrances, the granting of a lien on a tenant's interest under any Lease in accordance with the terms specifically set forth therein, and those liens which Mortgagor is contesting in accordance with the provisions of this Mortgage;
- (c) the issuance or other creation of ownership interests in an entity;
- (d) the reconstitution or conversion from one entity to another type of entity;
- (e) a merger, consolidation, reorganization or any other business combination;
or
- (f) a conversion to or operation of all or any portion of the Mortgaged Premises as a cooperative or condominium form of ownership.

(ii) "Permitted Transfer" shall mean:


Initial Here

- (a) a minor (as determined by the Mortgagee in its sole discretion) conveyance of an interest in a portion of the Collateral by the Mortgagor, such as a utility easement, and for which the Mortgagee has given its prior written consent and imposed such conditions as the Mortgagee deems advisable and appropriate; provided, however, with regard to those easements for which the Mortgagee's consent is required, if:
- (i) the Mortgagor provides the Mortgagee with a written request for consent to such easement and the request is accompanied by a copy of the proposed easement together with a certificate executed by the Mortgagor confirming that such easement will not adversely affect the Collateral or any portion thereof now or in the future;
 - (ii) the request is given in the manner provided for the giving of notices in this Mortgage;
 - (iii) the request is boldly noted as a request for consent to an easement for which the Mortgagee's consent is required and specifically states that the easement will be deemed approved if the Mortgagee fails to respond within 15 business days (the Mortgagee and the Mortgagor hereby agree that such 15 business day period shall commence on the date of the Mortgagee's actual receipt of all information reasonably required by the Mortgagee in connection with the Mortgagee's review of said easement); and
 - (iv) in the event the Mortgagee fails to respond to the Mortgagor's request for consent within the time period set forth in subparagraph (iii) above, then said consent shall be deemed to have been given.

4-20. Any Superior Mortgage. The Mortgagor does hereby covenant and agree to faithfully and fully comply with and abide by each and every term, covenant and condition of any superior mortgage or mortgages, if applicable, on the Mortgaged Premises. The Mortgagee is hereby expressly authorized, permitted and directed, in its sole discretion, and at its option, to advance all sums necessary to cure any default under any such mortgage. The Mortgagor further covenants and agrees not to modify, change, alter or extend any of the terms or conditions of any such prior mortgage, and not to request, accept or allow the disbursement hereafter of any advances which are to be secured by any such mortgage. The Mortgagee agrees that this Mortgage and the debt secured thereby, shall at all times be subordinate to any financing received by the Mortgagor for the acquisition of and construction of improvements upon the Mortgaged Premises and any mortgage to secure such financing. The Mortgagee further agrees to sign any agreement required by a lender providing such financing to the Mortgagor to effect such subordination.


Initial Here

4-22. Inspections. The Mortgagee or its representatives are authorized to enter at any reasonable time upon prior reasonable notice in any part of the Collateral for the purpose of inspecting the same and all books, records and documents relating thereto, and for the purpose of performing any of the acts it is authorized to perform under the terms of any of the Loan Documents.

4-23. Notice of Events of Default. The Mortgagor agrees to notify the Mortgagee immediately in writing upon its knowledge of any default or Event of Default.

4-24. Transfer of Interests in the Mortgagor or the Collateral. The Mortgagor shall not convey, sell, alienate, transfer, mortgage, encumber, assign, pledge or otherwise dispose of (voluntarily, involuntarily, by operation of law or otherwise) its ownership or control of all or any part of the Collateral or any legal or beneficial interest therein, including without limitation, rents, issues or profits arising from the Collateral.

4-25. Further Assurances. So long as any of the Liabilities shall remain unpaid, the Mortgagor shall execute, acknowledge, where appropriate, and deliver from time to time promptly at the request of the Mortgagee all such instruments and documents as in the opinion of the Mortgagee are necessary or desirable to preserve the mortgage lien created by this Mortgage, having the priority contemplated hereunder.

4-26. Successors and Assigns. This Mortgage and all warranties and covenants of the Mortgagor contained herein and in the Loan Documents shall apply to, inure to the benefit of and bind all parties hereto, their heirs, successors and assigns.

ARTICLE 5- MORTGAGOR'S USE OF COLLATERAL

Unless and until the occurrence of any one or more events which are, or solely with the passage of time would be, one or more Events of Default hereunder, the Mortgagor shall be authorized to occupy, operate, manage, hold or otherwise use the Collateral in the ordinary and reasonable course of the Mortgagor's business and collect, when due, the Rental Payments, subject, however, to the terms and provisions hereof and to sell lots to third parties.

ARTICLE 6- EVENTS OF DEFAULT

Upon the occurrence of any one (1) or more of the following (hereinafter, the "Events of Default"), any and all Liabilities of the Mortgagor to the Mortgagee shall become immediately due and payable, without notice or demand, at the option of the Mortgagee. The occurrence of any such Event of Default shall also constitute, without notice or demand, a default under all other agreements between the Mortgagee and the Mortgagor or instruments and papers given the Mortgagee by the Mortgagor, whether now existing or hereafter arising:

6-1. The failure by the Mortgagor to pay when due, the payments due under the Note or upon


Initial Here

demand, if payable upon demand, any of the Liabilities then owing by the Mortgagor to the Mortgagee.

6-2. The failure by the Mortgagor to promptly, punctually and faithfully perform, discharge or comply with any of the obligations, duties or responsibilities under the Loan Documents or under any of the Liabilities.

6-4. The occurrence of any event such that any indebtedness of the Mortgagor for borrowed money from any lender other than the Mortgagee has been accelerated such that the indebtedness of the Mortgagor to another lender other than the Mortgagee could be accelerated, notwithstanding that such acceleration has not taken place.

6-5. The occurrence of any event of default under any agreement between the Mortgagee and the Mortgagor, or under any instrument or paper given the Mortgagee by the Mortgagor, (notwithstanding that the Mortgagee may not have exercised its rights upon default under any such other agreement, instrument or paper).

6-6. Any act by, against or relating to the Mortgagor, or any property or assets of the Mortgagor, which act constitutes:

- (i) the application for, consent to or sufferance of the appointment of a receiver, trustee or other person, pursuant to court action or otherwise, over all or any part of the property of the Mortgagor;
- (ii) the granting of any trust mortgage or execution of an assignment for the benefit of creditors of the Mortgagor, or the occurrence of any other voluntary or involuntary liquidation or extension of debt agreement or arrangement for the Mortgagor;
- (iii) the failure of the Mortgagor generally to pay debts of the Mortgagor as those debts mature;
- (iv) adjudication of bankruptcy or insolvency relative to the Mortgagor;
- (v) the calling or sufferance of a meeting of creditors of the Mortgagor; (vi) the meeting of the Mortgagor with a formal or informal committee of creditors for the Mortgagor;
- (vi) the offering of or actual entry into any composition, extension or other arrangement by the Mortgagor seeking relief or extension for the debts of the Mortgagor, or the initiation of any other judicial or non-judicial proceeding or agreement by, against or including the Mortgagor, which seeks or intends to accomplish a reorganization, restructuring, forbearance or other arrangement with creditors of the Mortgagor;

- (vii) the entry of an order for relief or similar order with respect to the Mortgagor, or with respect to any one of them, in any proceeding pursuant to the Bankruptcy Reform Act of 1978, as amended (as amended, the "Bankruptcy Code") or any other federal or state bankruptcy, insolvency, reorganization, receivership, liquidation or restructuring law; or
- (viii) the filing of any complaint, application or petition by or against the Mortgagor initiating any matter in which the Mortgagor is or may be granted any relief from the debts of the Mortgagor pursuant to the Bankruptcy Code or any other insolvency statute or procedure (provided, however, that it shall not be an Event of Default hereunder if such complaint, application or petition is filed against the Mortgagor, which complaint, application or petition is being diligently contested until the earlier of:
 - (a) the entry of an Order for Relief against the Mortgagor, or any one of them; or
 - (b) the expiration of sixty (60) days since the filing of the complaint, application or petition with dismissal thereof;

6-7. The entry of any judgment against the Mortgagor, which judgment is not satisfied or appealed from (with execution or similar process stayed) within twenty-one (21) day of entry of such judgment;

6-8. One or more foreclosure or other proceedings shall be commenced to enforce, execute or realize upon any lien, encumbrance, attachment, trustee process, mortgage or security interest against the Mortgagor or any assets held by the Mortgagor;

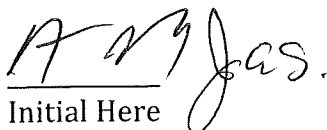
6-9. The death or the commencement of the termination of existence, of the dissolution, of the winding up or of the liquidation of the Mortgagor;

6-10. The sale, transfer, assignment or other disposition of any of the capital stock of any partnership, membership or beneficial interest of the Mortgagor, by the legal entity or individuals who have an ownership interest in the legal entity, or the sale, transfer, assignment, pledge, mortgage or other disposition or grant of any interest in all or any portion of the Collateral;

6-11. The occurrence of any of the events described in this Article with respect to any partner or beneficiary of the Mortgagor

6-12. INTENTIONALLY OMITTED

6-13. The occurrence of any one or more of the foregoing Events of Default with respect to: (i) (if any one or more of the undersigned Mortgagor is a general or limited partnership, limited


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liability company, limited liability partnership or trust) any partner, limited liability entity member or the beneficiary of the Mortgagor; or (iii) (if any one or more of the undersigned Mortgagor is a Limited Liability Company) any parent, subsidiary, affiliate or holder of ten (10) percent of voting equity in the Mortgagor

6-14. In the absence the Mortgagee's express, prior written consent, the sale or transfer of all or any interest of the Mortgagor in any portion of the Collateral;


6-15. The reasonable determination by the Mortgagee that the Mortgagor has, jointly and/or severally, become unable to pay its financial obligations as they become due;

6-16. The breach of the STATUTORY CONDITION contained herein, upon which breach, the Mortgagee shall have the STATUTORY POWER OF SALE AS PROVIDED IN MASSACHUSETTS GENERAL LAWS SECTIONS 34-27-1 THROUGH 34-27-6, OTHER APPLICABLE STATUTORY AND OTHER LAW IN EFFECT WITH REGARD TO THE PREMISES.

ARTICLE 7- RIGHTS AND REMEDIES UPON DEFAULT

7-1. Rights and Remedies Upon Default. Upon the occurrence of any Event of Default, or at any time thereafter while such default is not cured to the reasonable satisfaction of the Mortgagee, the Mortgagee shall have all the rights of a mortgagee and a secured party under Massachusetts Laws, in addition to which the Mortgagee shall have all of the following rights and remedies:

- (a) to declare some or all Liabilities to be due and payable, and the same shall thereupon become due and payable without any presentment, demand, notice of protest or notice of any kind except as otherwise provided herein, and the Mortgagor hereby waives notice of intent to accelerate the Liabilities;
- (b) either in person or by agent, with bringing an action or proceeding, or by a receiver appointed by a court, and without regard to the adequacy of its security, to enter upon and take possession of the Collateral or any part thereof and do any acts which it deems necessary or desirable to preserve the value, marketability or rentability of the Collateral, or part thereof or interest therein, increase the income therefrom or protect the security hereof and, with or without taking possession of the Collateral, take any action described in this Mortgage,. The entering upon and taking possession of the Collateral, the taking of any action described in this Mortgage, , shall not cure or waive any default or notice of default or invalidate any act done in response to such default or pursuant to such notice of default and, notwithstanding the continuance in possession of the Collateral, the Mortgagee shall be entitled to exercise every right provided for in any of the Loan Documents or by law upon occurrence of any Event of Default, including the right to exercise the power of sale herein conferred;


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- (c) to commence an action to foreclose this Mortgage, appoint a receiver, specifically enforce any of the covenants hereof, or sell the Collateral pursuant to the power of sale herein conferred;
- (d) to exercise any or all of the remedies available to a secured party under the UCC;
- (e) to apply any sums or amounts received pursuant to Sections 4-2 or 4-3, upon any of the Liabilities in such manner and order as the Mortgagee may elect. The receipt, use or application of any such sums by the Mortgagee hereunder shall not be construed to affect the maturity of any of the Liabilities or any of the rights or powers of the Mortgagee under the terms of the Loan Documents or any of the obligations of the Mortgagor;
- (f) with or without taking possession, to collect any proceeds of the Collateral;
- (g) with or without taking possession of the Collateral, to sell, lease or otherwise dispose of any or all of the Collateral in its then condition or following such preparation or processing as the Mortgagee deems advisable;
- (h) with or without taking possession of the Collateral, and without assuming the obligations of the Mortgagor thereunder, to exercise the rights of the Mortgagor under, to use, or to benefit from any of the easements, covenants, agreements, rights and interests referred to in Section 3-3 (a) and (c) hereof;
- (i) with or without taking possession of the Collateral and with bringing an action or proceeding, either directly, by agent or by the appointment of a receiver, manage, lease, sublease or operate the Collateral on such terms as the Mortgagee, in its sole discretion, deems proper or appropriate;
- (j) to apply all or any portion of the Collateral, or the proceeds thereof, towards (but not necessarily in complete satisfaction of) the Liabilities; and
- (k) to exercise the STATUTORY POWER OF SALE.

7-2. Grant and Exercise of Power of Sale. This Mortgage is upon the STATUTORY CONDITION and upon the further condition that all agreements and covenants of the Mortgagor contained in the Liabilities or in any of the Loan Documents or in any agreement or instrument executed or delivered in connection therewith shall be fully kept and performed and all of the other conditions thereof shall be fully met, all as therein provided, for any breach of which the Mortgagee shall have the STATUTORY POWER OF SALE.

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- (a) The Mortgagee or its representative shall cause to be recorded, published and delivered such notices of sale as may then be required by applicable law and by this Mortgage. The Mortgagee shall, without demand on the Mortgagor, after such time as may then be required by law and after notice of sale having been given as required by law, sell the Collateral, either as a whole, or in separate lots or parcels or items as the Mortgagee shall deem expedient, and in such order as it may determine, or as otherwise may then be required by law. The Mortgagee shall deliver to such purchaser or purchasers thereof its good and sufficient deed or deeds conveying the property so sold, but without any covenant or warranty, express or implied. The recitals in such deed of any matters or facts shall be conclusive proof of the truthfulness thereof. The Mortgagee may purchase the Collateral or any portion thereof at such sale;
- (b) The Mortgagee may postpone the sale of all or any portion of the Collateral, and in case the Mortgagee in the exercise of the power of sale herein given elects to postpone sale or to sell in parts or parcels, said sale or sales may be held from time to time, and the power of sale shall not be fully executed until all the Collateral not previously sold shall have been sold;
- (c) In the event all or part of the Collateral is included at any foreclosure sale conducted pursuant hereto, a single total price for the Collateral, or such part thereof as is sold, may be accepted by the Mortgagee with no obligation to distinguish between the application of such proceeds amongst the property comprising the Collateral.

7-3. Appointment of Receiver. If an Event of Default shall have occurred, the Mortgagee, as a matter of right and without notice to the Mortgagor or anyone claiming under the Mortgagor or any other party, and without regard to the then value of the Collateral or the interest of the Mortgagor therein, shall have the right to apply to any court having jurisdiction to appoint a receiver or receivers of the Collateral, and the Mortgagor hereby irrevocably consents to such appointment and waives notice of any application therefor. Any such receiver or receivers shall have all the usual powers and duties of receivers in like or similar cases and all the powers and duties of the Mortgagee in case of entry as provided in Section 7-1(b) and shall continue as such and exercise all such powers until the date of confirmation of sale of the Collateral unless such receivership is sooner terminated.

7-4. Collection of Proceeds of Collateral. In connection with the exercise by the Mortgagee of the rights and remedies provided herein:

- (a) The Mortgagor shall hold any proceeds and collections of any of the Collateral that it has in its possession in trust for the Mortgagee and shall not commingle such proceeds or collections with any other funds of the Mortgagor; and


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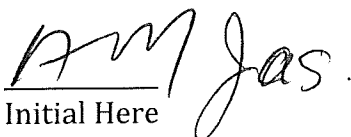
- (b) The Mortgagor shall deliver all such proceeds to the Mortgagee immediately upon the receipt thereof by the Mortgagor in the identical form received, but duly endorsed or assigned on behalf of the Mortgagor to the Mortgagee.

7-5. Use and Occupation of Collateral. In connection with the Mortgagee's exercise of the Mortgagee's rights after an Event of Default which is continuing under this Article, the Mortgagee may enter upon, occupy and use all or any part of the Collateral and may exclude the Mortgagor from the Mortgaged Premises or portion thereof as may have been so entered upon, occupied or used. The Mortgagee shall not be required to remove any of the Collateral from the Mortgaged Premises upon the Mortgagee's taking possession thereof, and may render any Collateral unusable to the Mortgagor. Further, the Mortgagee may make such alterations, renovations, repairs and replacements to the Collateral, as the Mortgagee, in its sole discretion, deems proper or appropriate.

7-6. Partial Sales. The Mortgagor agrees that, in case the Mortgagee in the exercise of the Power of Sale contained herein or in the exercise of any other rights hereunder given, elects to sell the Collateral in parcels, said sales may be held from time to time and that the power shall not be exhausted until all of the Collateral not previously released shall have been sold, notwithstanding that the proceeds of such sales exceed, or may exceed, the Liabilities then secured thereby.

7-7. Marshalling. Notwithstanding the existence of any other security interest in the Collateral held by the Mortgagee or by any other party, the Mortgagee shall have the right to determine the order in which any of the Collateral or any part thereof shall be subjected to the remedies provided herein. The Mortgagee shall have the right to determine the order in which any or all portions of the Liabilities are satisfied from the proceeds realized upon the exercise of the remedies provided herein. The Mortgagor and any party who now or hereafter acquires a security interest in any of the Collateral and who has actual or constructive notice hereof hereby waives, to the extent permitted by law, 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.

7-8. Rights and Remedies. The rights, remedies, powers, privileges and discretions of Mortgagee hereunder (hereinafter "Mortgagee's Rights and Remedies"), shall be cumulative and not exclusive of any rights or remedies which it would otherwise have. No delays or omissions by Mortgagee in exercising or enforcing any of Mortgagee's Rights and Remedies shall operate as or constitute a waiver thereof. No waiver by the Mortgagee of any default hereunder or under any other agreement shall operate as a waiver of any other default hereunder or under any other agreement. No single or partial exercise of Mortgagee's Rights or Remedies, and no other agreement or transaction, of whatever nature entered into between Mortgagee and Mortgagor at any time, whether before, during or after the date hereof, preclude any other or further exercise of Mortgagee's Rights and Remedies. No waiver or modification on Mortgagee's part on any one occasion shall be deemed a waiver on any subsequent occasion, nor shall it be deemed a continuing waiver. All of the Mortgagee's Rights and Remedies under this or any other


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agreement or transaction shall be cumulative, and not alternative or exclusive, and may be exercised by the Mortgagee at such time or times and in such order of preference as the Mortgagee, in its sole discretion, may determine.

ARTICLE 8- MISCELLANEOUS

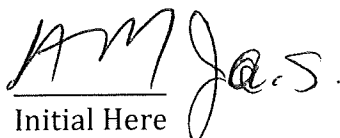
8-1. Successors and Assigns. In the event the ownership of the Collateral, or any part thereof, becomes vested in a person other than the Mortgagor, the Mortgagee may, without notice to the Mortgagor, deal with such successor or successors in interest with reference to this Agreement and the Liabilities in the same manner as with the Mortgagor, without in any way waiving the default occasioned by such transfer of ownership or in any way vitiating or discharging the Mortgagor's liability hereunder or upon the Liabilities, and no compromise, settlement, release or sale of the Collateral, no forbearance on the part of the Mortgagee, and no alteration, amendment, cancellation, waiver or modification of any term or condition or extension of the time for payment of the Liabilities given by Mortgagee shall operate to release, discharge, modify, change or affect the original liability of the Mortgagor herein, either in whole or in part, notice of any action being waived.

8-2. Set Off. Except for tax escrow funds which are provided for in Section 4-9 herein, all deposits or other sums at any time credited by or due from the Mortgagee to the Mortgagor, and all cash, securities, instruments or other property of the Mortgagor in the possession of the Mortgagee (whether for safekeeping, or otherwise) shall at all times constitute security for the Liabilities, and may be applied or set off by the Mortgagee against the Liabilities at any time whether or not the Liabilities are then due or other collateral is then available to the Mortgagee.

8-3. Application of Proceeds. The proceeds of any collection, sale or disposition of the Collateral, or of any other payments received hereunder, shall be applied toward the Liabilities in such order and manner as the Mortgagee reasonably determines, in its sole discretion, any statute, custom or usage to the contrary notwithstanding. The Mortgagor shall remain liable to the Mortgagee for any deficiency remaining following such application.

8-4. Waiver. (a) The Mortgagor WAIVES notice of demand, presentment, notice of dishonor or protest and all forms of demand and notice, both with respect to the Liabilities and to the Collateral; and (b) the Mortgagor, if entitled to it, WAIVES the right to notice and/or hearing prior to the exercise of any of the Mortgagee's Rights and Remedies.

8-5. Responsibility of Mortgagee. The Mortgagee shall not be liable for any loss sustained by the Mortgagor resulting from any action, omission or failure to act by the Mortgagee with respect to the exercise or enforcement of its rights under this Agreement or its relationship with the Mortgagor unless such loss is caused by the willful misconduct, actual bad faith or gross negligence of the Mortgagee. This Agreement and the Mortgagee's exercise of its rights hereunder shall not operate to place any responsibility upon the Mortgagee for the control, care, management or repair of the Collateral, nor shall it operate to place any responsibility upon the Mortgagee to perform the obligations of the Mortgagor under any Lease, or to make the


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Mortgagee responsible or liable for any waste committed on the Mortgaged Premises, and the Mortgagor agrees to save, defend and indemnify the Mortgagee from same, and any damages or defective condition of the Mortgaged Premises, or any negligence in the management, upkeep, repair or control of the Mortgaged Premises.

8-6. Indemnification. The Mortgagor shall indemnify, defend and hold the Mortgagee harmless of and from any claim brought or threatened against the Mortgagee by the Mortgagor, , or any other person (as well as from attorneys' reasonable fees and expenses in connection therewith) on account of the Collateral, or on account of the Mortgagee's relationship with the Mortgagor o (each of which may be defended, compromised, settled or pursued by the Mortgagee with counsel of the Mortgagee's selection, but at the expense of the Mortgagor). The within indemnification shall survive payment of the Liabilities and/or any termination, release or discharge executed by the Mortgagee in favor of the Mortgagor.

8-7. Binding on Successors. This Agreement shall be binding upon the Mortgagor and the Mortgagor's heirs, executors, administrators, representatives, successors and assigns and shall inure to the benefit of the Mortgagee and the Mortgagee's successors and assigns. This provision shall not in any way be deemed a waiver by the Mortgagee of any Event of Default provided for herein.

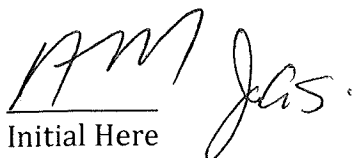
8-8. Severability. Any determination that any provision of this Agreement or any application thereof is invalid, illegal or unenforceable in any respect in any instance shall not affect the validity, legality and enforceability of such provision in any other instance, nor the validity, legality or enforceability of any other provision of this Agreement.

8-9. Consent. The Mortgagor may take any action herein prohibited, or omit to perform any act required to be performed by it, if the Mortgagor shall obtain the prior written consent by a duly authorized officer of the Mortgagee for each such action, or omission to action.

8-10. Payment of Costs. The Mortgagor shall pay on demand all Costs of Collection and all expenses of the Mortgagee in connection with the preparation, execution and delivery of this Agreement and of any other documents and agreements between the Mortgagor and the Mortgagee, including, without limitation, attorneys' reasonable fees and disbursements, and all expenses which the Mortgagee may hereafter incur in connection with the collection of the Liabilities or the protection or enforcement of any of the Mortgagee's rights against the Mortgagor, any Collateral. The Mortgagor authorizes the Mortgagee to pay all such expenses and to charge the same to any account of the Mortgagor with the Mortgagee.

8-11. Additional Advances. All amounts which the Mortgagee may advance under any Sections of this Agreement shall be repayable to the Mortgagee with interest at the highest rate charged relative to any of the Liabilities, on demand, shall be a Liability, and may be charged by the Mortgagee to any deposit account which the Mortgagor maintains with the Mortgagee.

8-12. Notice. All notices, demands and other communications made in respect to this Agreement


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shall be made to the following addresses (each of which may be changed upon seven (7) days written notice to all others) given by hand, by facsimile, by service of process or by certified mail, return receipt requested, as follows:

If to the Mortgagee:

Schmidt Farm, Inc.
c/o Rubenstein and Associates, P.C.
10 Spreen Street, First Floor
Framingham, MA 01701

If to the Mortgagor:

MADDI NORTH STREET DEVELOPMENT, LLC OR ITS ASSIGNEE,
PO Box 411
Franklin, MA 02038

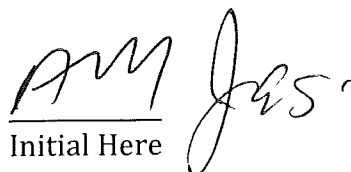
With a copy to:

Michael P. Doherty, Esq.
Doherty, Ciechanowski, Dugan & Cannon, PC
124 Grove Street, Suite 220
Franklin Ma 02038

8-13. Governing Law. This Agreement and all rights and obligations hereunder, including matters of construction, validity and performance, shall be governed by the substantive laws of the Commonwealth of Massachusetts, excluding the laws of the State of Massachusetts which shall govern the sale of the Collateral in the event of a foreclosure sale, and without regard to choice of law rules and principles in effect in the Commonwealth of Massachusetts. The Mortgagor submits itself to the jurisdiction of courts of the Commonwealth of Massachusetts, including the United States District Court located therein, for all purposes with respect to this Agreement and the Mortgagor's relationship with the Mortgagee.

8-14. WAIVER OF TRIAL BY JURY. THE MORTGAGOR AS WELL AS MORTGAGEE HEREBY EXPRESSLY WAIVE ALL RIGHTS TO TRIAL BY JURY, AS TO ALL ISSUES, INCLUDING ANY COUNTERCLAIMS, WITHOUT EXCEPTION, IN ANY ACTION OR PROCEEDING DIRECTLY OR INDIRECTLY RELATING HERETO, OR RELATING TO ANY AND ALL OTHER LOAN DOCUMENTS EXECUTED IN CONNECTION THEREWITH.

IN WITNESS WHEREOF, the Mortgagor has caused this Mortgage to be executed under seal on the day and year set forth in the acknowledgment set forth below, all as of the day and year first above written.


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MADDI NORTH STREET DEVELOPMENT, LLC

BY: ANTHONY MARINELLA, ITS DULY AUTHORIZED MANAGER

COMMONWEALTH OF MASSACHUSETTS

, ss.

_____201_

Before me personally appeared the above-named Anthony Marinella, Manager of **MADDI NORTH STREET DEVELOPMENT, LLC.** , proved to me through satisfactory evidence of identification, which was _____, to be the person who signed the preceding document in my presence, and who acknowledged to me that he signed it voluntarily for its stated purpose as the duly-authorized Manager of **MADDI NORTH STREET DEVELOPMENT, LLC.** and individually.

Notary Public: _____
My Commission Expires: _____

SCHMIDT FARM, INC

By:

Its duly authorized President

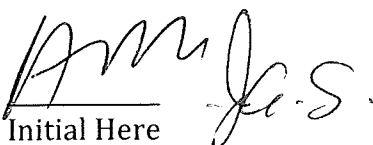

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EXHIBIT A - LEGAL DESCRIPTION

PARCEL I

AM Jas.
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SCHMIDT FARM, INC.

Commercial Real Estate Promissory Note

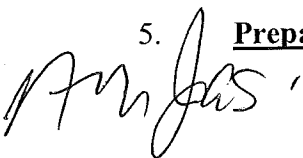
Franklin, Massachusetts

\$1,500,000.00

DATE:

FOR VALUE RECEIVED, the undersigned **MADDI NORTH STREET DEVELOPMENT, LLC.** a Massachusetts **Limited Liability Company** with a principal place of business at **PO BOX 411 FRANKLIN, MA 02038** (hereinafter referred as the "Maker"), promises to pay to the order of **SCHMIDT FARM, INC.**, a Massachusetts limited liability company with a principal place of business at 215 Prospect Street, Franklin, Massachusetts 02038 (hereinafter, with any subsequent holder, the "Lender" or the "Holder") at the offices of the Lender, the principal amount of **One Million, Five Hundred Thousand Dollars and 00/100 (\$1,500,000.00)** (the "Principal Amount")..

1. **Payments to be Made.** The Maker shall repay the Principal Amount and the interest accruing thereon under this Note as follows:
 - (a) Upon the sale of each lot until the Maturity Date as defined in subsection (b) below, the Maker shall make to the Lender a payment of **Thirty Thousand 00/100 (\$30,000.00)**, representing principal payments on the amount advanced and/or outstanding pursuant to this Note;
 - (b) Commencing on year four (4) of the loan term, the Maker shall pay to the Lender interest on the outstanding principal balance at the rate of three (3%) percent per annum, until the Maturity Date, as defined herein:
 - (c) On the next business day following the sale of the fiftieth (50th) home in the proposed subdivision _____ (the "Maturity Date"), the entire outstanding Principal Amount hereof, together with all accrued and unpaid interest thereon, and other costs, if any, shall be due and payable and the Maker shall pay the full amount thereof on such date:
 - (d) If not paid previously in full, all amounts due shall be paid in full on the first day of the sixtieth month following the date hereof.
2. **Place of Payments.** Payments shall be payable to the Lender at the Lender's offices, 215 Prospect Street, Franklin, MA 02038 or at such other place as the Holder may from time to time in writing designate at least ten (10) days before such payment is due.
3. **Default Rate.** Upon the occurrence of an Event of Default (as defined below), or the maturity of this Note, the interest rate under this Note shall immediately increase to **TWELVE PERCENT (12%)** per annum.
4. **INTENTIONALLY OMITTED**
5. **Prepayment of Principal.** In the event that the Maker wishes to make a



prepayment of this Note in whole or in part before it becomes due and payable in full, the Maker hereby agrees with the Lender that no penalty shall be charged. .

6. **Cross-Collateralization.** This Note is secured by any and all collateral at any time granted to the Lender to secure the obligation of the undersigned hereunder.

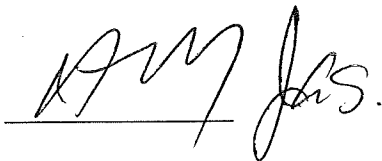
7. **Real Estate Taxes; Insurance.** In the event of a default, any amount adjusted by the Lender for payment of any tax assessments or of any insurance premium or similar charges or to extinguish any lien and/or mortgage on the premises securing payment of this Note and the Liabilities, including the Lender's legal expenses incurred in the exercise of any collection or collateral enforcement activities, including but not limited to mortgage foreclosure paid by the holder hereof, may be added to the principal of this Note and be deemed to be secured by said mortgage and/or security agreement.

8. **Application of Payments.** Any payments received by the Lender on account of this Note, prior to demand or acceleration, shall be applied to the unpaid principal balance hereof. Any payments so received after demand or acceleration shall be applied as follows: (i) first, to any reasonable costs, expenses or charges then owed to the Lender by the undersigned; (ii) second, to accrued and unpaid interest as provided hereunder; and (iii) third, to the unpaid principal balance hereof.

9. **Loan is for Commercial Purposes.** The undersigned represents to the Lender that the proceeds of this Note shall be used for business purposes and shall not be used for personal, family or household purposes and that the property serving as collateral for this Note is commercial property, not residential property to be used by the Maker or any other party for residential purposes

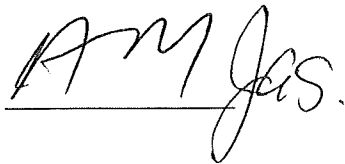
10. **Events of Default.** The Lender at its option may accelerate this Note and declare the entire unpaid principal balance hereof, and any and all accrued and unpaid interest thereon, to be immediately due and payable without demand, presentment, notice, notice of dishonor or protest (which are each and all hereby waived by the each and every of the undersigned) upon the occurrence of any one or more of the following events (the term "Maker" in the following subparagraphs (a) through (m) below refers to the occurrence of any one or more of such events involving, or with respect to, each of the undersigned collectively as well as to each of the undersigned on a single, individual basis):

- (a) The failure of the Maker to pay when due any of the Maker's liabilities, obligations or indebtedness to the Lender;

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- (b) The failure of the Maker to promptly, punctually and faithfully perform, discharge or comply with any of the Maker's liabilities, obligations, indebtedness, warranties or covenants to the Lender hereunder and under any other obligation to the Lender (the amounts due under this Note and the other liabilities, obligations, indebtedness, warranties and covenants described in subparagraphs (a) and (b) above and this subparagraph (c) are referred to herein as the "Liabilities");
- (c) INTENTIONALLY OMITTED;
- (d) The occurrence of any event of default under any agreement between the Lender and the Maker or any instrument, paper or writing given to the Lender by the Maker, whether such agreement, instrument, paper or writing now exists or hereafter arises (notwithstanding that the Lender may not have exercised its rights upon default under any such other agreement, instrument, paper or writing);
- (e) Any act by, against, or relating to the Maker, or any property or assets of the Maker, which act constitutes the application for, consent to or sufferance of the appointment of a receiver, trustee or other person, pursuant to court action or otherwise, over all or any part of the property of the Maker; the granting of any trust mortgage or execution of an assignment for the benefit of creditors of the Maker, or the occurrence of any other voluntary or involuntary liquidation or extension of debt agreement or arrangement for the Maker; the failure of the Maker generally to pay debts of the Maker as those debts mature; the adjudication of bankruptcy or insolvency relative to the Maker; the calling or sufferance of a meeting of creditors of the Maker; the meeting of the Maker with a formal or informal committee of creditors for the Maker; the offering of or actual entry into any composition, extension or other arrangement by the Maker, seeking relief or extension for the debts of the Maker, or the initiation of any other judicial or non-judicial proceeding or agreement by, against or including the Maker, which seeks or intends to accomplish a reorganization, restructuring, forbearance or other arrangement with creditors of the Maker; the entry of an order for relief or similar order with respect to the Maker, or with respect to any one of them, in any proceeding pursuant to the Bankruptcy Reform Act of 1978, as amended (as amended, the "Bankruptcy Code") or any other federal or state bankruptcy, insolvency, reorganization, receivership, liquidation or restructuring law; the filing of any complaint, application or petition by or against the undersigned initiating any matter in which the Maker is or may be granted any relief from the debts of the Maker pursuant to the Bankruptcy Code or any other insolvency statute or procedure (*provided, however*, that it shall not be an Event



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of Default hereunder if such complaint, application or petition is filed against the Maker, which complaint, application or petition is being diligently contested until the earlier of (i) the entry of an Order for Relief against the Maker; or (ii) the expiration of sixty (60) days since the filing of the complaint, application or petition with dismissal thereof);

- (f) The entry of any judgment against the Maker, which judgment is not satisfied or appealed from (with execution or similar process stayed) within twenty-one (21) day of entry of such judgment;
- (g) One or more foreclosure or other proceedings shall be commenced to enforce, execute or realize upon any lien, encumbrance, attachment, trustee process, mortgage or security interest against the Maker;
- (h) The death or the commencement of the termination of existence, of the dissolution, of the winding up or of the liquidation of the Maker;
- (i) The occurrence of any one or more of the foregoing Events of Default with respect to: (i) (if the Maker is a general or limited partnership, limited liability company, limited liability partnership or trust) any partner, limited liability entity member or the beneficiary of the Maker; or (ii); or (iii) (if the Maker is a Limited Liability Company) any parent, subsidiary, affiliate or holder of ten (10) percent of voting equity in the Maker;
- (j) In the absence of the Lender's express, prior written consent, the sale or transfer of all or any interest of the Maker in any portion of the real or personal property or any other collateral securing this Note, except for the sake of lots as contemplated in paragraph 1, above.

11. **No Waiver of Rights of Lender.** No delay or omission on the part of the Lender in exercising or enforcing any of the Lender's powers, rights, privileges, remedies or discretions hereunder and under any documents executed in connection with this Note against any one or more of the undersigned, whether contemporaneously or subsequently executed, shall operate as a waiver thereof on that occasion or on any other prior or future occasion against any one or more of the undersigned. No single or partial exercise by the Lender of any power, right, privilege, remedy or discretion against any one or more of the undersigned shall preclude another, further or future exercise thereof against any of the undersigned. A waiver of any power, right, privilege, remedy or discretion on any occasion against any one or more of



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undersigned shall not be construed as a bar to or waiver of any such right or remedy on any future occasion.

12. **Consent to Renewals, Extensions, Etc.** Without notice to, or further consent of the Maker (the “Obligors”), the Maker consents to:

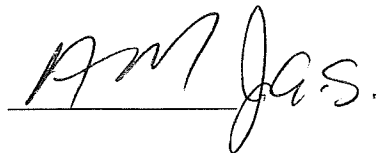
- (a) every renewal, forbearance, extension of time, and other change in the terms or conditions of any indebtedness; and
- (b) every waiver of Bank's rights against any Obligor(s) or any security, without such waiver prohibiting the later exercise of the same or similar rights..

14. **Bankruptcy; Subordination.** Neither bankruptcy, insolvency, merger, consolidation, dissolution, nor the death of any Obligor(s) shall affect the Maker’s obligations to the Lender hereunder. The Maker subordinates to the indebtedness of the Obligor(s) to Lender any claim or security it now or hereafter may have against any other Obligor(s) or its assets. Without limiting any of the Bank's rights or the Maker’s obligations, the Maker waives all suretyship defenses.

15. **Authority; Waivers by Maker.** The Maker hereby waives:

- (a) presentment, demand, notice, notice of dishonor and protest, and any and all other demands and notices in connection with the delivery, acceptance, performance, default or enforcement of this Note, the Loan Documents and the Liabilities and also waives any delay on the part of the holder hereof.
- (b) any delay or failure of Lender in the exercise of any right or remedy;
- (c) the release, compromise, subordination, substitution, impairment, or failure to perfect any security or any rights or remedies against any Obligor(s);
- (d) any right to marshaling, subrogation, reimbursement or indemnity, until all indebtedness has been fully and indefeasibly paid and Maker’s ability to obtain credit under the Loan Agreement has been irrevocably terminated; and
- (e) any right to request or obtain from Lender information on any Obligor(s).

The Maker assumes all responsibility for being and keeping themselves informed of the financial condition and assets of each and all of the other Obligor(s), and of all other

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circumstances bearing upon the risk of nonpayment of the indebtedness and the nature, scope, and extent of the risks that the Maker assumes and incur hereunder, and agree that the Lender shall have no duty to advise any Obligor(s) of information known to it regarding such circumstances or risks.

16. **Indemnification.** Each of the Maker, , shall indemnify, defend and hold the Lender harmless against any claim brought or threatened against the Lender by any one or more of the undersigned, (as well as from attorneys' reasonable fees and expenses in connection therewith) on account of the Lender's relationship with the undersigned (each of which may be defended, compromised, settled or pursued by the Lender with counsel of the Lender's selection, but at the expense of the undersigned).

Each of the undersigned shall pay on demand all attorneys' reasonable fees and out-of-pocket expenses incurred by the Lender in the administration of this Note and the Liabilities, including, without limitation, costs and expenses associated with travel on behalf of the Lender. Each of the undersigned shall also pay on demand all attorneys' reasonable fees and out-of-pocket expenses incurred by the Lender's attorneys and all costs incurred by the Lender, including, without limitation, costs and expenses associated with travel on behalf of the Lender, which costs and expenses are directly or indirectly related to the preservation, protection, collection or enforcement of any of the Lender's rights against the each of the undersigned and the Liabilities and against any collateral given the Lender to secure this Note or any other Liabilities of the each of the undersigned (whether or not suit is instituted by or against the Lender).

17. **Joint and Several Obligations.** The Liabilities of the undersigned are joint and several; *provided, however*, the release by the Lender of any one or more of the undersigned shall not release any other person obligated on account of this Note. Each reference in this Note to the undersigned, any endorser, is to such person individually and also to all such persons jointly and severally. No person obligated on account of this Note may seek contribution from any other person also obligated unless and until all liabilities, obligations and indebtedness to the Lender of the person from whom contribution is sought have been satisfied in full.

18. **Binding Obligations; Successors to the Maker.** This Note shall be binding upon the each of the undersigned upon their respective heirs, successors, assigns and representatives, and shall inure to the benefit of the Lender and its successors, endorsees and assigns. Each of the undersigned authorizes the Lender to complete this Note if delivered incomplete in any respect.

19. **Severability.** Any determination that any provision of this Agreement or any

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application thereof in any particular instance is invalid, illegal or unenforceable in any respect in any instance shall not affect the validity, legality and enforceability of such provision in any other instance, nor the validity, legality or enforceability of any other provision of this Agreement.

20. **No Marshaling.** The Lender shall not be required to marshal any present security for, , the obligations or to resort to any such security or guarantee in any particular order and the Maker waives, to the fullest extent that it lawfully can:

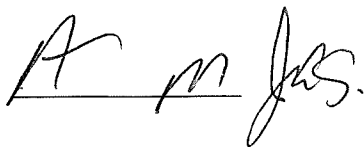
- (a) any right the Maker or other obligors may have to require the Lender to pursue any particular remedy before proceeding against it; and
- (b) any right to the benefit of, or to direct the application of the proceeds of any collateral until the obligations are paid in full.

21. **Maker's Representations and Warranties.** The Bank's agreement to advance funds pursuant to the terms hereof and pursuant to the Loan Agreement is made in reliance upon the information that the Maker have given to the Lender in connection with this Note, the Loan Agreement, the other Loan Documents and the other obligations that the Maker has with Bank, which the Maker represents, warrants and covenants to be true and correct as of the date hereof. The Maker represents, warrants and covenants that any information that the Maker provides to Lender in the future shall also be true and correct.

22. **Negotiability of this Note.** The Maker hereby waives presentment, dishonor, protest and demand, diligence, notice of protest, demand and of dishonor, and any other notice otherwise required to be given under the law in connection with the delivery, acceptance, performance, default, enforcement or collection of this Note, and expressly agree that this Note or any payment hereunder may be extended or subordinated, by forbearance or otherwise, from time to time, without in any way affecting the liability of the Maker. No consent or waiver by the Holder hereof with respect to any action or failure to act which, without such consent or waiver, would constitute a breach of any provision of this Note, shall be valid and binding unless in writing and signed by both the Maker and the Bank.

23. **Completion of Instrument; Reproduction Admissible.** The Maker authorizes the Lender to complete this Note if delivered incomplete in any respect. A photographic or other reproduction of this Note shall be admissible in evidence with the same effect as the original Note in any judicial or other proceeding, whether or not the original is in existence.

25. **Headings; References to Parties.** The headings herein are for convenience only

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and shall not be deemed to be part of this Note. Any references to any party shall be construed in the masculine, feminine or neuter, singular or plural, as the context may require.

26. **Governing Law.** This Note is delivered to the Lender at one of its offices in Massachusetts, shall be governed by the substantive laws of the Commonwealth of Massachusetts, irrespective of the law of any other jurisdiction in which some or all collateral herefor may be located, and without regard to choice of law rules and principles, and shall take effect as a sealed instrument.

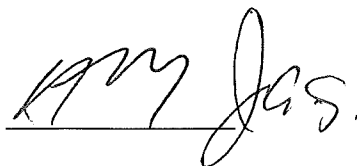
27. **Jurisdiction.** Each of the undersigned submits to the jurisdiction of the courts of the Commonwealth of Massachusetts, including the United States District Court located therein, for all purposes with respect to: (i) this Note; (ii) the Liabilities; (iii) all documents and obligations undertaken in connection therewith; (iv) any collateral given to secure such parties' respective liabilities, obligations and indebtedness to the Lender; and (v) such parties' respective relationships with the Lender.

28. **Additional Waivers** Each of the undersigned makes the following waivers knowingly, voluntarily, and intentionally, and understands that the Lender, in the establishment and maintenance of the Lender's relationship with the undersigned contemplated by the within Note, is relying thereon.

TO INDUCE SCHMIDT FARM, INC. TO MAKE THE LOAN TO THE UNDERSIGNED, EACH OF THE UNDERSIGNED DOES HEREBY ATTEST, CERTIFY, REPRESENT, WARRANT AND COVENANT THAT NEITHER THE PREMISES NOR ANY PORTION THEREOF DESCRIBED IN ANY MORTGAGE SECURING THIS NOTE ARE USED OR ARE INTENDED TO BE USED BY THE UNDERSIGNED OR BY ANY PERSON LIABLE HEREUNDER AS A DWELLING, OR AS A HOME, AND THAT THE PROCEEDS OF THIS TRANSACTION ARE SOLELY TO BE USED FOR COMMERCIAL AND BUSINESS PURPOSES AND NOT FOR AGRICULTURAL OR CONSUMER PURPOSES, AND THE UNDERSIGNED ACKNOWLEDGES THAT THIS ATTESTATION, CERTIFICATION, REPRESENTATION, WARRANTY AND COVENANT HAS BEEN RELIED UPON BY THE HOLDER HEREOF.

THE MAKER, TO THE EXTENT ENTITLED THERETO, UNCONDITIONALLY AND IRREVOCABLY WAIVES ANY AND ALL OF ITS PRESENT OR FUTURE RIGHTS, OR OF ANY PERSON OR OF ANY PERSON LIABLE TO THE LENDER ON ACCOUNT OR IN RESPECT TO THE LIABILITIES, TO A TRIAL BY JURY IN ANY LEGAL ACTION, CASE,

48

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COUNTERCLAIM OR CONTROVERSY IN WHICH THE LENDER IS OR BECOMES A PARTY (WHETHER SUCH CASE OR CONTROVERSY IS INITIATED BY OR AGAINST THE LENDER IN WHICH THE LENDER IS JOINED AS A PARTY LITIGANT), WHICH CASE OR CONTROVERSY ARISES OUT OF, OR IS IN RESPECT TO, ANY RELATIONSHIP AMONGST OR BETWEEN THE UNDERSIGNED, ANY SUCH PERSON, AND THE LENDER.

The undersigned, by signing this document, acknowledges that he/she/they/it has read, understands, and received a copy of this Note.

EXECUTED as a sealed instrument the day and year first above written.

MADDI NORTH STREET DEVELOPMENT, LLC.

BY: ANTHONY MARINELLA, ITS DULY AUTHORIZED MANAGER

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COMMONWEALTH OF MASSACHUSETTS

, ss.

201

Before me personally appeared the above-named Anthony Marinella, Manager of **MADDI NORTH STREET DEVELOPMENT, LLC**, proved to me through satisfactory evidence of identification, which was _____, to be the person who signed the preceding document in my presence, and who acknowledged to me that he signed it voluntarily for its stated purpose as the duly-authorized Manager of **MADDI NORTH STREET DEVELOPMENT, LLC**. and individually.

Notary Public: _____
My Commission Expires: _____

This Note is secured by the following:

(i) Mortgage and Security Agreement covering the premises known as **215 Prospect Street, Franklin, MA 02038** (the "Premises")

AMJ