

**IN THE SUPREME COURT OF THE STATE OF NEVADA**

SPANISH HEIGHTS ACQUISITION  
COMPANY, LLC; SJC VENTURES  
HOLDING COMPANY, LLC,

Appellants

vs.

CBC PARTNERS I, LLC; CBC  
PARTNERS, LLC; 5148 SPANISH  
HEIGHTS, LLC; KENNETH ANTOS  
AND SHEILA NEUMAN-ANTOS;  
DACIA, LLC

Respondents.

Case No. 82868

Electronically Filed  
Nov 10 2021 01:15 p.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

APPEAL

from a decision in favor of Respondent  
entered by the Eighth Judicial District Court, Clark County, Nevada  
The Honorable Elizabeth Gonzalez, District Court Judge  
District Court Case No. A-20-813439-B

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**APPELLANTS' APPENDIX VOLUME X**

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DATE	DESCRIPTION	VOLUME	PAGES
10/19/2020	Appendix of Exhibits to Defendants/Counterclaimants' Opposition to Plaintiffs' Renewed Application for Temporary Restraining Order and Motion for Preliminary Injunction	III/IV/V/VI	AA0525-1282
12/24/2020	Appendix of Exhibits to Defendants/Counterclaimants' Opposition to Plaintiffs' Renewed Application for Temporary Restraining Order and Motion for	X/XI/XII/XIII/XIV	AA2178-3213

	Preliminary Injunction on Order Shortening Time		
04/29/2021	Case Appeal Statement	XVIII	AA4238-4243
04/09/2020	Complaint	I	AA0001-0010
05/04/2021	Cost Bond on Appeal	XVIII	AA4244-4247
06/04/2021	Court Minutes for Motion to Reconsider	XIX	AA4432
01/11/2021	Court Minutes for Renewed Motion to Dismiss First Amended Complaint as to Dacia, LLC or in the Alternative Motion for Summary Judgment	XVI	AA3589
12/24/2020	Declaration of Alan Hallberg in Support of Defendants/Counterclaimants' Opposition to Plaintiffs' Renewed Application for Temporary Restraining Order and Motion for Preliminary Injunction on Order Shortening Time	X	AA2169-2171
11/09/2020	Declaration of Kenneth M. Antos in Support of Defendants/Counterclaimants' Opposition to Plaintiffs' Renewed Application for Temporary Restraining Order and Motion for Preliminary Injunction	VI	AA1300-1327
12/24/2020	Declaration of Kenneth M. Antos in Support of Defendants/Counterclaimants' Opposition to Plaintiffs' Renewed Application for Temporary Restraining Order and Motion for Preliminary Injunction on Order Shortening Time	X	AA2172-2177
04/27/2020	Defendant CBC Partners I, LLC's Answer to Complaint and	I	AA0022-0045

	Counterclaimants' 5148 Spanish Heights, LLC and CBC Partners I, LLC Counterclaim Against Spanish Heights Acquisition Company, LLC, SJC Ventures, LLC, SJC Ventures Holding Company, LLC, and Jay Bloom		
06/10/2020	Defendants CBC Partners I, LLC, CBC Partners, LLC, and 5148 Spanish Heights, LLC Answer to First Amended Complaint	I	AA0099-0116
09/03/2020	Defendants Sheila Antos and Kenneth Antos, as Trustees for the Kenneth & Sheila Antos Living Trust and the Kenneth M. Antos & Sheila M. Neumann-Antos Trust Answer to First Amended Complaint and Counterclaim	I	AA0136-0160
10/19/2020	Defendants/Counterclaimants' Opposition to Plaintiffs' Renewed Application for Temporary Restraining Order and Motion for Preliminary Injunction	III	AA0513-0524
12/24/2020	Defendants/Counterclaimants' Opposition to Plaintiffs' Renewed Application for Temporary Restraining Order and Motion for Preliminary Injunction on Order Shortening Time	X	AA2145-2168
12/15/2020	Exhibits in Support of Plaintiffs' Renewed Application for Temporary Restraining Order and Motion for Preliminary Injunction on an Order Shortening Time	VIII/IX/X	AA1834-2144
12/10/2020	Exhibits to Renewed Motion to Dismiss First Amended Complaint as to Dacia, LLC or in the Alternative Motion for Summary Judgment	VI/VII/VIII	AA1338-1804

04/06/2021	Findings of Fact and Conclusions of Law	XVIII	AA4165-4185
05/15/2020	First Amended Complaint	I	AA0046-0065
04/29/2021	Notice of Appeal	XVIII	AA4210-4237
04/10/2020	Notice of Entry of Order	I	AA0015-0021
05/29/2020	Notice of Entry of Order	I	AA0085-0090
10/02/2020	Notice of Entry of Order	I	AA0177-0184
11/03/2020	Notice of Entry of Order	VI	AA129-1299
04/20/2021	Notice of Entry of Order	XVIII	AA4186-4209
08/06/2021	Notice of the Bankruptcy Court Finding That Defendants Violated the Stay of Litigation Resulting in Void FFCL	XIX	AA4433-4442
05/18/2021	Opposition to Plaintiffs' Motion to Amend the Court's Findings of Fact, Conclusions of Law, and Order, or Alternatively for Reconsideration	XIX	AA4325-4402
11/03/2020	Order Denying CBC Partners I, LLC and 5148 Spanish Heights, LLC's Motion for Partial Summary Judgment and Denying CBC Partners I, LLC and 5148 Spanish Heights, LLC's Motion for Appointment of Receiver	VI	AA1289-1292
09/29/2020	Order Granting in Part and Denying in Part Motion to Dismiss as to Dacia, LLC	I	AA0172-0176
05/29/2020	Order Granting Plaintiffs' Motion for Preliminary Injunction on a Limited Basis	I	AA0082-0084
05/04/2021	Plaintiffs' Motion to Amend the Court's Findings of Fact, Conclusions of Law, and Order or Alternatively for Reconsideration	XVIII/XIX	AA4248-4324



12/24/2020	Plaintiffs' Opposition to Renewed Motion to Dismiss First Amended Complaint as to Dacia, LLC or in the Alternative Motion for Summary Judgment	XIV/XV/XVI	AA3214-3551
10/07/2020	Plaintiffs' Renewed Application for Temporary Restraining Order and Motion for Preliminary Injunction	I/II/III	AA0185-0512
12/14/2020	Plaintiffs' Renewed Application for Temporary Restraining Order and Motion for Preliminary Injunction on an Order Shortening Time	VIII	AA1805-1833
05/28/2021	Plaintiffs' Reply in Support of Motion to Amend the Court's Findings of Fact, Conclusions of Law, and Order, or Alternatively for Reconsideration	XIX	AA4427-4431
11/02/2020	Plaintiffs' Reply in Support of Renewed Application for Temporary Restraining Order and Motion for Preliminary Injunction	VI	AA1283-1288
01/01/2021	Plaintiffs' Reply in Support of Renewed Application for Temporary Restraining Order and Motion for Preliminary Injunction on an Order Shortening Time	XVI	AA3552-3580
02/01/2021	Preliminary Injunction Hearing and Trial – Day 1	XVI	AA3592-3701
02/01/2021	Preliminary Injunction Hearing and Trial – Day 2	XVI/XVII	AA3702-3967
02/01/2021	Preliminary Injunction Hearing and Trial – Day 3	XVII	AA3968-3981
03/15/2021	Preliminary Injunction Hearing and Trial – Day 4 (Volume I)	XVII/XVIII	AA3982-4054
03/15/2021	Preliminary Injunction Hearing and Trial – Day 4 (Volume II)	XVIII	AA4055-4152
12/10/2020	Renewed Motion to Dismiss First Amended Complaint as to Dacia,	VI	AA1328-1337

	LLC or in the Alternative Motion for Summary Judgment		
01/05/2021	Reply in Support of Renewed Motion to Dismiss First Amended Complaint as to Dacia, LLC or in the Alternative Motion for Summary Judgment	XVI	AA3586-3588
09/28/2020	SJC Ventures Holding Company, LLC, d/b/a SJC Ventures, LLC's Answer to Counterclaim Filed By Kenneth Antos and Sheila Neumann-Antos, as Trustees of the Kenneth & Sheila Antos Living Trust and the Kenneth M. Antos & Sheila M. Neumann-Antos Trust	I	AA0161-0171
07/10/2020	Spanish Heights Acquisition Company, LLC, SJC Ventures, LLC, SJC Ventures Holding Company, LLC, and Jay Bloom's Answer to Counterclaim	I	AA0117-0135
01/12/2021	Stipulation Regarding Legal Issues to Be Decided by the Court at Bifurcated Trial Continuance	XVI	AA3590-3591
05/26/2020	Summons	I	AA0066-0069
05/26/2020	Summons	I	AA0070-0073
05/26/2020	Summons	I	AA0074-0077
05/26/2020	Summons	I	AA0078-0081
06/04/2020	Summons	I	AA0091-0094
06/04/2020	Summons	I	AA0095-0098
04/09/2020	Temporary Restraining Order	I	AA0011-0014
01/05/2021	Temporary Restraining Order	XVI	AA3581-3585
03/22/2021	Transcript of Oral Ruling Re: First Motion to Dismiss Case with Certificate of Service Filed By	XVIII	AA4153-4164

	Michael R. Mushkin on Behalf of 5148 Spanish Heights, LLC		
05/18/2021	Transcript of Oral Ruling Re: Motion for Sanctions for Violation of the Automatic Stay and Related Relief Filed By James D. Greene on Behalf of Spanish Heights Acquisition Company, LLC	XIX	AA4403-4426

**CERTIFICATE OF SERVICE**

I certify that on the 10th day of November, 2021, this document was electronically filed with the Nevada Supreme Court. Electronic service of the foregoing: **APPELLANTS' OPENING BRIEF** and **VOLUMES I – XIX** of the **APPENDIX** shall be made in accordance with the Master Service List as follows:

Michael R. Mushkin, Esq.  
MUSHKIN & COPPEDGE  
6070 S. Eastern Avenue, Suite 270  
Las Vegas, Nevada 89119  
*Attorney for Respondents*

DATED this 10th day of November, 2021.

/s/ Natalie Vazquez

An Employee of MAIER GUTIERREZ & ASSOCITES

# **EXHIBIT 8**

# **EXHIBIT 8**

APN: 163-29-615-007

When recorded, return to:  
LANE POWELL PC  
601 SW Second Ave, Suite 2100  
Portland, OR 97204  
Attn: Skyler Tanner  
FATCO NCS 706877

Inst #: 20161219-0002739  
Fees: \$22.00  
N/C Fee: \$25.00  
12/19/2016 01:07:02 PM  
Receipt #: 2959842  
Requestor:  
FIRST AMERICAN COMMERCIAL N  
Recorded By: GWC Pgs: 6  
DEBBIE CONWAY  
CLARK COUNTY RECORDER

**FIRST MODIFICATION TO  
DEED OF TRUST, ASSIGNMENT OF RENTS,  
SECURITY AGREEMENT AND FIXTURE FILING**

This First Modification to Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing (this "**Modification**") is made effective as of December 2, 2016, by Kenneth M. Antos and Sheila M. Neumann-Antos, Trustees of the Kenneth and Sheila Antos Living Trust, dated April 26, 2007, and any amendments thereto, as trustor ("**Trustor**"), having a notice address of 5148 Spanish Heights Drive, Las Vegas, NV 89148, and CBC Partners I, LLC, a Washington limited liability company, as beneficiary ("**Beneficiary**"), having a notice address of 777 108th Ave NE, Suite 1895, Bellevue, WA 98004.

**WITNESSETH**

A. This Modification modifies the Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing made December 17, 2014, and recorded in the Official Records of Clark County, Nevada on December 29, 2014, as instrument number 20141229-0002856, under which Trustor is the trustor, Lender is the beneficiary, and First American Title Insurance Company, a Nebraska corporation, having a notice address of 2 First American Way, Santa Ana, CA 92707, is the trustee (as amended, corrected, or modified, the "**Deed of Trust**"). The Deed of Trust covers the real property described in the Deed of Trust. Capitalized terms not defined herein shall have the meaning provided in the Deed of Trust.

B. Borrower and Lender have entered into modifications to the Note to sever a portion of the principal thereof into a separate note that is not secured by the Deed of Trust. As the Deed of Trust secures the Guarantors' Guaranty of the Note, Trustor and Lender wish to amend the terms of the Deed of Trust to reflect the reduced principal amount of the Note.

**AGREEMENT**

1. The paragraph labeled "One" immediately after the Heading "FOR THE PURPOSES OF SECURING:" commencing on page 4 of the Deed of Trust is amended and restated in its entirety to read as follows:

One: Payment of any and all amounts (collectively, the "**Guaranteed Obligations**") due and owing by Kenneth Antos and Sheila Antos (individually and collectively, "**Guarantor**") under that certain Guaranty dated June 22, 2012, in favor of Beneficiary (the "**Guaranty**"), guarantying, *inter alia*, the indebtedness

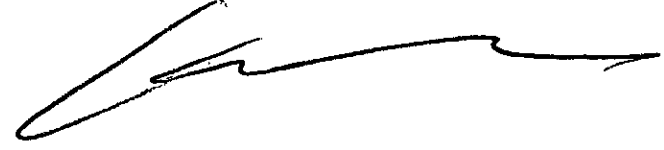
evidenced by that certain Secured Promissory Note (and any renewals, extensions, modifications and substitutions thereof) (collectively, the “**Note**”), by and among KCI Investments, LLC, a Nevada limited liability company, and Preferred Restaurant Brands, Inc., a Florida corporation (individually and collectively, “**Borrower**”) and Beneficiary, dated June 22, 2012, as now or hereafter modified, in the maximum principal sum of TWO MILLION NINE HUNDRED AND SEVENTY-FIVE THOUSAND AND NO/100 DOLLARS (\$2,975,000.00), together with interest thereon, late charges and collection costs as provided in the Note.

2. Except as amended hereby, the Deed of Trust remains in full force and effect, without waiver or amendment. The real property described in the Deed of Trust shall remain subject to the lien, charge or encumbrance created in the Deed of Trust and, except as expressly stated herein, nothing herein contained or done pursuant to this Modification shall affect or be construed to affect the liens, charges or encumbrances created in the Deed of Trust, or the priority thereof over other liens, charges or encumbrances, or to increase or affect the liability of any party or parties who may now or hereafter be liable under or on account of the Deed of Trust.

3. This Modification may be executed in any number of counterparts, each of which when executed and delivered shall be deemed to be an original, and all of which when taken together shall constitute one and the same instrument.

*Intentionally blank*

IN WITNESS WHEREOF, these presents have been executed the day and year first above written.



Kenneth M. Antos, as Trustee of the Kenneth and Sheila Antos Living Trust dated April 26, 2007, and any amendments thereto



Sheila M. Neumann-Antos, as Trustee of the Kenneth and Sheila Antos Living Trust dated April 26, 2007, and any amendments thereto

CBC PARTNERS I, LLC,  
a Washington limited liability company

By: John Otter  
Its: Authorized Manager Representative

*Notary acknowledgements follow*




IN WITNESS WHEREOF, these presents have been executed the day and year first above written.

\_\_\_\_\_  
Kenneth M. Antos, as Trustee of the Kenneth  
and Sheila Antos Living Trust dated April 26,  
2007, and any amendments thereto

\_\_\_\_\_  
Sheila M. Neumann-Antos, as Trustee of the  
Kenneth and Sheila Antos Living Trust dated  
April 26, 2007, and any amendments thereto

CBC PARTNERS I, LLC,  
a Washington limited liability company

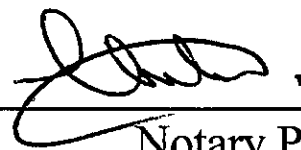
  
\_\_\_\_\_  
By: John Otter  
Its: Authorized Manager Representative

*Notary acknowledgements follow*

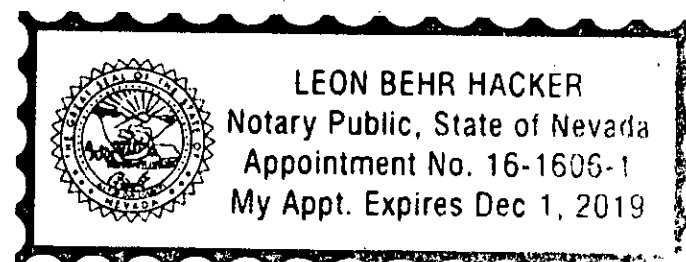
STATE OF NEVADA

COUNTY OF CLARK

This instrument was acknowledged before me on <sup>December 13<sup>th</sup></sup> ~~November~~ \_\_, 2016, by Kenneth M. Antos, as Trustee of the Kenneth and Sheila Antos Living Trust dated April 26, 2007, and any amendments thereto.



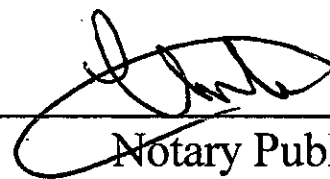
Notary Public



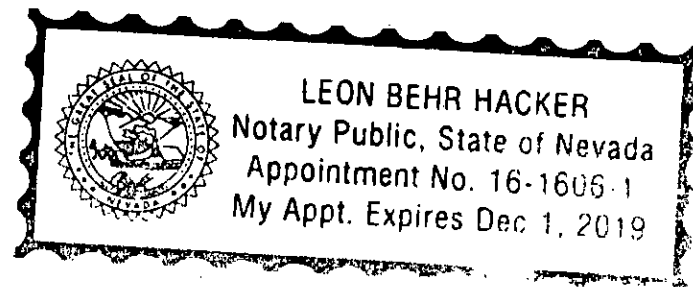
STATE OF NEVADA

COUNTY OF CLARK

This instrument was acknowledged before me on <sup>December 13<sup>th</sup></sup> ~~November~~ \_\_, 2016, by Sheila M. Neumann-Antos, as Trustee of the Kenneth and Sheila Antos Living Trust dated April 26, 2007, and any amendments thereto.



Notary Public

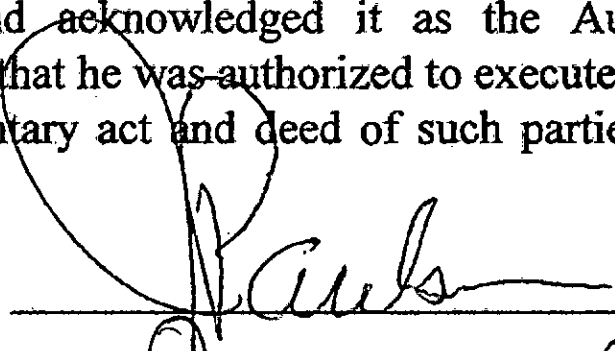


State of NEVADA  
County of CLARK

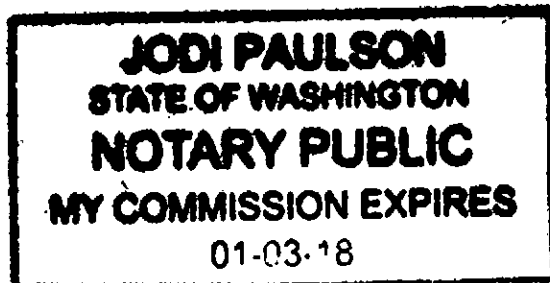
STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF KING )

I certify that I know or have satisfactory evidence that John Otter is the person who personally appeared before me, and said person acknowledged that he signed this instrument, and that he is authorized to execute the instrument, and acknowledged it as the Authorized Manager Representative of CBC Partners I, LLC, and that he was authorized to execute the instrument and that said instrument was the free and voluntary act and deed of such parties for the uses and purposes mentioned in this instrument.

DATED: November 30 2016

  
Print Name: Jodi A. Paulson  
NOTARY PUBLIC for the State of Washington,  
residing at Belleuve

My appointment expires: 1/3/2018



# **EXHIBIT 9**

# **EXHIBIT 9**

Inst #: 20171103-0002240

Fees: \$40.00

RPTT: \$0.00 Ex #: 009

11/03/2017 04:12:56 PM

Receipt #: 3240505

Requestor:

LEGAL WINGS

Recorded By: ANI Pgs: 3

DEBBIE CONWAY

CLARK COUNTY RECORDER

Src: FRONT COUNTER

Ofc: MAIN OFFICE

**APN#** 163-29-615-007

11-digit Assessor's Parcel Number may be obtained at:  
<http://redrock.co.clark.nv.us/assrrealprop/ownr.aspx>

Deed of Sale

**Type of Document**

(Example: Declaration of Homestead, Quit Claim Deed, etc.)

**Recording Requested By:**

Maier Gutierrez & Associates

**Return Documents To:**

**Name** Joseph A. Gutierrez, Esq., Maier Gutierrez Ayon

**Address** 8816 Spanish Ridge Avenue

**City/State/Zip** Las Vegas, Nevada 89148

This page added to provide additional information required by NRS 111.312 Section 1-2

(An additional recording fee of \$1.00 will apply)

This cover page must be typed or printed clearly in black ink only.

OR Form 108 ~ 06/06/2007

Coversheet.pdf

APN: 163-29-615-007

Return document and mail tax statements to:

SPANISH HEIGHTS ACQUISITION COMPANY, LLC  
5148 Spanish Heights Dr.  
Las Vegas NV 89148

## DEED OF SALE

THIS INDENTURE WITNESSETH: That first party

**ANTOS, KENNETH & SHEILA LIV TR, KENNETH M ANTOS SHEILA M. NEUMANN-ANTOS TRS**

for valuable consideration, the receipt of which is hereby acknowledged, does hereby convey without warranty, express or implied, to:

**SPANISH HEIGHTS ACQUISITION COMPANY, LLC**

the real property situated in the County of Clark, State of Nevada, described as follows:

LOT SEVEN (7) IN BLOCK FIVE (5) OF SPANISH HILLS ESTATES UNIT 5A, AS SHOWN BY MAP THEREOF ON FILE IN BOOK 107, OF PLATS, PAGE 58, IN THE OFFICE OF THE COUNTY RECORDER OF CLARK COUNTY, NEVADA


and commonly known as 5148 SPANISH HEIGHTS DR., LAS VEGAS NV 89148.

Together with all and singular the tenements, hereditaments and appurtenances thereunto belonging or in any way appertaining.

Subject to:

1. Property taxes.
2. Conditions, covenants, restrictions, reservations, rights, rights of way, and easements now of record, if any.
3. Liens, deeds of trust, and other encumbrances now in force, if any.

Grantor: **ANTOS, KENNETH & SHEILA LIV TR**

By:   
Kenneth Antos, Trustee

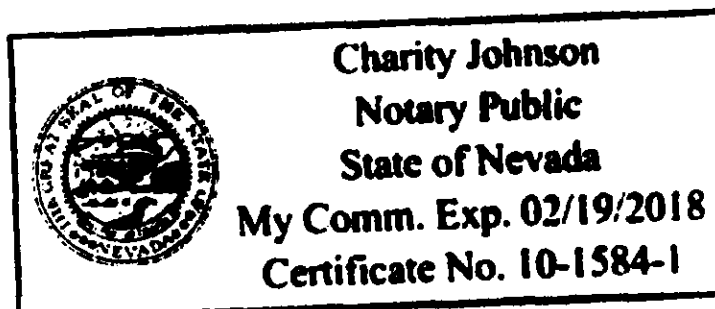
By:   
Sheila Neuman-Antos, Trustee

STATE OF NEVADA                     )  
COUNTY OF CLARK                 )

This instrument was executed before me on October 11, 2017, by (print name) Kenneth Antos  
and Sheila Neuman-Antos

  
NOTARY PUBLIC

My Commission Expires: 2/19/18  
My Certificate No.: 10-1584-1



STATE OF NEVADA  
DECLARATION OF VALUE

1. Assessor Parcel Number(s)

- a. 163-29-615-007  
b. \_\_\_\_\_  
c. \_\_\_\_\_  
d. \_\_\_\_\_

2. Type of Property:

- a. ☐ Vacant Land b. ☒ Single Fam. Res.  
c. ☐ Condo/Twnhse d. ☐ 2-4 Plex  
e. ☐ Apt. Bldg f. ☐ Comm'l/Ind'l  
g. ☐ Agricultural h. ☐ Mobile Home  
☐ Other

FOR RECORDERS OPTIONAL USE ONLY

Book \_\_\_\_\_ Page: \_\_\_\_\_

Date of Recording: \_\_\_\_\_

Notes: \_\_\_\_\_

3.a. Total Value/Sales Price of Property

\$ 0.00

b. Deed in Lieu of Foreclosure Only (value of property ( \_\_\_\_\_ )

c. Transfer Tax Value:

\$ 0.00

d. Real Property Transfer Tax Due

\$ 0.00

4. If Exemption Claimed:

a. Transfer Tax Exemption per NRS 375.090, Section #9

b. Explain Reason for Exemption: A transfer, assignment or other conveyance of real property to a corporation or other business organization if the person conveying the property

5. Partial Interest: Percentage being transferred: 100 % owns 100% of the corporation or organization

The undersigned declares and acknowledges, under penalty of perjury, pursuant to NRS 375.060 and NRS 375.110, that the information provided is correct to the best of their information and belief, and can be supported by documentation if called upon to substantiate the information provided herein. Furthermore, the parties agree that disallowance of any claimed exemption, or other determination of additional tax due, may result in a penalty of 10% of the tax due plus interest at 1% per month. Pursuant to NRS 375.030, the Buyer and Seller shall be jointly and severally liable for any additional amount owed.

Signature \_\_\_\_\_

Capacity: Grantor/Seller

Signature Sheila Heumann-Grantor

Capacity: Grantor/Seller

**SELLER (GRANTOR) INFORMATION**  
**(REQUIRED)**

Print Name: Antos, Kenneth and Sheila LT

Address: 5148 Spanish Heights, Dr

City: Las Vegas

State: NV

Zip: 89148

**BUYER (GRANTEE) INFORMATION**  
**(REQUIRED)**

Print Name: Spanish Heights Acq. Co, LLC

Address: 5148 Spanish Heights Dr

City: Las Vegas

State: MV

Zip: 89148

**COMPANY/PERSON REQUESTING RECORDING (Required if not seller or buyer)**

Print Name: Maria Gutierrez & Associates

Escrow # \_\_\_\_\_

Address: 8010 Spanish Ridge Avenue

City: Las Vegas

State: NV

Zip: 89148

AS A PUBLIC RECORD THIS FORM MAY BE RECORDED/MICROFILMED

# **EXHIBIT 10**

# **EXHIBIT 10**



5148 Spanish Heights Dr.

Las Vegas, Nevada

LANDLORD

Spanish Heights Acquisition Company, LLC,  
a Nevada limited liability company

TENANT

SJC Ventures, LLC  
a Delaware limited liability company

## REAL PROPERTY LEASE

THIS LEASE is made as of August 15, 2017, by and between Spanish Heights Acquisition Company, LLC, a Nevada limited liability company ("Landlord"), and SJC Ventures, LLC, a Delaware limited liability company ("Tenant") (the foregoing parties are collectively the "Parties" and each is a "Party").

### ARTICLE I INTRODUCTORY PROVISIONS

1.1 Defined Terms. Capitalized terms used in this Lease and not otherwise defined shall have the meanings set forth or cross-referenced in Exhibit "1".

1.2 APPROVAL OF CBCI- The parties recognize that the execution this Real Property Lease is a condition to the Forbearance Agreement between CBC Partners I, LLC, and the Landlord, Tenant, and other parties. Accordingly, this Lease Agreement is subject to the written consent of CBCI ("CBCI's Consent"), in the form which is attached to Exhibit "2." The terms and conditions of CBCI's Consent, and the Forbearance Agreement shall supersede any provisions of this Lease that are inconsistent with, or contrary to, the Consent Agreement.


1.3 Basic Lease Provisions. The following are certain basic lease provisions that are part of and are referred to in subsequent provisions of this Lease:

(a) Term:

(i) two (2) years commencing on the Rent Commencement Date and expiring on the Term Expiration Date, unless this Lease is extended as provided herein or is earlier terminated by Law or as otherwise provided herein.

(ii) Tenant shall be afforded, at Tenants sole option, two additional consecutive lease extensions consisting of a two years term for each of the two extensions, as may be exercised by Tenant.

(b) Estimated Premises Delivery Date:

August 15, 2017 

(c) Rent Commencement Date:

The first day of the month following the Premises Delivery Date.

(d) Base Rent:

Per schedule set forth below. The monthly Base Rent shall be abated during certain months as indicated:

Initial Term Monthly Base Rent:

<u>Lease Month</u>	<u>Monthly Base Rent</u>
1-3	\$0.00
3-24	\$4,375

(e) Tenant's Name:  
SJC Ventures, LLC

(f) Permitted Use:

The Premises may be occupied and used by the Tenant and its assigned solely for those lawful purposes allowed pursuant to Statute, Ordinance and CC&Rs for the community.

(g) Notice Addresses:  
Tenant: SJC VENTURES, LLC  
5148 Spanish Heights Dr.,  
Las Vegas, Nevada 89148

With copies to:

Landlord: SPANISH HEIGHTS  
ACQUISITION COMPANY, LLC  
5148 Spanish Heights Dr.,  
Las Vegas, Nevada 89148

With copies to:

A COPY OF ANY NOTICES SHALL ALSO BE PROVIDED  
TO CBCI IN ACCORDANCE WITH THE CONSENT  
AGREEMENT.

Payments to:

SPANISH HEIGHTS  
ACQUISITION COMPANY, LLC  
5148 Spanish Heights Dr.,  
Las Vegas, Nevada 89148

(h) First Installment of Monthly Base Rent and Security Deposit:

Within 90 days of execution and delivery of this Lease, Tenant shall pay no less than the first year of the Monthly Base Rent of \$4,375.00 which installment shall be applied to the Monthly Base Rent for the third (3rd) through twelfth (12<sup>th</sup>) full calendar months of the Term. Monthly Base Rent for any partial calendar month at the beginning of the Term shall not be billable.

(i) Guarantor:

Tenant to provide a guarantee against its distributions resultant from its interest in 1<sup>st</sup> One Hundred Holdings, LLC. and any proceeds realized therefrom under such company's collections against its judgments in the Nevada State Clark County Eighth Judicial District Court Actions, cases numbered A-16-738970-C and A-17-753459-C.

1.3 Additional Provisions. The following provisions shall apply notwithstanding anything in this Lease to the contrary:

(a) Tenant Compliance with CC&Rs: Tenant shall comply with all CC&R obligations of unit owners and residents, as set forth in the Associations Governing Documents and Covenants Conditions and Restriction.

Should there be any compliance issue, Tenant shall be responsible to cure any such violation cited, and either defend or pay an fines associated with such violations asserted.

(d) Premises Delivery Condition: Landlord shall deliver the Premises in as is where is condition.

1.4 Modified Gross Lease. This Lease is a modified gross lease.

1.5 Exhibits. The following exhibits are attached hereto and incorporated herein by this reference:

EXHIBIT "1" - Definitions

EXHIBIT "2" – CBCI'S Consent to Lease.

## ARTICLE II PREMISES

2.1 Premises. Landlord hereby leases to Tenant, and Tenant hereby leases from Landlord, the Premises, subject to (a) the terms and conditions of this Lease, (b) all matters of record, and (c) all Community Association Governing Documents and Covenants Conditions and Restrictions.

## ARTICLE III TERM

3.1 Initial Term. The term of this Lease shall commence on the Rent Commencement Date and, unless this Lease extended as provided in Section 3.5 or is earlier terminated by Law or as elsewhere provided herein, shall expire at midnight on the "Term Expiration Date" which shall be the date at the end of the number of Lease Years stated in Section 1.2(d) (such term, as the same may be extended under Section 3.5, is referred to herein as the "Term").

### 3.2 Rent Commencement Date.

(a) As used in this Lease, the term "Rent Commencement Date" shall mean the date specified in Section 1.2(c).

3.3 Confirmation of Term. At any time following the Rent Commencement Date, Landlord and Tenant shall, within fifteen (15) days following the request of either Party, execute a written confirmation of the Rent Commencement Date and the Term Expiration Date.

3.4 Commencement of Tenant Obligations. From the date Landlord delivers possession of the Premises to Tenant until the Rent Commencement Date, Tenant shall observe and perform all obligations of Tenant hereunder (other than its obligations to pay Base Rent and Additional Charges) as if the term of this Lease began when possession of the Premises was so delivered to Tenant.

3.5 Extension of Term. Tenant is hereby granted an option to extend the term of this Lease, hereinafter referred to as the "Original Lease", for the additional consecutive periods set forth in Section 1.2(d), if any. Each such option shall be effectively exercised only if (a) Tenant notifies Landlord, in writing, no less than one (1) months nor more than six (6) months prior to the commencement of the applicable extension period, of Tenant's intention to exercise such option, and (b) Tenant, at the time of such notice and as of the commencement of such extension period, is not in default of this Lease. If Tenant fails to effectively exercise any such option, then such option, and any other future options to extend the term of this Lease, shall thereupon terminate. The terms and conditions of each extension period shall be the same as the terms and conditions of the Original Lease except that: (a) Tenant shall have no further right of extension after the expiration of the last extension period, and (b) the Base Rent payable during such extension period shall be calculated in accordance with Section 1.2(d).

3.6 Surrender Upon Lease Termination. Upon the expiration or earlier termination of this Lease, Tenant shall deliver and surrender to Landlord possession of the Premises in broom-clean

condition and otherwise in the state of condition and repair as Tenant is required to maintain the Premises hereunder.

3.7 Holding Over. If Tenant holds possession of the Premises after the expiration or earlier termination of this Lease, then Landlord may, in its sole and absolute discretion, treat such possession as an unauthorized holdover and as either a tenancy at sufferance or a month-to-month tenancy, upon the same terms and conditions as are hereinafter set forth, except that the monthly Base Rent shall be one hundred percent (100%) of the monthly Base Rent payable by Tenant immediately prior to such termination (prorated on a daily basis if such tenancy is treated by Landlord as a tenancy at sufferance). Nothing herein shall be construed to limit Landlord's right to obtain possession of the Premises upon termination of this Lease by unlawful detainer proceedings or otherwise if Landlord does not exercise its option to treat the continued possession by Tenant as a month-to-month tenancy, or to pursue any other remedy provided for in this Lease or available at law or in equity.

#### ARTICLE IV RENT

##### 4.1 Base Rent.

(a) Tenant hereby covenants and agrees to pay to Landlord, without deduction or set-off and without notice or demand, as "Base Rent", the amount(s) set forth in Section 1.2(d), said amount(s) to be due and payable in monthly installments, in advance, on the Rent Commencement Date and on the first day of each and every calendar month thereafter. Monthly Base Rent for any partial calendar month shall be prorated based on the actual number of days in such month. A 30-day grace period shall exist on all rent due dates.

(b) Tenant shall pay the adjusted Base Rent as calculated pursuant to Section 1.2(d) commencing with the first month of the Lease Year affected by the adjustment. However, pending the determination of the adjusted Base Rent, Tenant shall continue to pay Base Rent in the same amount as the Base Rent for the Lease Year immediately preceding the Lease Year affected by the adjustment. When the adjusted Base Rent has been determined, Tenant, concurrently with the next monthly Base Rent payment due and payable after the furnishing by Landlord to Tenant of the computation of the adjusted Base Rent, in addition to the adjusted Base Rent for such month, shall pay Landlord a sum equal to the amount of the increase in the Base Rent due for each of the previous months in the Lease Year affected by the adjustment.

4.2 Manner of Payment. All Rent and other amounts that Tenant is required to pay to Landlord hereunder shall be paid in lawful currency of the United States of America at the address set forth in Section 1.2(d) or such other place as Landlord may, from time to time, designate in writing.

4.3 Late Charges. Notwithstanding anything in this Lease to the contrary, if Tenant fails to pay any Rent or other amount that Tenant is required to pay to Landlord hereunder within thirty (30) days

following the due date thereof, then Tenant shall pay to Landlord upon demand a late charge equal to two percent (2%) of the amount due per month from the due date thereof.

4.4 Accord and Satisfaction. No payment by Tenant or receipt by Landlord of an amount less than the amount of any payment of Rent or other amount herein stipulated shall be deemed to be other than on account of the earliest stipulated Rent or other amount, nor shall any endorsement or statement on any check or any letter accompanying any check or payment of Rent or other amount be deemed an accord and satisfaction, and Landlord may accept such check or payment without prejudice to Landlord's right to recover the balance of such Rent or other amount or pursue any other remedy provided for in this Lease or available at law or in equity.

## ARTICLE V ADDITIONAL CHARGES

5.1 Status of Charges. Tenant shall additionally pay to Landlord, as part of the Rent, the amounts described in this Article VIII (collectively, the "Additional Charges").

5.2 Operating Costs.

(a) Tenant shall pay to Landlord Operating Costs. Tenant's share of the Premises Operating Costs shall be paid by Tenant to Landlord in equal monthly installments, in advance, without deduction or set-off and without notice or demand, on the first day of each calendar month during the Term in an amount equal to one-twelfth (1/12) of Tenant's share of the Premises Operating Costs as estimated by Landlord for the then current Landlord's Fiscal Year. The amount due for any partial Landlord's Fiscal Year shall be prorated based on the actual number of days in such year, and in any event, shall not exceed 10% of the base rent as specified in 1.2(d) above during the initial Lease Term. During any optional term, the 10% cap referenced in the preceding sentence will apply only to increases over the total Premises Operating Costs paid by Tenant in the final year of the initial Term.

(b) Within ninety (90) days after the end of each Landlord's Fiscal Year, Landlord shall furnish Tenant with a written statement in reasonable detail of the actual Operating Costs and the amount of Tenant's share thereof for such Landlord's Fiscal Year. If Tenant's share of the actual Operating Costs for such Landlord's Fiscal Year exceeds the aggregate of Tenant's monthly payments with respect thereto, then Tenant shall pay to Landlord any deficiency within thirty (30) days after Tenant's receipt of such statement from Landlord. If the aggregate of Tenant's monthly payments with respect thereto exceeds Tenant's share of the actual Operating Costs for such Landlord's Fiscal Year, then any surplus paid by Tenant shall be credited against the next installment of Rent due (except at the end of the Term, in which case Landlord shall pay such surplus to Tenant within thirty (30) days after Landlord's determination thereof). No failure of Landlord to provide such statement within the time prescribed shall relieve Tenant of its obligations hereunder. The obligations of Landlord and Tenant to make the foregoing adjustment shall survive the expiration or earlier termination of this Lease.

(c) As used herein, "Property Operating Costs" means all costs paid or incurred by Landlord in owning, operating, managing, maintaining, repairing, replacing, enhancing, securing, protecting and insuring the building, other improvements and spaces within the property, including,

without limitation: (i) costs of maintaining, repairing and replacing the roofs, structural portions and exteriors of the buildings in the Premises, (ii) costs of repainting the buildings and other improvements to the property, (iii) costs of electricity, water, gas, sewer and other utility services, (iv) costs of lighting, cleaning, heating, air-conditioning and otherwise cooling the premises, (v) costs of all maintenance and repairs necessary to preserve and maintain the utility and appearance of the premises, (vi) landscaping costs and costs of seasonal and other similar decorations for the premises, (vii) costs of installing, maintaining and repairing security systems, fire protection systems, lighting and utility systems, and storm drainage systems, (viii) trash, dirt, debris and other waste removal costs, (ix) pest extermination and control costs, (x) costs of supplies, materials, tools and equipment used in the operation, maintenance and repair of the premises, (xi) assessments paid or incurred by Landlord with respect to the premises under the Governing Documents or the CC&Rs, (xii) the reasonable costs of payroll, payroll taxes and employee benefits of all management personnel, including, managers, security and maintenance personnel, secretaries and bookkeepers, (xiii) reasonable consulting, accounting and legal fees and costs, (xiv) costs of purchasing and maintaining in full force all insurance that Landlord is required to maintain hereunder or that Landlord deems necessary or appropriate with respect to the premises, (xv) costs of services, if any, furnished by Landlord for the use of all tenants of the premises, including, without limitation, parcel pickup and delivery services, and (xvi) costs of improvements not part of initial premises construction which are (A) made to comply with Laws or insurance requirements not in force at the time of such initial construction, (B) undertaken for the protection of the health and safety of tenants, residents and other occupants of the premises and their agents, employees, customers and invitees, or (C) made for the purpose of reducing Premises Operating Costs.

### 5.3 Real Property Taxes.

(a) Tenant acknowledges that the Premises, its leasehold improvements and the underlying realty will be separately assessed for tax purposes. Tenant shall pay to Landlord as Tenant's share of the Real Property Taxes the portion of the Real Property Taxes set forth in Section 1.2(h). Tenant's share of Real Property Taxes shall be paid by Tenant to Landlord in equal monthly installments, in arrears, without deduction or set-off and without notice or demand, on the first day of each calendar month following the Term in an amount equal to one-twelfth (1/12) of Tenant's share of the Real Property Taxes as estimated by Landlord for the then current Landlord's Fiscal Year. The amount due for any partial Landlord's Fiscal Year shall be prorated based on the actual number of days in such year.

(b) Within ninety (90) days after Landlord's payment of the final installment of Real Property Taxes for each Landlord's Fiscal Year, Landlord shall furnish Tenant with a written statement in reasonable detail showing the actual amount of the Real Property Taxes and the amount of Tenant's share thereof for such Landlord's Fiscal Year. If Tenant's share of the actual Real Property Taxes for such Landlord's Fiscal Year exceeds the aggregate of Tenant's monthly payments with respect thereto, then Tenant shall pay to Landlord any deficiency within thirty (30) days after Tenant's receipt of such statement from Landlord. If the aggregate of Tenant's monthly payments with respect thereto exceeds Tenant's share of the actual Real Property Taxes for such Landlord's Fiscal Year, then any surplus paid by Tenant shall be credited against the next installment of Rent due (except at the end of the Term, in which case Landlord shall pay such surplus to Tenant within thirty (30) days after Landlord's determination thereof). No failure of Landlord to provide such statement within the time prescribed shall relieve Tenant of its obligations hereunder. The obligations of Landlord and Tenant to make the foregoing adjustment shall survive the expiration or earlier termination of this Lease.

(c) As used herein, "Real Property Taxes" means all taxes, assessments, levies, fees



and other governmental charges, general and special, ordinary and extraordinary, including, but not limited to, assessments for off-site public improvements for the benefit of the premises, which are laid, assessed, levied or otherwise imposed upon the premises or any part thereof and which are payable at any time during the Term, and all gross receipts taxes, rent taxes, business taxes and occupancy taxes, and shall include all of Landlord's reasonable administrative costs and all costs, including, without limitation, reasonable attorney fees, incurred by Landlord in contesting or negotiating any Premises Real Property Tax with any governmental authority, excepting only franchise, estate, inheritance, succession, capital levy, transfer, net income and excess profits taxes imposed upon Landlord.

(d) The Rent to be paid under this Lease shall be paid to Landlord absolutely and without deduction for taxes of any nature whatsoever. Landlord and Tenant recognize and acknowledge that there may be changes in the current real property tax system and that there may be imposed new forms of taxes, assessments, levies, fees or other governmental charges, or there may be an increase in certain existing taxes, assessments, levies, fees or other governmental charges placed on, or levied in connection with the ownership, leasing, occupancy or operation of, the Premises. All such new or increased taxes, assessments, levies, fees or other governmental charges which are imposed or increased as a result of or arising out of any changes in the structure of the real property tax system or any limitations on the real property taxes which can be assessed on real property including, but not limited to, any and all taxes, assessments, levies, fees and other governmental charges imposed due to the existence of this Lease (including any surcharge on the income directly derived by Landlord therefrom) or for the purpose of funding special assessment districts of the type funded by real property taxes, shall also be included within the meaning of "Premises Real Property Taxes". With respect to any general or special assessment which may be levied against or upon the Premises and which under the Laws then in force may be evidenced by improvement or other bonds, or may be paid in periodic installments, there shall be included within the meaning of "Real Property Taxes" with respect to any Landlord's Fiscal Year only the amount currently payable on such bond for such Landlord's Fiscal Year, or the periodic installment for such Landlord's Fiscal Year.

(e) Tenant shall be responsible for payment of any type of tax, excise or assessment (regardless of label or whether in the form of a rental tax, gross receipts tax, sales tax, business or occupation tax, use assessment, privilege tax, franchise tax, or otherwise, except any tax, excise or assessment which in substance is a net income or franchise tax that is based solely on Landlord's net income) which is laid, assessed, levied or otherwise imposed at any time by any governmental authority upon or against the Premises, the use or occupancy of the Premises, the Rent payable by Tenant to Landlord, or otherwise with respect to the landlord-tenant relationship hereunder. Tenant shall pay the full amount of such tax, excise or assessment directly to the appropriate governmental authority, unless the applicable law expressly imposes solely on Landlord the duty to pay or collect such tax, excise or assessment, in which case Tenant shall pay the full amount of such tax, excise or assessment as part of the Rent due and payable under this Lease to Landlord within thirty (30) days following receipt of Landlord's billing therefor. Notwithstanding that the applicable Law may impose on Landlord the duty to pay or collect such tax, excise or assessment, it is understood and agreed that Tenant shall nevertheless be obligated to pay such tax, excise or assessment and Landlord shall be indemnified against and held harmless from the same by Tenant. If (i) Tenant fails to timely pay such tax, excise or assessment and Landlord pays the same, or (ii) Landlord elects in its sole and absolute discretion to pay the same in advance, then Tenant shall promptly reimburse Landlord for the amount thereof as part of the Rent next due and payable under this Lease. The provisions of this paragraph shall also apply to any such tax, excise or assessment which may at any time replace or supplement any tax, excise or assessment described herein.

ARTICLE VI  
SECURITY DEPOSIT

6.1 Security Deposit. Within 90 days of the Tenant's execution and submission of this Lease, Tenant shall deposit with Landlord and thereafter during the Term shall maintain on deposit with Landlord, without interest, the sum set forth in Section 1.2(d) as security deposit for the full, prompt and faithful performance by Tenant of all of its obligations hereunder. The Parties agree that it is the intent of the Parties that (a) such deposit or any portion thereof may be applied by Landlord to the initial obligations of the Tenant under this Agreement and/or the curing of any default that may exist, without prejudice to any other remedy or remedies which Landlord may have on account thereof, and at the end of the first year, Tenant shall pay to Landlord upon demand the amount so applied which shall be added to the security deposit so that the same will be restored to its original amount, (b) Landlord shall not be obligated to hold the security deposit as separate funds, but may commingle it with other funds, (c) if Tenant performs of all of the terms, covenants and conditions of this Lease on its part to be kept and performed, then the security deposit, or any then remaining balance thereof, shall be returned to Tenant, without interest, within sixty (60) days after the expiration of the Term, and (d) should the Premises be transferred by Landlord, the security deposit or any balance thereof may be turned over to Landlord's successor or transferee, and if the security deposit is turned over to such successor or transferee, Tenant agrees to look solely to such successor or transferee with respect to any required return of the security deposit.

ARTICLE VII  
UTILITIES AND OTHER SERVICES

7.1 Utilities. Landlord will provide at points available to the Premises (through conduits, shafts, ducts or otherwise) the facilities necessary to enable Tenant to obtain for the Premises electricity, water, gas, sewer, cable and telephone service. Landlord, at its sole cost and expense, shall be responsible for installing and constructing all equipment, lines, improvements and alterations necessary to pull or otherwise bring such utilities from such points to the Premises. Landlord shall be solely responsible for, and shall promptly and timely pay, all costs (including, without limitation, connection and service charges) of all electricity, water, gas, sewer, telephone, and other utilities and services consumed or used at the Premises directly to the utility or service provider or to Landlord, as Landlord may direct, on the basis, where applicable, of separate meters and otherwise on such basis as Landlord reasonably designates. Landlord shall also pay all costs of installing meters or sub-meters, to the extent available, for such utilities and services. With respect to costs for utilities and services billed directly by Landlord, Landlord shall not charge Tenant at a rate in excess of the rate the utility and service providers would otherwise charge Tenant if billed directly ("Additional Charges").

7.2 Premises HVAC. Landlord, shall maintain all equipment, alterations and improvements necessary to provide HVAC for the premises. Tenant shall ensure that all Premises HVAC equipment is installed, operated and maintained in a manner that prevents roof leaks, damage or noise due to vibrations or improper installation, operation or maintenance.

7.3 Interruption of Service. Landlord shall not be liable to Tenant in damages or otherwise if

any one or more of such utilities or services used or consumed at the Premises is interrupted or terminated because of (a) necessary repairs, maintenance, replacements, improvements or alterations, (b) the failure or inability of any provider of any such utility or service to provide such utility or service to the Premises, (c) any Law, or (d) any other cause beyond Landlord's reasonable control. No such interruption or termination of utilities or services shall relieve Tenant from any of its obligations under this Lease.

7.4 Trash. Tenant shall dispose of all garbage, refuse, trash and other waste in the kind of containers, in the areas and otherwise in the manner reasonably directed by Landlord. If Tenant requires the services of a trash compactor or any special waste processing, it agrees to arrange for and coordinate such services through Landlord. Should Landlord implement a recycling program, Tenant agrees to follow all procedures designated by Landlord in compliance therewith.

7.5 Services. Tenant acknowledges that Landlord has entered into or may in the future enter into agreements with service providers (collectively, "Service Providers") for pest control, garbage removal and disposal, recycling, telecommunications services (including, without limitation, telephone, cable, internet, data, wireless and other communications services) and other services to provide services to the premises and its tenants for the purpose of achieving uniformity of services, favorable pricing and/or limiting the number of service providers working in or providing services to the Premises and its tenants. Landlord may, at its sole discretion, assume the sole responsibility of contracting with such Service Providers, and Tenant shall then be responsible for, and shall promptly and timely pay, all costs for such common services consumed or used at the Premises by Tenant, by making payment in advance either directly to the Common Service Provider or to Landlord, as determined by Landlord, on the basis Landlord reasonably designates. Landlord shall not charge Tenant at a rate in excess of the rate the Service Providers would otherwise charge Tenant directly (except that Landlord may include a reasonable administrative charge in such costs). In the event Landlord delegates any such service responsibilities directly to Tenant, Tenant agrees to contract with such Service Providers and to abide by the terms of Landlord's agreements with such Service Providers, provided that the amounts which are to be paid to such Service Providers by Tenant, and the quality of product and level of service to be provided by such Service Providers to Tenant, shall at all times be competitive in the Las Vegas metropolitan area. Upon request by Landlord, Tenant shall provide a copy of all documentation evidencing regular and proper conduct of all such services delegated to Tenant.

## ARTICLE VIII MAINTENANCE

### 8.1 Maintenance by Landlord.

(a) Landlord shall keep and maintain the facilities described in the first sentence of Section 12.1, the roof, structural portions, interior and exterior of the Premises, in good and tenantable condition and repair during the Term; provided, however, that if the need for any such repair is attributable to or results from any violation of this Lease by Tenant or any act, omission, negligence or misconduct of Tenant, its agents, employees or contractors, then in such case Tenant shall reimburse Landlord on demand for all costs and expenses incurred by Landlord with respect to such repairs.

(b) For purposes of this Article VIII, neither the structural portions of the Premises

nor the exterior of the Premises shall be deemed to include the plate or other glass, window cases or frames, doors or door frames of the Premises.

(c) Landlord shall not be liable to Tenant for any failure by Landlord to make any repairs that Landlord is required to make hereunder unless Tenant has previously notified Landlord in writing of the need for such repairs and Landlord has failed to commence such repairs within a reasonable period of time following Landlord's receipt of Tenant's written notification or to thereafter diligently pursue such repairs to completion.

8.2 Maintenance by Tenant. Tenant, at its sole cost and expense, shall keep and maintain in good condition and repair the plate and other glass, window cases and frames, doors and door frames of the Premises; all equipment, lines, improvements and alterations for electricity, water, gas, sewer, HVAC, and other utilities and services which serve the Premises exclusively, whether located within or outside of the Premises; the interior of the Premises; all equipment, fixtures, alterations and improvements located in or exclusively serving the Premises; and all other portions of the Premises other than those that Landlord is expressly required to maintain under Section 13.1. All repairs and replacements made by Tenant under this Section 13.2 shall be in quality and class equal to the original work or item, and shall be performed in a good and workmanlike manner, in compliance with all applicable Laws, and at such times and in such manners as Landlord may reasonably designate to minimize any interference with the operation of the Premises. Tenant shall indemnify Landlord for expenses incurred by Landlord as a result of Tenant's failure to satisfy its maintenance requirements.

8.3 Casualty and Condemnation. This Article VIII shall not apply to damage caused by a fire or other casualty, or by condemnation. The relative obligations of Landlord and Tenant with respect to the repair of such damage shall instead be governed by the provisions of Article XIX or Article XX, as applicable.

## ARTICLE IX CHANGES TO PREMISES

### 9.1 Alternations and Remodeling.

(a) Tenant, at its sole cost and expense, shall have the right, during the Term, to make such interior installations, improvements and other alterations in or to the Premises as Tenant may deem necessary or desirable for its use of the Premises; provided, however, that Landlord's prior written consent shall be required for (i) any installation, improvement or other alteration that requires a building permit under any applicable Law, (ii) any changes in the appearance of the Premises from any Common Area, (iii) any change to or affecting the structure of the Premises or the Building, and (iv) any material change to or affecting the electrical, water, gas, sewer, HVAC or any other mechanical system of the Premises, the Building or the Premises. Tenant shall not make any installation, improvement or other alteration in or to any other portion of the Premises (including, without limitation, the exterior walls or roof of the Premises), or make any penetration through the floor, exterior wall, grey shell ceiling or roof of the Premises, without Landlord's prior written consent. No consent of Landlord to any installation, improvement or other alteration shall create any responsibility or liability on the part of Landlord for their design, sufficiency or compliance with any Laws. In connection with any installation, improvement or other alteration in or to the Premises by Tenant, Landlord may require Tenant, at Tenant's sole cost and expense, to furnish to Landlord a payment and performance bond naming Landlord as beneficiary from a

surety reasonably satisfactory to Landlord, or other security reasonably satisfactory to Landlord, to assure diligent and faithful payment for and performance thereof. Tenant's compliance with NRS 108.2403 shall satisfy the performance bond requirements contained in the preceding sentence. If any installation, improvement or other alteration made by Tenant impacts the structure or any mechanical system of the Premises, the Building or the Premises, or if Tenant otherwise has the same prepared, then Tenant shall deliver "as-built" plans to Landlord promptly upon completion thereof.

(b) All installations, improvements and other alterations in or to the Premises made by Tenant shall be made promptly, in a good and workmanlike manner, in accordance with all applicable Laws, using contractors approved by Landlord in writing, and at such times and in such manners as Landlord may reasonably designate to minimize any interference with the operation of the Premises.

## ARTICLE X LIENS

10.1 Liens. Tenant shall use reasonable efforts to prevent any mechanic's, materialman's or other lien directly attributable to the Tenants actions from being filed against the Premises, the Building or the Premises as a result of work, labor, services or materials performed for or furnished to Tenant. If any such lien is filed, then Tenant shall (a) cause such lien to be released of record by payment, bond, order of a court of competent jurisdiction or otherwise within thirty (30) days of Tenant's receipt of notice of such filing, subject to Tenant's right to contest the claim of such lien as provided below in this Article XV, and (b) defend (using counsel reasonably acceptable to Landlord), indemnify and hold harmless Landlord against and from all legal action, damages, loss, liability and other expenses (including reasonable attorney fees) arising from or out of such lien. If Tenant desires to contest any claim of any such lien, then Tenant, at its sole cost and expense, may do so upon furnishing Landlord with security reasonably acceptable to Landlord in the amount of at least one hundred fifty percent (150%) of the amount of such claim, plus estimated costs and interest. If a final judgment establishing the validity of such claim, or any part thereof, is entered, then Tenant shall pay and satisfy the same at within fifteen (15) days of such entry.

10.2 Litigation liens. Landlord shall endeavor to clear all third party liens, resultant from judgments, against the subject premises, through the initiation of a Quiet Title action.

## ARTICLE XI OWNERSHIP OF TENANT IMPROVEMENTS AND PERSONAL PROPERTY

11.1 Tenant Improvements. Subject to Section 11.2, all installations, improvements and other alterations made by Tenant in or to the Premises, including, without limitation, HVAC equipment, water heaters, plumbing fixtures, lighting fixtures, wall coverings and floor finishes, shall become the property of Landlord upon completion and shall remain upon and be surrendered with the Premises upon the expiration or earlier termination of this Lease without any obligation on the part of Landlord to compensate Tenant for the same.

11.2 Tenant Personal Property. All fixtures installed by Tenant on or in the Premises ("Tenant

Personal Property”) shall be and remain the property of Tenant and shall be removable at any time, including upon the expiration or earlier termination of this Lease. Tenant shall promptly repair any damage to the Premises caused by the removal of any Tenant Personal Property. Any Tenant Personal Property not removed from the Premises by Tenant upon the expiration or within fifteen (15) days after any earlier termination of this Lease may be construed by Landlord as abandoned by Tenant. Alternatively, Landlord may order Tenant to remove such Tenant Personal Property from the Premises or have the same removed at Tenant’s expense. All costs associated with the installation and removal of Tenant Personal Property, inclusive of damage repair expenses, shall be the sole responsibility of Tenant.

11.3 Personal Property Taxes. Tenant shall pay before delinquency all taxes, assessments, levies, fees and other governmental charges which are laid, assessed, levied or otherwise imposed upon Tenant’s business operations, leasehold improvements, trade fixtures, equipment and other personal property at the Premises.

## ARTICLE XII RIGHTS OF LANDLORD

12.1 Landlord’s Right to Access and Make Repairs. Landlord, solely upon notice to and consent by the Tenant (except in the case of an emergency in which case no such notice shall be required), shall have the right to enter the Premises to inspect the Premises, to make repairs to the Premises that Landlord is required to make hereunder, to perform any other obligation of Landlord hereunder, and to make repairs to the Building, during normal business hours and at any other time the Premises is open for business (and at any time in the case of an emergency). If Tenant is not in compliance with any maintenance or repair obligation of Tenant under this Lease, then Landlord shall have the right to immediately in the case of an emergency, and otherwise upon five (5) days notice (unless Tenant commences curing such noncompliance within such five (5) day period and thereafter diligently pursues such curing to completion), enter upon the Premises to remedy said noncompliance at Tenant’s expense (payable as additional rent within thirty (30) days following receipt of Landlord’s billing). In connection with any exercise of its rights under this Section 12.1, Landlord shall use commercially reasonable efforts to minimize interference with Tenant’s business, but shall not be liable for any interference caused thereby.

12.2 Landlord’s Right to Make Payments on Behalf of Tenant. Landlord has a right to make payments on behalf of Tenant where Tenant defaults in its payments or obligations under the terms of this Lease and fails to make such payments or perform such obligations within five (5) days of Landlord’s notice to Tenant of such default. Said payments by Landlord shall be considered as additional rent and be due and payable within thirty (30) days following receipt of Landlord’s billing.

## ARTICLE XIII INDEMNITY AND INSURANCE

13.1 Mutual Indemnification.

(a) Subject to Section 13.4, Tenant shall defend (by counsel reasonably acceptable to

Landlord), indemnify and hold harmless Landlord against and from legal action, damages, loss, liability and any other expense (including reasonable attorney fees) in connection with loss of life, bodily or personal injury or property damage arising from or out of all acts, failures, omissions or negligence of Tenant, its agents, employees or contractors which occur in the Premises, or other parts of the Premises, unless and to the extent such legal action, damages, loss, liability or other expense (including reasonable attorney fees) results from any act, omission or neglect of Landlord, its agents, contractors, employees or Persons claiming through it.

(b) Subject to Section 13.4, Landlord shall defend (by counsel reasonably acceptable to Tenant), indemnify and hold harmless Tenant against and from legal action, damages, loss, liability and any other expense (including reasonable attorney fees) in connection with loss of life, bodily or personal injury or property damage, arising from or out of all acts, failures, omissions or negligence solely due to the conduct of Landlord, its agents, employees or contractors which occur in the Premises, Premises or other parts of the Premises, unless and to the extent such legal action, damages, loss, liability or other expense (including reasonable attorney fees) results from any act, omission or neglect of Tenant, its agents, contractors, employees or Persons claiming through it.

### 13.2 Tenant's Insurance.

(a) General Requirements. Tenant shall, from and after the date of delivery of the Premises from Landlord to Tenant and during the Term, carry and maintain with respect to the Premises the types of insurance set forth in Section 13.2(b), each of which shall be in the amount hereinafter specified (or in such other amount as Landlord may from time to time reasonably request) and in the form hereinafter provided for, and each of which shall be with an insurance company authorized to do business in the State of Nevada and rated A-/VIII or better in the most current edition of Best's Insurance Report. All policies of insurance required to be carried and maintained by Tenant hereunder (other than workers compensation policies of insurance) shall (i) name as additional insureds Landlord, each Secured Lender and such other Persons as Landlord specifies from time to time, (ii) contain a provision that Landlord and the other additional insureds, although named as insureds, shall nevertheless be entitled to recover under such policies for any loss occasioned to any of them by reason of the negligence or willful misconduct of Tenant, and (iii) contain a waiver of subrogation with regard to any claim against Landlord. All policies of such insurance shall be written as primary policies and not contributing with or in excess of the coverage, if any, which Landlord or any other Person may carry, and shall provide that Landlord be given written notice thirty (30) days prior to the expiration, material alteration, cancellation, non-renewal or replacement of the existing policies. Should Tenant fail to furnish said notice or obtain the policies as is provided in this Lease, and at the times herein provided, Landlord may obtain such insurance and the premiums on such insurance shall be deemed to be an Additional Charge to be paid by Tenant to Landlord upon demand. Tenant may maintain any of its required insurance coverages under umbrella or blanket policies of insurance covering the Premises and any other premises of Tenant, or any Affiliate of Tenant, provided that the coverage afforded will not be reduced or diminished by reason of the use of such blanket policy.

#### (b) Required Insurance.

(i) Tenant shall carry and maintain commercial general liability insurance with a combined single limit of at least One Million Dollars (\$1,000,000.00) per occurrence. The policy for such insurance shall be written on an "occurrence" basis and shall include coverage for (A) personal injury claims including, without limitation, claims for bodily injury, death and property damage, (B)

contractual liability, with defense provided in addition to the policy limits for indemnitees of the named insured, (C) personal and advertising liability, including, without limitation, liability arising from intentional torts such as libel, slander, invasion of privacy, copyright infringement and unlawful detention, and (D) products and completed operations. Such policy shall provide for severability of interests, and shall not include a deductible in excess of \$25,000.00.

(ii) Tenant shall carry and maintain property insurance covering all leasehold improvements made by Tenant (including Tenant's Work), Tenant Personal Property and other personal property from time to time in, on or upon the Premises, in an amount not less than the full replacement cost thereof, without deduction for depreciation, providing protection against any peril included within the classification "all risks" insurance (including but not limited to coverage for water damage from all causes, including sprinkler damage, sewer discharge or backup, water line breakage, and overflow from Tenant's spaces). The policy for such insurance shall be endorsed with ISO endorsements specifying coverages for additional costs of contingent liability from the operation of building codes, increased costs of construction, debris removal and demolition costs. Such policy shall include coverage for all glass windows, doors and other glass fixtures and appurtenances at the Premises. The deductible under such policy shall not exceed Five Thousand Dollars (\$5,000.00) per occurrence. Landlord shall be named as a loss payee with respect to the coverage for Tenant improvements.

(c) Notice of Loss. Tenant shall promptly notify Landlord of any damage to Persons or property that occurs at the Premises from fire, any other casualty or serious injury.

### 13.3 Landlord's Insurance.

(a) General Requirements. Landlord shall, from and after the date of delivery of the Premises from Landlord to Tenant and during the Term, carry and maintain the types of insurance set forth in Section 13.3(b), each of which shall be in the amount hereinafter specified and in the form hereinafter provided for, and each of which shall be with an insurance company authorized to do business in the State of Nevada and rated A-/VIII or better in the most current edition of Best's Insurance Report. Landlord may maintain any of its required insurance coverages under umbrella or blanket policies of insurance covering the Building and any other premises of Landlord, or any Affiliate of Landlord, provided that the coverage afforded will not be reduced or diminished by reason of the use of such blanket policy. All premiums for insurance maintained by Landlord pursuant to this Section 13.3 shall be a part of the Premises Operating Costs.

(b) Required Insurance. Landlord shall carry and maintain (i) general liability insurance with respect to the Premises with such limits as Landlord may reasonably determine, and (ii) property insurance covering the Building (excluding Tenant's Work, Tenant Personal Property, all other property required to be covered by Tenant's insurance under Section 13(b)(ii), and all property required to be covered by the property insurance of other tenants or occupants of the Building) in such amount as Landlord may reasonably determine, but in no event less than the amount required any Secured Lender.

13.4 Waiver of Subrogation. Notwithstanding anything to the contrary contained elsewhere in this Lease, neither Party shall be liable to the other Party, or to any insurance company insuring the other Party by way of subrogated rights or otherwise, for any loss or damage which is covered by any insurance carried, or required to be carried, by Tenant under Section 13.2(b), or any insurance carried, or required to be carried, by Landlord under Section 13.3(b).



13.5 Limitations on Landlord's Liabilities. Landlord shall not be responsible or liable to Tenant, or those claiming by, through or under Tenant, for any loss or damage to their person or property resulting from (a) the acts or omissions of Persons occupying space adjoining or adjacent to the Premises or connected to the Premises, or occupying any other space within the Premises, (b) the acts or omissions of any other Persons (except as otherwise expressly provided in Section 13.1(b)), or (c) events such as the breaking or falling of electrical cables and wires; or the breaking, bursting, stoppage or leaking of water, gas, sewer, or steam pipes or equipment.

#### ARTICLE XIV CASUALTY

##### 14.1 Landlord's Obligation to Repair and Reconstruct.

(a) If the Premises shall be partially damaged by fire or other casualty but are not thereby rendered unsuitable for the purposes contemplated herein, Landlord shall cause the Premises to be repaired, subject to Section 14.1(c) and Section 14.2, and the Base Rent and Additional Charges shall not be abated. If by reason of such occurrence the Premises shall be rendered unsuitable for the purposes contemplated herein only in part, Landlord shall cause the Premises to be repaired, subject to Section 14.1(c) and Section 14.2, and the Base Rent and Additional Charges shall be abated proportionately as to the portion of the Premises rendered unsuitable for the purposes contemplated herein from the date of such occurrence until the earlier to occur of ninety (90) days after Landlord's restoration work has been substantially completed or the date the Premises so repaired has reopened for business.

(b) If the Premises shall be rendered wholly unsuitable for the purposes contemplated herein by reason of such occurrence, Landlord shall cause the Premises to be repaired, subject to Section 14.1(c) and Section 14.2, and the Base Rent and Additional Charges shall be abated from the date of such occurrence until the earlier to occur of ninety (90) days after Landlord's restoration work has been substantially completed or the date the Premises so repaired has reopened for business.

(c) If Landlord is required or elects to repair or reconstruct the Premises under the provisions of this Article XIV, its obligation shall be limited to that work with respect to the Premises which was Landlord's obligation to perform for Tenant at the commencement date of this Lease. Upon Landlord's completion of the work required to be performed by Landlord under this Section 14.1, other than details of construction which do not materially interfere with the performance of the work to be performed by Tenant under this Section 14.1, Tenant, at Tenant's expense, shall promptly perform all repairs and restoration not required to be done by Landlord and shall promptly re-fixture and reconstruct the Premises and recommence business in all parts thereof.

(d) Tenant shall not be entitled to any compensation or damages, other than stated herein, from Landlord for the loss of the use of the whole or any part of the Premises or damage to Tenant Personal Property or any inconvenience or annoyance occasioned by such damage, repair, reconstruction or restoration.

14.2 Option to Terminate. Landlord may elect to terminate this Lease by giving to Tenant notice of such election within ninety (90) days after the occurrence of any of the events below. If notice is given, this Lease shall terminate as of the date of such notice and Base Rent and Additional Charges shall be adjusted as of the date of such termination.

(a) the Premises are rendered wholly untenable, or damaged as a result of any cause which is not covered by Landlord's actual insurance or Landlord's required insurance under Section 13.3(b),

(b) the Premises are damaged or destroyed to the extent of twenty-five percent (25%) or more of the cost of replacement during the second-to-last Lease Year of the Term,

(c) the Premises are materially damaged or destroyed in whole or in part during the last Lease Year of the Term, or

(d) the Premises is damaged to the extent of ten percent (10%) or more of the cost of replacement, However, Landlord shall not terminate this Lease solely pursuant to this clause.

Notwithstanding the foregoing provisions, if Landlord terminates this Lease solely pursuant to clause (b) or clause (c) of this Section 14.2, and if at the time Tenant receives notice of such termination any option of Tenant to extend the term of this Lease under Section 6.5 may still be validly exercised, then Tenant may nullify Landlord's termination notice, and require Landlord to repair the Premises in accordance with Section 14.1, by exercising such option by giving Landlord written notice of such exercise within thirty (30) days after Tenant's receipt of Landlord's notice of termination. Tenant hereby waives any statutory rights of termination which may arise out of partial or total destruction of the Premises which Landlord is obligated to restore.

14.3 Demolition of Premises. If the Premises is so substantially damaged that it is reasonably necessary, in Landlord's reasonable judgment, to demolish a portion of the Premises, including the Premises, for the purpose of reconstruction, Landlord may demolish the Premises, in which event Tenant's Base Rent and Additional Charges shall be abated from the date of the casualty until the earlier to occur of ninety (90) days after Landlord's restoration work has been substantially completed or the date the Premises so restored has reopened for business.

## ARTICLE XV CONDEMNATION

15.1 Condemnation. If the whole or substantially the whole of the Premises or the Premises shall be taken for any public or quasi-public use, by right of eminent domain or otherwise, or shall be voluntarily sold or conveyed in lieu of condemnation (but under threat of condemnation), then this Lease shall terminate as of the date when physical possession of the Premises or the Premises is taken by the condemning authority. If less than the whole or substantially the whole of the Premises is so taken, sold or conveyed, then Landlord (whether or not the Premises are affected thereby) may terminate this Lease by giving written notice thereof to Tenant prior to the date when physical possession of such portion of the Premises is taken by the condemning authority if such taking, sale or conveyance substantially impairs access to the Premises or the usefulness of the Premises as a mixed-use development, in which event this Lease shall terminate as of the date when physical possession of such portion of the Premises is taken by

the condemning authority. If less than the whole or substantially the whole of the Premises or the Premises is so taken, sold or conveyed, then either Landlord or Tenant may terminate this Lease by giving written notice thereof to the other party prior to the date when physical possession of such portion of the Premises or the Premises is taken by the condemning authority if such taking, sale or conveyance substantially impairs access to the Premises or the usefulness of the Premises for the purposes herein granted to Tenant, in which event this Lease shall terminate as of the date when physical possession of such portion of the Premises or the Premises is taken by the condemning authority. If this Lease is not so terminated upon any such taking, sale or conveyance, then (a) Landlord shall, to the extent Landlord deems feasible, restore the Premises and the Premises to substantially their former condition, but such work shall not exceed the scope of the work done by Landlord in originally constructing the Premises and the Premises, nor shall Landlord in any event be required to spend for such work an amount in excess of the amount received by Landlord as compensation for such taking, sale or conveyance, and (b) if any portion of the Premises is so taken, sold or conveyed, the Base Rent and Additional Charges shall be equitably reduced based on the manner the same are calculated hereunder (i.e., whether they are calculated on a square foot or fixed rate basis). All compensation awarded for any such taking, sale or conveyance of the fee and the leasehold, or any part thereof, shall belong to and be the property of Landlord. Tenant hereby assigns to Landlord all right, title and interest of Tenant in and to any award made for leasehold damages and/or diminution in the value of Tenant's leasehold estate. Tenant shall have the right to claim such compensation as may be separately awarded or allocated by reason of the cost or loss to which Tenant may incur in removing Tenant's fixtures, leasehold improvements and equipment from the Premises. Compensation as used in this Article XX shall mean any award given to Landlord for such taking, sale or conveyance in excess of, and free and clear of, all prior claims of the holders of any mortgages, deeds of trust or other security interests. No such taking, sale or conveyance shall operate as or be deemed an eviction of Tenant or a breach of Landlord's covenant of quiet enjoyment. Tenant hereby waives any statutory rights of termination which may arise by reason of any such partial taking, sale or conveyance of the Premises.

#### ARTICLE XVI SUBORDINATION AND ATTORNMENT BY TENANT

16.1 Subordination of Lease. This Lease and the estate of Tenant hereunder shall be subject and subordinate to any ground lease, deed of trust, mortgage lien, or any reciprocal easement agreement or other operating agreement which now encumbers or which at any time hereafter may encumber the Premises (such ground lease, deed of trust, mortgage lien, or reciprocal easement agreement or other operating agreement, and any replacement, renewal, modification, consolidation or extension thereof, being hereinafter referred to as an "Encumbrance"). Any Encumbrance shall be prior and paramount to this Lease and to the right of Tenant hereunder and all Persons claiming through and under Tenant, or otherwise, in the Premises. Tenant's acknowledgment and agreement of subordination provided for in this Section 21.1 shall be self-operative and no further instrument of subordination shall be required. However, Tenant, on Tenant's behalf, and on behalf of all Persons claiming through and under Tenant, covenants and agrees that, from time to time at the request of Landlord or the holder of any Encumbrance, Tenant will execute and deliver any necessary or proper instruments or certificates reasonably necessary to acknowledge or confirm the priority of the Encumbrance over this Lease and the subordination of this Lease thereto or to evidence Tenant's consent to any Encumbrance. Notwithstanding the foregoing, any holder of an Encumbrance may elect to the extent possible that this Lease shall have priority over such Encumbrance and, upon notification of such election by the holder of such Encumbrance, this Lease shall

be deemed to have priority over such Encumbrance, whether this Lease is dated prior to or subsequent to the date of such Encumbrance.

16.2 Attornment by Tenant. Tenant agrees that if the holder of any Encumbrance or any Person claiming under said Encumbrance shall succeed to the interest of Landlord in this Lease, then Tenant shall recognize and attorn to said holder as Landlord under the terms of this Lease. Tenant agrees that it will, upon the request of Landlord, execute, acknowledge and deliver any and all instruments necessary or reasonably requested by Landlord or its lender to give effect or notice of such attornment and failure of Tenant to execute any such document or instrument upon demand shall constitute a default by Tenant under the terms of this Lease.

## ARTICLE XVII ASSIGNMENT AND SUBLETTING

### 17.1 Landlord's Consent Required.

(a) Tenant shall not mortgage, pledge, encumber, franchise, assign or in any manner transfer this Lease, voluntarily or involuntarily, by operation of law or otherwise, nor sublet all or any part of the Premises for the conduct of any business by any unrelated third Person who does not maintain a relationship with Tenant, or for any purpose other than is herein authorized without Landlord's prior written consent, which shall not be unreasonable withheld.

(b) If Tenant is a "closely-held" entity (meaning a corporation which is not listed on a national securities exchange as defined in the Securities Exchange Act of 1934, as amended, a partnership, a limited liability company, or any other type of business entity that is not a corporation), a change in the "control" of Tenant or in the "control" of any entity that directly or indirectly "controls" Tenant ("control" meaning the ownership or control of fifty percent (50%) or more of the voting or ownership interests of an entity or, if such entity is a partnership, the general partner of such entity) without Landlord's prior written consent shall constitute an attempted assignment in violation of this Lease and shall at Landlord's election: (i) be deemed to be a default under this Lease, (ii) be deemed to be an offer of return of the Premises to Landlord pursuant to Section 22.3, or (iii) be deemed to be null and void and of no effect.

(c) Any consent by Landlord to any assignment or subletting, or other operation by a concessionaire, or licensee, shall not constitute a waiver of the necessity for such consent under any subsequent assignment or subletting or operation by a concessionaire or licensee.

(d) Reference anywhere else in this Lease to an assignee or subtenant shall not be considered as a consent by Landlord to such assignment or subletting nor as a waiver against the same except as specifically permitted in this Section 22.1.

(e) Notwithstanding the foregoing provisions, Tenant shall have the right to assign or otherwise transfer this Lease or sublease the Premises (in whole or in part), to its parent or to a wholly owned subsidiary or to an entity which is wholly owned by the same entity which wholly owns Tenant or to a related third party, provided, however, that (i) Tenant shall also remain primarily liable for all obligations under this Lease, (ii) the transferee shall, prior to the effective date of the transfer, deliver to

Landlord, instruments evidencing such transfer and its agreement to assume and be bound by all the terms, conditions and covenants of this Lease to be performed by Tenant, all in form acceptable to Landlord, (iii) Tenant shall not be in default under this Lease and (iv) Tenant's right to make such transfer is expressly conditioned on, and shall remain in effect only as long as the transferee maintains its relationship as parent or wholly owned subsidiary of Tenant or wholly owned subsidiary of Tenant's parent.

(f) If Landlord approves a sublease or assignment other than a sublease or assignment made pursuant to subsection 17.1(e) of this Lease, 50% of any profits generated from said sublease/assignment shall be paid by Tenant to Landlord as they are generated.

17.2 Insolvency Proceedings. If an assignment of the Premises is caused by operation of law due to Tenant's voluntary or involuntary insolvency proceedings under bankruptcy law, said assignment shall be subject to any and all provisions of the Bankruptcy Code as amended at the time of said assignment.

17.3 Return of Premises by Tenant. Prior to or simultaneously with any request by Tenant for consent as required in this Article XVII to assign this Lease or sublet the whole or substantially the whole of the Premises, Tenant shall, by written notice and without charge of any kind, offer the return of the Premises to Landlord herein. Landlord, within thirty (30) days of receipt of said written notice, shall have the option to accept the Premises without further liability upon Tenant as to the terms of this Lease ; provided, however, that if Landlord elects to accept the Premises, then Tenant may, by written notice to Landlord within thirty (30) days of Landlord's notice to Tenant of such election by Landlord, rescind such offer and continue to lease the Premises on the terms and conditions set forth herein.

17.4 Acceptance of Rent by Landlord. If this Lease be assigned, or if the Premises, or any part thereof, be subleased or occupied by anybody other than Tenant with or without Landlord's consent, Landlord may collect from assignee, subtenant or occupant, any Rent or other charges payable by Tenant under this Lease and apply the amount collected to the Rent herein reserved, but such collection by Landlord shall not be deemed a waiver of the provisions of this Lease, nor an acceptance of this assignee, subtenant or occupant, as a tenant of the Premises.

17.5 No Release of Tenant's Liability. No assignment or subletting or any other transfer by Tenant, either with or without Landlord's consent, required or otherwise, during the Term shall release Tenant from any liability under the terms of this Lease nor shall Tenant be relieved of the obligation of performing any of the terms, covenants and conditions of this Lease.

17.6 Legal Fees. In each instance where Landlord's consent to an assignment or subletting is requested by Tenant, Tenant acknowledges and agrees that Landlord shall not be deemed to be acting unreasonably if Landlord, as one of its conditions to the granting of such consent, should require Tenant to pay the reasonable attorney's fees incurred by Landlord for outside counsel, if any, or counsel for Landlord's lender if such lender's consent should be required, in the preparing, reviewing, negotiating and/or processing of documentation in connection with the requested assignment or subletting irrespective of whether or not consent is given to such assignment or subletting.

ARTICLE XVIII  
DEFAULT

18.1 Events of Default. Each of the following shall be considered an “Event of Default” and shall give rise to and entitle Landlord to the remedies provided for in Section 23.2, as well as any and all other remedies, whether at law or in equity, provided for or otherwise available to Landlord or as otherwise provided for in this Lease:

(a) Tenant shall default in the payment of any Rent or charges, or in the payment of any other sums of money required to be paid by Tenant to Landlord under this Lease, or as reimbursement to Landlord for sums paid by Landlord on behalf of Tenant in the performance of the covenants of this Lease, and said default is not cured within ten (10) days after receipt of written notice thereof from Landlord.

(c) Tenant should vacate or abandon the Premises or shall fail to operate its business on the days and hours required, or fails to continuously occupy the Premises.

(d) Tenant shall default in the performance of any other covenants, terms, conditions, provisions, rules and regulations of this Lease and such default is not cured within one hundred eighty (180) days after written notice thereof given by Landlord, excepting such defaults that cannot be cured completely within such one hundred eighty (180) day period providing Tenant, within said one hundred eighty (180) day period, commences the curing thereof and continues thereafter with all due diligence to cause such curing to proceed to completion.

(e) There is commenced any case in bankruptcy against the original named Tenant, any assignee or subtenant of the original named Tenant, any then occupant of the Premises.

(f) The sale of Tenant’s interest in the Premises under attachment, execution or similar legal process.

(f) Any other Event of Default designated elsewhere herein occurs.

All cure periods provided in this Lease shall run concurrently with any periods provided by law.

18.2 Remedies and Damages.

(a) If any Event of Default occurs, Landlord may, at its option and in addition to any and all other rights or remedies provided Landlord in this Lease or at law or equity, immediately, or at any time thereafter, and without demand or notice (except as provided herein):

(i) without waiving the Event of Default, apply all or part of the security deposit, if any, to cure the Event of Default and Tenant shall upon demand after the expiration of the term restore the security deposit to its original amount;

(ii) without waiving such Event of Default, apply thereto any overpayment of Rent to curing the Event of Default in lieu of refunding or crediting the same to Tenant;

(iii) if the Event of Default pertains to work or other obligations (other than

the payment of Rent) to be performed by Tenant, without waiving such Event of Default, enter upon the Premises and perform such work or other obligation, or cause such work or other obligation to be performed, for the account of Tenant; and Tenant shall upon demand pay to Landlord the cost of performing such work or other obligation.

18.3 Rights of Redemption. Landlord expressly acknowledges any and all of Tenant's rights of redemption granted by or under any present or future laws in the event of Tenant being evicted or dispossessed for any cause, or in the event of Landlord obtaining possession of the Premises by reason of the violation, by Tenant, of any of the covenants or conditions of this Lease, or otherwise.

18.4 Default by Landlord. If Landlord fails or refuses to perform any of the provisions, covenants or conditions of this Lease on Landlord's part to be kept or performed, Tenant, prior to exercising any right or remedy Tenant may have against Landlord on account of such default, shall give written notice to Landlord and, if Tenant has been notified of the name and notice address of such lender, Landlord's lender of such default, specifying in said notice the default with which Landlord is charged and Landlord shall not be deemed in default if the same is cured within thirty (30) days of receipt of said notice. Notwithstanding any other provision hereof, Tenant agrees that if the default complained of in the notice provided for by this Section 23.6 is of such a nature that the same can be rectified or cured by Landlord, but cannot with reasonable diligence be rectified or cured within said thirty (30) day period, then such default shall be deemed to be rectified or cured if Landlord within said thirty (30) day period (or Landlord's lender in a longer reasonable time) shall commence the rectification and curing thereof and shall continue thereafter with all due diligence to cause such rectification and curing to proceed to completion.

18.5 Attorneys' Fees & Costs of Enforcement. In the event of a dispute among the parties that results in the filing of a court action seeking enforcement of the terms of this Lease, the prevailing party shall be entitled to all reasonable costs, attorney fees (including allocable in-house counsel costs) and related expenses incurred, whether or not the matter is taken to final judgment.

## ARTICLE XIX NOTICES

19.1 Notices to Tenant and Landlord. Any and all notices and demands by or from Landlord to Tenant, or by or from Tenant to Landlord, required or desired to be given hereunder shall be in writing and shall be validly given if sent by any of the following methods which provides a written delivery confirmation receipt: i) served personally; ii) deposited in the United States mail, certified or registered, postage prepaid, return receipt requested; iii) delivered by a nationally recognized next day delivery courier service, or; iv) transmitted by facsimile with a copy sent the same day via US first class mail postage prepaid. All notices shall be effective upon receipt. However, if such notice or demand be served by registered or certified mail or by courier service in the manner provided, service shall be conclusively deemed given the first Business Day delivery is attempted whether or not it actually occurs. Notices shall be addressed in accordance with Section 1.2(k). Either party may change its address for the purpose of receiving notices or demands as herein provided by a written notice given in the manner aforesaid to the other party hereto, which notice of change of address shall not become effective, however, until the actual receipt thereof by the other party.

19.2 Notices to Mortgagee. Tenant shall give each Landlord's mortgagee (each a "Landlord Mortgagee") written notice of any alleged default which could give rise to Tenant's termination of this Lease or expenditure of money on behalf of Landlord provided Landlord has given Tenant a notice advising Tenant of the name and address of such Landlord Mortgagee. Such Landlord Mortgagee shall also be given an appropriate time to cure such default including the opportunity to obtain possession of Landlord's interest, if necessary, to cure the default.

## ARTICLE XX MISCELLANEOUS

20.1 Force Majeure. Whenever a day is appointed herein on which, or a period of time is appointed in which, a Party is required to do or complete any act, matter or thing, the time for the doing or completion thereof shall be extended by a period of time equal to the number of days on or during which such Party is prevented from the doing or completion of such act, matter or thing because of labor disputes, civil commotion, war, warlike operations, sabotage, unforeseen governmental regulations or control, fire or other casualty, unforeseen inability to obtain materials, fuel or energy, weather or other acts of God, or other causes beyond such Party's reasonable control (financial inability excepted); provided, however, that nothing contained herein shall excuse any Party from the prompt payment of any money that such Party is required to pay hereunder.

20.2 Time of the Essence. Subject to Section 20.1, time is of the essence of this Lease and all of the terms, covenants and conditions hereof.

20.3 Brokers. Tenant and Landlord each warrants to the other that it has had no dealings with any broker or agent in connection with this Lease. Subject to the foregoing, Tenant and Landlord covenant and agree to pay, hold harmless and indemnify the other from and against any and all costs, expenses or liability for any compensation, commissions and charges claimed by any broker or agent alleging to have dealt with the indemnifying party with respect to this Lease or the negotiation hereof (including, without limitation, the cost of legal fees in connection therewith).

20.4 Recordation. This Lease may be recorded by Tenant. Tenant may also record a memorandum or short form of this Lease,

20.5 Exculpation. If Landlord shall fail to perform any term, covenant or condition of this Lease upon Landlord's part to be performed and, as a consequence of such default, Tenant shall recover a money judgment against Landlord, such judgment shall be satisfied only out of the proceeds of sale received upon the execution of such judgment and levy thereon against the right, title and interest of Landlord in the Premises and out of rent or other income from the Premises receivable by Landlord or out of the consideration received by Landlord from the sale or other disposition of all or any part of Landlord's right, title and interest in the Premises. Neither Landlord, nor any of its members, partners, venturers, shareholders, officers, directors or Affiliates shall be liable for any deficiency.

20.6 Perpetuities. If for any reason the Rent Commencement Date has not occurred within three (3) years of the date hereof, this Lease shall thereupon terminate and be of no further force or effect (except with respect to matters that arose before such termination).



20.7 Estoppel Certificates. Tenant agrees at any time, upon not less than ten (10) days prior written request by Landlord, to execute, acknowledge and deliver to Landlord a written statement certifying that this Lease is unmodified and in full force and effect (or, if there has been modifications, that the same is in full force as modified and stating the modifications), the dates to which the Rent have been paid in pursuant to this Lease and such other certification concerning this Lease as may be reasonably requested by Landlord. Tenant further agrees that such statement may be relied upon by any mortgagee or prospective purchaser of the fee or assignee of any mortgage on the fee of the Premises.

20.8 Consents. Where in this Lease, or in any rules and regulations imposed by Landlord hereunder, Landlord's or Tenant's consent or approval is required and is not expressly permitted to be withheld in Landlord's or Tenant's sole discretion, such consent or approval shall not be permitted to be unreasonably withheld, conditioned or delayed. Tenant shall pay all costs and expenses (including reasonable attorney fees) that may be incurred by Landlord in processing, documenting or administering any request by Tenant for any consent or approval of Landlord required under this Lease. The grant by Landlord of any consent or approval hereunder shall in no way result in the incurrence by Landlord of any liability related to the subject matter of such consent or approval.

20.9 No Partnership. Nothing contained in this Lease shall be deemed or construed by the Parties or by any third party to create the relationship of principal and agent, a partnership, a joint venture or any other association between Landlord and Tenant. Neither the method of computation of rent nor any other provisions contained in this Lease nor any acts of the Parties shall be deemed to create any relationship between Landlord and Tenant other than the relationship of landlord and tenant.

20.10 Effective Date of Lease. The submission of this Lease for examination or execution does not constitute a reservation of or option for the Premises; and this Lease becomes effective as a lease only upon execution and delivery thereof by both Parties.

20.11 Costs of Performing Obligations. Except as otherwise expressly provided herein, each Party shall perform its obligations hereunder at its sole cost and expense and without any right to receive any reimbursement therefore from the other Party.

20.12 Drafting. This Lease shall not be construed either for or against Landlord or Tenant, but shall be interpreted in accordance with the general tenor of its language.

20.13 Covenants. Whenever in this Lease any words of obligation or duty are used in connection with either Party, such words shall have the same force and effect as though framed in the form of express covenants on the part of such Party.

20.14 Captions. The captions appearing at the commencement of the articles and sections hereof, and as the title to the exhibits attached hereto, are descriptive only and for convenience in reference to this Lease, and in no way define, limit or describe the scope or intent of this Lease, nor in any way affect this Lease.

20.15 Limitation Language. In this Lease, the use of words such as "including" or "such as" shall not be deemed to limit the generality of the term, covenant or condition to which they have reference, whether or not non-limiting language (such as "without limitation", "but not limited to", or words of similar import) is used with reference thereto, but rather shall be deemed to refer to all other

items or matters that could reasonably fall within the broadest possible scope of such general term, covenant or condition.

20.16 Pronouns. Masculine and feminine pronouns shall be substituted for the neuter and vice versa, and the plural shall be substituted for the singular form and vice versa, in any place or places herein in which the context requires such substitutions.

20.17 Partial Invalidity. If any term, covenant or condition of this Lease, or any application thereof, should be held by a court of competent jurisdiction to be invalid, void or unenforceable, all terms, covenants and conditions of this Lease, and all applications thereof, not held invalid, void or unenforceable, shall continue in full force and effect and shall in no way be affected, impaired or invalidated thereby. In lieu of such invalid, void or unenforceable term, covenant or condition, there shall be added to this Lease a term, covenant or condition that is valid, not void and enforceable and that most closely approximates the intent of such invalid, void or unenforceable term, covenant or condition as may be possible.

20.18 Entire Agreement. This Lease sets forth the entire understanding and agreement between the Parties, and supersedes all previous communications, negotiations and agreements (including, without limitation, letters of intent), whether written or oral, with respect to the subject matter hereof. No addition to or modification of this Lease shall be binding on any Party unless reduced to writing and duly executed and delivered by the Parties. Without limiting the generality of the foregoing, Tenant acknowledges and agrees that unless otherwise expressly set forth herein, neither Landlord nor any of its agents, representatives or employees has made any agreement with Tenant, or any covenant, promise, representation or warranty to Tenant, with respect to any of the following: (a) exclusive rights to sell goods or services within the Premises, (b) limitations on or restrictions against competing businesses within the Premises, (c) the future opening of other businesses within the Premises, (d) the type or quality of existing or prospective tenants located or to be located within the Premises, (e) work to be performed by Landlord in improving the Premises, (f) contributions by Landlord towards Tenant's leasehold improvement costs, (g) the annual amounts of Tenant's share of Premises Operating Costs or Tenant's share of Real Property Taxes during the Term, or (h) promotion or advertising of Tenant's business or Tenant's products or services.

20.19 Remedies Cumulative. The various rights, options, elections and remedies of Landlord contained in this Lease shall be cumulative and no one of them shall be construed as exclusive of any other, or of any right, priority or remedy allowed or provided for by law and not expressly waived in this Lease.

20.20 Waiver. Landlord and Tenant shall have the right at all times to enforce the terms, covenants and conditions of this Lease in strict accordance with the terms thereof, notwithstanding any conduct or custom on the part of Landlord or Tenant in refraining from so doing at any time or times. No failure by Landlord or Tenant to insist upon the strict performance of any term, covenant or condition of this Lease or to exercise any right or remedy available for a breach thereof, and no acceptance by Landlord of full or partial Rent during the continuance of any such breach by Tenant, shall constitute a waiver of any such breach or any such right or remedy. No term or condition of this Lease required to be performed by Landlord or Tenant, and no breach thereof, shall be waived, altered or modified except by a written instrument executed by the other party. A waiver by Landlord in respect to any tenant of the Premises shall not constitute a waiver in favor of any other tenant. No waiver by Landlord or Tenant of the breach of any condition, covenant or provision of this Lease shall excuse a future breach of the same

condition, covenant or provision or of any other condition, covenant or provision of this Lease. After the service of any notice or commencement of any suit, or final judgment therein, Landlord may receive and collect any Rent due, and such collection or receipt shall not operate as a waiver of nor affect such notice, suit or judgment unless the collection by Landlord of such Rent fully settles the subject matter of such notice, suit or judgment.

20.21 Insolvency and Death. It is understood and agreed that neither this Lease, nor any interest herein or hereunder, nor any estate hereby created in favor of Tenant, shall pass by operation of law under any insolvency, bankruptcy, inheritance or other similar Law to any trustee, receiver, assignee for the benefit of creditors, heir, legatee, devisee or other Person.

20.22 Successors and Assigns. The conditions, covenants and agreements contained in this Lease shall be binding upon and inure to the benefit of the Parties and their respective heirs, executors, administrators, successors and permitted assigns.

20.23 Joint Liability. If Tenant now or hereafter shall consist of more than one Person, then all such Persons shall be jointly and severally liable as Tenant hereunder.

20.24 Transfer of Landlord's Interest. Landlord shall be liable under this Lease only while owner of the Premises. If Landlord should sell or otherwise transfer Landlord's interest in the Premises, then such purchaser or transferee shall be responsible for all of the covenants and undertakings thereafter accruing of Landlord. Tenant agrees that Landlord shall, after such sale or transfer of Landlord's interest, have no liability to Tenant under this Lease or any modification or amendment thereof, or extensions or renewals thereof, except for such liabilities which (a) might have accrued prior to the date of such sale or transfer of Landlord's interest to such purchaser or transferee, and (b) are not assumed by such purchaser or transferee.

20.25 Waiver of Jury Trial. The Parties shall and hereby do waive all rights to trial by jury in any action, proceeding or counterclaim brought by either of the Parties against the other on any matters whatsoever arising out of or in any way connected with this Lease, the relationship of Landlord and Tenant, Tenant's use or occupancy of the Premises, or any claim of injury or damage.

20.26 Consents. No Party shall be deemed to have given any consent, approval or agreement required under this Lease unless and until such Party gives such consent, approval or agreement in writing.

20.27 Governing Law. The laws of the State of Nevada shall govern the validity, construction, performance and effect of this Lease. Any legal suit, action or proceeding against Landlord or Tenant arising out of or relating to this Lease shall be instituted in any federal or state court in Clark County, Nevada, and each Party waives any objection which it may now or hereafter have to the laying of venue of any such suit, action or proceeding, and each Party hereby irrevocably submits to the jurisdiction of any such court in any suit, action or proceeding.


[Signature Page Follows]


IN WITNESS WHEREOF, the Parties hereto have executed this Lease as of the day and year first written above.

LANDLORD:

Spanish Heights Acquisition Company, LLC, a  
Nevada limited liability company

By: Member - ANTOS, KENNETH & SHEILA  
LIV TR, KENNETH M ANTOS SHEILA M.  
NEUMANN-ANTOS TRUST, Kenneth Antos and Sheila  
Neumann-Antos as Trustees

By:   
Name: Kenneth Antos  
Title: Trustee  
Date: \_\_\_\_\_

By:   
Name: Sheila Neumann-Antos  
Title: Trustee  
Date: \_\_\_\_\_

TENANT:

SJC Ventures, LLC  
a Nevada limited liability company

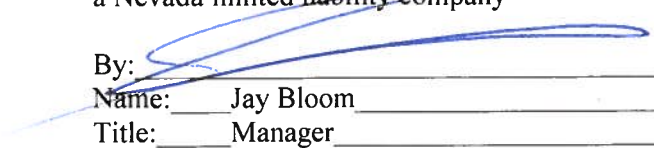
By:   
Name: Jay Bloom  
Title: Manager  
Date: \_\_\_\_\_

EXHIBIT "1"  
DEFINITIONS

The following terms used in this Lease shall have the following meanings (unless otherwise expressly provided herein):

"Additional Charges" has the meaning given in Section 7.1.

"Affiliate" means a Person that directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with, a specified Person. For purposes of this definition, the term "control" shall mean the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting interests, by contract or otherwise.

"Base Rent" has the meaning given in Section 1.2(d).

"Building" means the building now existing or to be constructed within the Premises at which the Premises is located.

"Business Day" means any day other than a Saturday, a Sunday or another day upon which banks in the State of Nevada are authorized or required to be closed.

"Service Providers" has the meaning given in Section 7.5.

"CPI-U" means the U.S. Department of Labor, Bureau of Labor Statistics, Consumers Price Index for all Urban Consumers, All Cities Average, Subgroup "all items" (base reference period 1982-84=100). If during the Term the U.S. Department of Labor, Bureau of Labor Statistics, ceases to publish a CPI-U, such other index or standard as will most nearly accomplish the aim and purpose of said CPI-U and the use thereof in this Lease shall be selected by Landlord in its reasonable discretion.

"Encumbrance" has the meaning given in Section 16.1.

"Event of Default" has the meaning given in Section 18.1.

"HVAC" means heating, ventilation and air conditioning.

"Landlord" has the meaning given in the preamble.

"Landlord Mortgagee" has the meaning given in Section 19.2.

"Landlord's Fiscal Year" shall mean the calendar year or such other twelve (12) month period as Landlord may from time to time elect in its sole and absolute discretion.

"Laws" means all laws, statutes, rules, orders, ordinances, directions, regulations and requirements of federal, state, county and municipal authorities as are in force from time to time.

"Lease" means this Lease, including all exhibits hereto, as the same may be amended from time to time.

“Lease Year” means each twelve (12) month period during the Term commencing on the day and month of the Rent Commencement Date; provided, however, that if the Rent Commencement Date is not the first day of a calendar month, then the first Lease Year shall commence on the Rent Commencement Date and end on the last day of the twelfth full calendar month thereafter and each subsequent Lease Year shall commence on the first day of the calendar month after the month of the Rent Commencement Date.

“Real Property Taxes” has the meaning given in Section 5.3(c).

“Original Lease” has the meaning given in Section 3.5.

“Parties” or “Party” has the meaning given in the preamble.

“Person” means any individual or any government entity, general partnership, limited partnership, joint venture, limited liability company, corporation, trust, cooperative, association or other similar organization.

“Premises” means that Real Property known as known as 5148 Spanish Heights Dr., Las Vegas, NV 89148, as the same may be reconfigured, expanded, reduced or otherwise modified from time to time in accordance herewith.

“Premises Real Property Taxes” has the meaning given in Section 5.3(c).

“Prevailing Party” has the meaning given in Section 18.5.

“Rent” means Base Rent and Additional Charges.

“Rent Commencement Date” has the meaning given in Section 6.2(a).

“Tenant” has the meaning given in the preamble.

“Tenant Personal Property” has the meaning given in Section 11.2.

“Term” has the meaning given in Section 1.2(a).

“Term Expiration Date” has the meaning given in Section 3.1.

“Premises” has the meaning given in Section 4.1.

“Premises Operating Costs” has the meaning given in Section 5.2(a).

EXHIBIT "2"

CONSENT TO LEASE

THIS CONSENT TO LEASE (the "Consent") is made and entered into this \_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_\_, (the "Effective Date") by and between Spanish Heights Acquisition Company, LLC ("Owner") of 5184 Spanish Heights Drive, Las Vegas, NV, (the "Property") and SJC Ventures, LLC (the "Tenant"), and CBC Partners I, LLC (the "CBCI").

RECITALS:

WHEREAS, the Tenant and Owner have entered into the Lease attached hereto (the "Lease"), for the Property.

WHEREAS, the parties recognize that the execution this Lease is a condition to the Forbearance Agreement between CBC Partners I, LLC, and the Landlord, Tenant, and other parties. Further, this Lease is subject to the written consent of CBCI

WHEREAS, the CBCI hereby consents to such Assignment upon the terms and conditions contained hereunder:

NOW, THEREFORE, for and in consideration of the covenants and obligations contained herein, CBCI, Tenant and Owner Agree represent and agree as follows:

CBCI hereby consents to the Lease attached hereto, subject to the following conditions:

1. The Lease shall be subject and subordinate to the lien and effect of the Forbearance Agreement insofar as it affects the real and personal property or which the Property form a part, and to all renewals, modifications, consolidations, replacements and extensions thereof, and to all advances made or to be made thereunder, to the full extent of amounts secured thereby and interest thereon.

2. In the event CBCI or any trustee for CBCI takes possession of the Property, as mortgagee-in-possession or otherwise, forecloses on the Property, sells the Property, or otherwise exercises its rights under the Forbearance Agreement, CBCI may terminate the Lease.

3. Although the foregoing provisions of this Agreement shall be self-operative, Tenant agrees to execute and deliver to CBCI such other instrument or instruments as CBCI or such other person shall from time to time request in order to confirm such provision.

5. Tenant hereby warrants and represents, covenants, and agrees to and with CBCI:

(a) not to alter or modify the Lease in any respect without prior written consent of CBCI;

(b) to deliver to CBCI at the address indicated above a duplicate of each notice of default delivered to Landlord at the same time as such notice is given to Landlord;

(d) not to seek to terminate the Lease by reason of any default of Landlord without prior written notice thereof to CBCI;

(e) not to pay any rent or other sums due or to become due under the Lease more than 30 days in advance of the date on which the same are due or to become due under the Lease;

(f) to certify promptly in writing to CBCI in connection with any proposed assignment of the Forbearance Agreement, whether or not any default on the part of Landlord then exists under the Lease; and

7. Any notices required to be sent to CBCI shall be sent to:

777 108th Ave NE Suite 1895  
Bellevue, WA 98004

With a copy to:

The Law Office of Vernon Nelson  
9480 S. Eastern Ave., Suite 252  
Las Vegas, NV 89123

8. This Agreement shall be governed by and construed in accordance with the laws of the jurisdiction in which the Property is located.

IN WITNESS WHEREOF, CBCI, Tenant and Assignee have executed this Consent on the day and year first above written.

Spanish Heights Acquisition Company, LLC

BY: 

Its: Manager

Print

Name: Jay Blam

CBC Partners I, LLC

BY: 

Its: President

Print

Name: John Otter



# **EXHIBIT 11**

# **EXHIBIT 11**

## FORBEARANCE AGREEMENT

THIS FORBEARANCE AGREEMENT (the "Forbearance Agreement") is made and dated as of the 27<sup>th</sup> day of September 2017 by and among CBC Partners I, LLC ("CBCI"), Kenneth & Sheila Antos Living Trust (the "Living Trust"), Kenneth M. Antos & Sheila M. Neumann-Antos Trust (the "K & S Trust"), Kenneth Antos and Sheila Neumann-Antos, as Trustees of the Living Trust and the K & S Trust, and as Personal Guarantors of the Secured Promissory Note described below., Spanish Heights Acquisition Company, LLC ("SHAC"), and SJC Ventures, LLC ("SJC")

### RECITALS

#### A. The Parties and Background

1. CBCI is a Washington limited-liability company. CBCI is the holder of a certain Secured Promissory Note dated June 22, 2012; which has been amended, by ten subsequent Amendments; all of which have been executed by KCI Investments, LLC and Preferred Restaurant Brands, Inc. (collectively the "Amended Note").

2. The Amended Note is secured by certain Personal Guarantees signed by Kenneth Antos and Sheila Antos. The Amended Note is also secured by certain Security Agreements, Subsidiary Guarantees, and Intercreditor Agreements, Deeds of Trust, Assignment of Rents, and Fixture Filings (collectively, the "Security Agreements").

3. In particular, the Amended Note is secured by a certain DEED OF TRUST, ASSIGNMENT OF RENTS, SECURITY AGREEMENT AND FIXTURE FILING made as of December 17, 2014, by Kenneth M. Antos and Sheila M. Neumann-Antos, Trustees of the

Kenneth and Sheila Antos Living Trust dated April 26, 2007, and any amendments thereto, as trustor ("Trustor"), First American Title Insurance Company, a Nebraska corporation, as trustee ("Trustee"), for the benefit of CBCI. (the "2014 Deed of Trust"). Subsequently, the 2014 Deed of Trust was modified by a certain **FIRST MODIFICATION TO DEED OF TRUST, ASSIGNMENT OF RENTS, SECURITY AGREEMENT AND FIXTURE FILING** made effective as of November 30, 2016, by Kenneth M. Antos and Sheila M. Neumann-Antos, Trustees of the Kenneth and Sheila Antos Living Trust, dated April 26, 2007, and any amendments thereto, as trustor ("Trustor"), and CBCI ("Beneficiary") (collectively, the "Modified Deed of Trust") that encumbers the property commonly known as 5148 Spanish Heights Drive, Las Vegas, NV (the "Property"). The Property is owned by Kenneth M. Antos and Sheila M. Neumann-Antos, Trustees of the Kenneth and Sheila Antos Living Trust, dated April 26, 2007, and any amendments thereto (the "Antos Trust"). Agreement, Kenneth Antos, Sheila Antos and the Antos Trust may be collectively referred to as the "Antos Parties."

4. Several Events of Default (the "Identified Defaults") exist under the Amended Note, the Security Agreements; including the Modified Deed of Trust (collectively the "Loan Documents"). As a result of the Identified Defaults, CBCI is entitled to pursue certain remedies under the Loan Documents. These remedies include, foreclosing on the Property in accordance with the Deed of Trust. Pursuant to the terms of this Forbearance Agreement, CBCI is willing to forbear from exercising its right to foreclose on the Property in accordance with the Deed of Trust, with respect to the Identified Defaults, during the "Forbearance Period" defined below.

5. Pursuant to the terms hereunder, the Antos Trust intends to convey the Property to SHAC. SHAC is a Nevada limited-liability company. The Members of SHAC are SJC Ventures, LLC ("SJCVC") and the Antos Trust. Pursuant to the terms hereunder, SHAC intends to acquire

the Property and make certain payments to CBC and other parties pursuant to the terms of this Forbearance Agreement.

3. SHAC is a Nevada limited-liability company. The Members of SHAC are SJCVC and the Antos Parties. Pursuant to the terms hereunder, SHAC intends to acquire the Property and make certain payments to CBCI and other parties pursuant to the terms of this Forbearance Agreement.

4. SHAC intends to rent the Property to SJCVC. SJCVC is a Nevada limited liability company. SJCVC owns a 24.912% Membership Interest in 1st One Hundred Holdings, LLC. 1st One Hundred Holdings, LLC, is the judgment creditor in possession of a final judgment in the amount of \$2.2 billion (the "Judgment"). The majority owner of 1st One Hundred Holdings, LLC is Tangled Web Family Trust. Jay Bloom is the Managing Member of 1st One Hundred Holdings LLC. Tangled Web Family Trust is the sole-member of SJCVC. Mr. Bloom is a trustee and beneficiary of the Tangled Web Family Trust. Mr. Bloom is also the Manager of SJCVC (the "SJCVC Parties." As a material term of the Forbearance Agreement, which forms the basis of the bargain, Mr. Bloom, as the Managing Member of 1st One Hundred Holdings, and as the Manager of SJCVC, have agreed that SJCVC will execute the "Security Agreement" described herein; and that 1st One Hundred Holdings will acknowledge its consent that SJCVC execute the Security Agreement, which will require 1st One Hundred Holdings and SJCVC to guaranty the obligations of SHAC and SJCVC under this Forbearance

#### **B. The Amended Note and the Events of Default**

1. Obligations Owed from Antos Parties to CBCI. As of August 21, 2017, the Antos Parties are indebted as follows to CBCI: (i) in the amount of \$2,935,001.14 for unpaid principal (the "Principal Balance"); (ii) certain Protection Payments (as defined in Exhibit "B") made by

CBCI prior to the effective date of this Forbearance Agreement in the amount of \$397,872.65 (the "Pre-Forbearance Protection Payments" as defined in Exhibit "B,"(iii) in the amount of \$1,315,105.24 in interest accrued at the rate of 20%; and (iv) in additional amounts for accrued and accruing interest, recoverable costs (including reasonable attorneys' fees), certain indemnities, Post-Forbearance Protection Payments and other "Note Expenses" as described below.

2. The Modified Deed of Trust. As part of the security for satisfaction of the Amended Note, CBCI holds the valid and perfected Modified Deed of Trust. Pursuant to the Modified Deed of Trust, CBCI is entitled to foreclose on the Property.

3. The Antos Parties and the SJCV Parties have no defenses, offsets, counterclaims, or adverse claims of any kind or amount with respect to the Loan Documents, including the Amended Note, the Modified Deed of Trust, and/or other collateral interests held by CBCI as security for satisfaction of the Note.

4. Identified Defaults. The Identified Defaults existing under the Loan Documents; including the Modified Deed of Trust are clearly set forth in the Loan Documents and are incorporated herein by reference.

#### **C. Request for Forbearance.**

1. The Antos Parties and the SJCV Parties have requested that, notwithstanding the existence of the Identified Defaults, CBCI forbear from exercising their rights and remedies with respect to the Identified Defaults through August 31, 2019.

2. Although CBCI is under no obligation to do so, CBCI is willing to agree to forbear pursuant to the terms and conditions of this Forbearance Agreement. The forbearance is being

provided by CBCI to allow SHAC to secure replacement financing to satisfy the amount owed to CBCI pursuant to the Note.

**NOW, THEREFORE**, in consideration of the mutual covenants and agreements set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

### **AGREEMENT**

**1. Accuracy of Recitals.** The Antos Parties and the SJCV parties acknowledge that the Recitals set forth above are true, accurate and correct. The Recitals are incorporated into this Forbearance Agreement without any difference or distinction between the two (2) segments of this Forbearance Agreement.

**2. Reaffirmation of Loans.** Except as modified by this Forbearance Agreement, the Antos Parties and the SJCV Parties reaffirm all obligations due to CBCI under the Amended Note and Modified Deed of Trust.

### **3. INTENTIONALLY LEFT BLANK**

**4. Forbearance.** Provided that the Antos Parties and the SJCV Parties satisfy all the conditions described in Exhibit "B" to this Forbearance Agreement, CBCI agrees to forbear from exercising its rights and remedies with respect to the Identified Defaults from the effective date of the Forbearance Agreement through August 31, 2019 (the "Forbearance Period").

As further consideration for CBCI's agreement, in addition, the forbearance provided by CBCI to the Antos Parties and the SJCV Parties are limited as follows:

**4.1 Forbearance Limited to Identified Defaults.** CBCI's forbearance is limited solely to the suspended exercise of its respective rights and remedies arising under the Amended Note and Modified Deed of Trust as a result of the Identified Defaults, and CBCI shall not be

deemed to have suspended or waived any rights or remedies it may have with respect to any other existing breach, default, or Event of Default under the Loan Documents, including the Amended Note and the Modified Deed of Trust.

**4.2 No New Events of Default.** During the Forbearance Period, there shall occur no new Event of Default or an event which, with the passage of time or the giving of notice or both, would constitute an Event of Default under the Amended Note and Modified Deed of Trust or this Forbearance Agreement, nor shall there be a breach or failure of any warranty, representation or covenant as described in this Forbearance Agreement.

**4.3 Agreement in the Nature of Forbearance Only.** The Antos Parties and SJCVC Parties acknowledge that CBCI's obligations under this Forbearance Agreement are in the nature of a conditional forbearance only, and that CBCI has made no agreement or commitment to provide additional forbearance, to modify or to extend the Amended Note and Modified Deed of Trust beyond the Forbearance Period. Antos Parties and the SJCVC Parties also acknowledges that the Identified Defaults are not cured as a result of this Forbearance Agreement.

**4.4 Termination of the Forbearance Period.** The Forbearance Period shall end on the first to occur of the following:

4.4.1 Upon the expiration of the Forbearance Period.

4.4.2 A breach by the Antos Parties and the SJCVC Parties of any of the covenants, representations, and/or warranties set forth in this Forbearance Agreement.

4.4.3 The occurrence of any new Event of Default under any of the Loan Documents, including the Amended Note and Modified Deed of Trust, or the occurrence of any event which, with the passage of time or giving of notice or both, would constitute an Event of Default thereunder.

4.4.4 The filing of a bankruptcy petition by or against any Obligated Party.

4.4.5 Any Obligated Party makes any assignment for the benefit of its creditors, or a receiver is appointed for any Obligated Party's business.

**4.5 Exercise of Rights and Remedies Upon Termination of Forbearance**

**Period.** If upon termination of the Forbearance Period, the Note has not been satisfied as part of the transactions described in Exhibit "B," CBCI is free to exercise all of its rights and remedies under the Amended Note and Modified Deed of Trust, including but not limited to, the rights and remedies available to CBCI as a result of the Identified Defaults.

**5. Conditions to Forbearance.** In addition to all other conditions set forth in Section 4 above, the forbearance provided by CBCI under this Forbearance Agreement is strictly conditioned upon satisfaction by Antos Parties and the SJCV Parties of the following:

**5.1 No New Defaults.** That during the Forbearance Period, there will occur no new event which would allow CBCI with or without notice to accelerate the Loan Documents, including the Amended Note and Modified Deed of Trust, or to exercise any rights or remedies against any collateral for provided for in the Loan Documents including the Amended Note and Modified Deed of Trust, or an event which, with the passage of time or the giving of notice or both, would constitute an Event of Default under any one or more of the Loan Documents, including the Amended Note and Modified Deed of Trust, or a default occurs under the Forbearance Agreement (collectively, an "Incipient Default"), and there will be no breach or failure of any warranty, representation or covenant contained in this Forbearance Agreement.

**5.2 Forbearance by Other Lenders.** That during the Forbearance Period, no other lender, creditor, or lessor (collectively "Other Lender(s)") undertakes efforts to enforce its rights or remedies relating to any default committed by the Antos Parties or SJCV Parties under



any loan agreement, lease, security agreement, or other financial agreement. If any Other Lender undertakes such efforts, CBCI may immediately terminate this Forbearance Agreement.

**5.3 Delivery of Outstanding Items.** By the time of execution of the Forbearance Agreement, the Antos Parties and the SJCV Parties will have delivered to CBCI any outstanding property, agreements, or other documents relating to the Property, or which are required to be provided pursuant to the Amended Note and Modified Deed of Trust or this Forbearance Agreement, including the agreements described in Exhibit "B" hereto.

**5.4 Delivery of Consents.** As evidenced by its signature below, any Guarantor which has guaranteed the obligations of the Antos Parties and the SJCV Parties, expressly consents to the terms, and conditions of this Forbearance Agreement, and confirms that its guarantee shall remain in full force and effect. This provision shall survive the termination of this Forbearance Agreement.

**5.5 Pursuit of Certain Sales, Financings, and Collection of the Judgment.** Upon execution of the Forbearance Agreement, Antos Parties and the SJCV Parties will undertake efforts to obtain financing to satisfy the Note prior to the termination of the Forbearance Period. Such efforts shall include: (1) efforts to obtain alternative financing; and (2) SJCV's efforts to collect on the Judgment described in Exhibit "B" and to use any monies collected to pay the Amended Note in accordance with the terms of the Judgment/Lien Pledge Agreement described in Exhibit "B."

**5.7 Full Cooperation with Consultants.** During the Forbearance Period, the Antos Parties and the SJCV Parties will cooperate fully with consultants engaged by CBCI to assess and address matters germane to Antos Parties and the SJCV Parties' performance under the Amended Note and Modified Deed of Trust or this Forbearance Agreement.

**5.8 Capital Expenditures.** During the Forbearance Period, and unless otherwise agreed to in writing by CBCI, the Antos Parties and the SJCVC Parties will not incur any liability or expend cash for capital expenditures or improvements over and above the amount of \$125,000 without the prior written approval of CBCI.

**5.9 Additional Collateral.** As additional security for satisfaction of the obligations of their obligations herein, the Antos Parties and SJCVC Parties grant to CBCI the additional collateral described in Exhibit "B" (collectively, the "Additional Collateral").

**5.10 Financial Information/Other Information.** The Antos Parties and the SJCVC parties will comply with reasonable requests made by CBCI to provide information about the Property; including information relating to the Antos Parties and SJCVC Parties efforts to comply with their obligations under section 5.5 of this Forbearance Agreement.

**5.11 Negative Covenants.** During the term of the Forbearance Period:

Except as is otherwise provided in this Forbearance Agreement, the Antos Parties and the SJCVC Parties will not incur any additional debt in excess of \$25,000. Notwithstanding the foregoing, the Antos Parties and the SJCVC Parties may incur debt from affiliated companies, or the principals of the Obligated Companies ("Affiliate Debt") so long as: (i) the Affiliate Debt is on terms acceptable to CBCI; (ii) the Affiliate Debt is subordinated in priority and payment to the Note; and (iii) no payments are made by the Antos Parties and the SJCVC Parties with respect to the Affiliate Debt unless and until all amounts due under the Amended Note are paid in full. In addition, the Antos Parties and the SJCVC Parties will not make any capital contributions, loans, or other advances to any of its affiliated companies outside of the ordinary course of business.

5.11.1 The Antos Parties and the SJCVC Parties will not make any payments of any kind (including principal, interest, or other amounts owed) on any existing or future loans from the principals of the Antos Parties and the SJCVC Parties.

5.11.2 Except for Liens arising under the Amended Note and Modified Deed of Trust, the Antos Parties and the SJCVC Parties will not allow any new liens to be secured by property which is owned or hereafter acquired by Antos Parties and the SJCVC Parties or any of their affiliated companies.

5.11.3 Subordination of other Obligations.

(a) For purposes of this Forbearance Agreement, "Senior Obligations" means (i) all principal, interest, fees, reimbursements, indemnifications, and other amounts, now or hereafter owed by the Antos Parties, or the SJCVC Parties to CBCI under or in connection with this Forbearance Agreement and of the other Agreements that are required to be executed pursuant to the terms of this Forbearance Agreement.

(b) For purposes of this Forbearance Agreement, "Senior Lien" means any and all Liens securing any of the Senior Obligations in favor of CBCI.

(c) For purposes of the Forbearance Agreement, a "Subordinate Creditor" is any party who extends credit to the Antos Parties and the SJCVC parties that is a "Subordinated Debt" as defined in this Forbearance Agreement.

(c) For purposes of this Forbearance Agreement, "Subordinated Debt" means all present and future indebtedness, liabilities, and obligations of any kind owed by the Antos Parties and/or the SJCVC Parties to any Subordinated Creditor.

(d) For purposes of this Forbearance Agreement, "Subordinated Lien" means any lien, secured by property of the Antos Parties and/or the SJCV Parties, that is intended to secure the repayment of all or any portion of the Subordinated Debt.

(e) Unless and until the Senior Obligations shall have been irrevocably paid in full; (i) any Subordinated Debt shall be subordinate to all Senior Debt; and (ii) any Subordinated Lien shall be subordinate to the Senior Lien.

(f) Unless and until the Senior Obligations shall have been irrevocably paid in full, there shall be no payments of any kind, direct or indirect, on the Subordinated Debt, unless expressly agreed to in a writing that is subject to CBCI's approval, which CBCI may withhold in its sole and absolute discretion.

(g) Notwithstanding subsection (f) above, if no Default or Event of Default is continuing or would be caused thereby, the Debtor may make regularly-scheduled payments of interest and principal with respect to a Subordinated Debt (such payments being referred to herein as "Permitted Payments"). The Subordinated Creditor shall consult with the Antos Parties, or SJCV Parties, as necessary, for the purpose of determining that each Permitted Payment to the Subordinated Creditor shall not cause a Default or Event of Default when made and the Subordinated Creditor shall bear the risk that the making of any Permitted Payments to the Subordinated Creditor violates the foregoing restriction. If at any time there shall occur a Default or Event of Default the Antos Parties, and the SJCV Parties, shall not make any payments with respect to any Subordinated Debt until the earlier of (i) the cure of the Default or Event of Default to the satisfaction of CBCI; or (ii) the irrevocable payment in full of the Senior

Obligations. The Antos Parties and the SJCVC Parties shall give any and all Subordinated Creditor(s) prompt notice of any such Default or Event of Default.

(h) If there shall exist an event of default, however denominated, with respect to the Subordinated Debt, the Subordinated Creditor shall not take any action with respect to such event of default until the earlier of (a) the irrevocable payment in full of the Senior Debt; or (b) the receipt of written consent from CBCI to commence Remedial Action.

(i) Upon any distribution to creditors of SHAC, the Antos Parties, or the SJCVC Parties (the "Debtor Parties"), in a liquidation or dissolution of any of the Debtor Parties, or in any Insolvency Proceeding with respect to any of the Debtor Parties, or any of their assets, all amounts due with respect to the Senior Obligations, shall be irrevocably paid in full before the Subordinated Creditor shall be entitled to collect or receive any payment with respect to the Subordinated Debt. Until CBCI has received all amounts due to CBCI, with respect to the Senior Debt in cash, or such payment is duly provided for, any distribution from the Debtor Parties or their assets to which the Subordinated Creditor should otherwise be entitled shall be made to CBCI.

(k) Any payments received by a Subordinated Creditor in violation of this Agreement shall be held by the Subordinated Creditor in trust for the benefit of CBCI and shall be immediately turned over to CBCI in the form received (together with any necessary endorsements) for application to the Senior Obligations, to the extent necessary to pay the Senior Debt in full.

(l) Other than a Subordinated Lien, the Subordinated Creditor will not create, assume, or suffer to exist any lien, security interest, or assignment of collateral securing the repayment of the Subordinated Debt. Any lien, security interest, or assignment existing in

violation of the foregoing and the Subordinated Lien shall be fully subordinate to the Senior Lien. At the request of CBCI, the Subordinated Creditor and the Debtor Parties will take any and all steps necessary to fully effect the release of any such lien, security interest, assignment, or collateral. Any financing statement filed with respect to the Subordinated Lien shall contain the following statement, "The security interest described in this financing statement is fully subordinate to the security interest in favor of CBC Partners I, LLC.

(m) The Subordinated Creditor, the Antos Parties, and the SJCVC Parties agree to execute any and all other documents requested by the Agent to further evidence the subordination of the Subordinated Debt to the Senior Debt and/or the Subordinated Lien to the Senior Lien.

(n) Any Subordinated Creditor will cause all Subordinated Debt to be evidenced by a note, debenture, instrument, or other writing evidencing such Subordinated Debt and will inscribe a statement or legend thereon to the effect that such note, debenture, instrument, or other writing is subordinated to the Senior Obligations in favor of CBCI in the manner and to the extent set forth in this Agreement. The Subordinated Creditor shall inscribe a statement or legend on the Security Agreement to the effect that the security interest created thereby is fully subordinated to the security interest in favor of CBCI.

(o) The Subordinated Creditor shall not assign or otherwise transfer to any other person any interest in the Subordinated Debt unless the Subordinated Creditor causes the assignee or other transferee to execute and deliver to CBCI a subordination agreement acceptable to CBCI or otherwise acknowledges to the reasonable satisfaction of CBCI the subordination of the applicable Subordinated Debt in accordance with this Agreement.

5.11.5 The Antos Parties and the SJCV Parties will not declare or pay any dividends, bonuses, and Antos Parties and the SJCV Parties will not repurchase any of their Membership Interests.

**6. Conditions Precedent.** Before this Forbearance Agreement becomes effective and CBCI becomes obligated under it, and in addition to any other conditions stated in this Forbearance Agreement, all of the following conditions shall have been satisfied at Antos Parties and the SJCV Parties' sole cost and expense in a manner acceptable to CBCI:

**6.1 Receipt of Documents.** CBCI will have received fully executed originals of this Forbearance Agreement, the Additional Guarantees, and any other documents that CBCI may require or request in accordance with this Forbearance Agreement and the Amended Note and Modified Deed of Trust, all in such form as CBCI may require in its reasonable discretion. Without limiting the foregoing, the Antos Parties and SJCV Parties acknowledge and agree that they shall be obligated to deliver to CBCI, duly executed by all parties thereto as applicable and in form and substance satisfactory to CBCI, each of the following: (a) such corporate resolutions, incumbency certificates, trust certifications and other authorizing documentation as CBCI may request and (b) all of the agreements, opinions of counsel and other documentation provided for in Exhibit "B" hereto.

**6.2 Reimbursement of CBCI's Costs and Expenses.** CBCI will receive reimbursement of all reasonable costs and expenses incurred by CBCI relating to this Forbearance Agreement, including charges for legal fees and expenses of CBCI's counsel ("Reimbursable Costs"). Reimbursable Costs may include the allocated costs, incurred to date or in the future, for services for CBCI's counsel and inhouse staffs, such as legal and appraisal, and Reimbursable Costs will be added to the amount due under the CBCI Note.

**8. Antos Parties and the SJCVC Parties' Representations and Warranties.** The Antos Parties and the SJCVC Parties represent and warrant to CBCI as follows:

8.1 Accuracy of Representations in Forbearance Agreement and Amended Note and Modified Deed of Trust. All representations and warranties made and given by Antos Parties and the SJCVC Parties in this Forbearance Agreement and in the Amended Note and Modified Deed of Trust are accurate and correct.

8.2 No Default. Other than the Identified Defaults, no Event of Default has occurred and/or is continuing under the Amended Note and Modified Deed of Trust, and no event has occurred and is continuing which, with notice or the passage of time or both, would be an Event of Default.

8.3 Property. To the extent applicable, the Antos Parties and the SJCVC Parties lawfully possess and hold a 100% ownership interest in the Property and Collateral for this Forbearance Agreement. The Antos Parties and the SJCVC Parties own all the Collateral for the Amended Note and Modified Deed of Trust free and clear of any defects, reservations of title and conditional sales contracts, and free and clear of any Liens, and security interest other than the liens and security interests in favor of CBCI. There is no financing statement affecting any Collateral for the obligations of the Antos Parties and the SJCVC Parties in any public office except for financing statements in favor of CBCI.

8.4 Disclosure with Respect to SJCVC's Judgment Interest. As is described above, SJCVC is a Member of 1<sup>st</sup> 100 Holdings LLC. 1<sup>st</sup> One Hundred Holdings, LLC is responsible for the payment of certain "Collection Attorneys" who may be owed fees relating to the collection of the Judgment. 1<sup>st</sup> 100 Holdings, LLC is obligated to pay the fees of the the Collection Attorneys prior to distribution to SJCVC. 1<sup>st</sup> One Hundred Holdings, also has about \$16,000,000



in obligations to repay from collection of the Judgment prior to distributions to Members, including SJCVC.

8.5 Good Standing. SHAC is duly organized, validly existing and in good standing under the laws of the jurisdiction of its incorporation.

8.6 Authorization. This Forbearance Agreement, and any instrument or agreement required hereunder, are within Antos Parties and the SJCVC Parties' powers, have been duly authorized, and do not conflict with any of its organizational papers.

8.7 Enforceable Amended Note and Modified Deed of Trust/No Conflicts. The Amended Note and Modified Deed of Trust and the Forbearance Agreement, are legal, valid and binding agreements of Antos Parties and the SJCVC Parties, enforceable in accordance with their respective terms, and any instrument or agreement required hereunder or thereunder, when executed and delivered, is (or will be) similarly legal, valid, binding, and enforceable. This Forbearance Agreement does not conflict with any law, agreement, or obligation by which Antos Parties and the SJCVC Parties is bound.

**9. Antos Parties and the SJCVC Parties Acknowledgments.** The Antos Parties and the SJCVC Parties hereby acknowledge and agree that:

9.1 No Breach By CBCI. CBCI has not breached any duty to the Antos Parties and the SJCVC Parties relating to the Forbearance Agreement or the Amended Note and Modified Deed of Trust, and CBCI has fully performed all obligations it may have had or now has to Antos Parties and the SJCVC Parties.

9.2 Interest, Fees, and Other Charges. All interest, fees, or other charges imposed, accrued, or collected CBCI under the Amended Note and Modified Deed of Trust or this Forbearance Agreement, and the method of computing the interest, fees, or other charges, were

and are reasonable, proper, and agreed to by Antos Parties and the SJCVC Parties and were properly computed and collected.

9.3 No Waiver. By entering into this Forbearance Agreement, CBCI does not waive any existing defaults (including the Identified Defaults) or any defaults hereafter occurring, and CBCI does not become obligated to waive any condition or obligation in any agreement between or among any of the parties hereto.

9.4 No Future Obligations. CBCI have no obligation to make any additional loan or extension of credit to or for the benefit of the Antos Parties and the SJCVC Parties, and CBCI has no obligation to provide additional forbearance or to extend further accommodations to the Antos Parties and the SJCVC Parties.

9.5 No Third-Party Beneficiaries. This Forbearance Agreement is not intended for, and shall not be construed to be for, the benefit of any person not a signatory hereto.

9.6 Loan Balances. The outstanding balances owing on the Note, as described in this Forbearance Agreement, are true and correct.

9.7 Fair Consideration. All payments made and security granted by Antos Parties and the SJCVC Parties to CBCI under the Amended Note and Modified Deed of Trust and this Forbearance Agreement are for fair consideration and reasonably equivalent value.

9.8 Notice of Identified Defaults. The Antos Parties and SJCVC Parties have received or waives all notice required from CBCI under the Amended Note and Modified Deed of Trust with respect to the Identified Defaults; and, subject to the terms this Forbearance Agreement, CBCI is free to exercise all of its rights and remedies under the Note and 3<sup>rd</sup> Mortgage as a result of the Identified Defaults committed by Antos Parties and the SJCVC Parties.

**10. Release of CBCI.** In consideration of the agreements of CBCI set forth in this herein, the Antos Parties and the SJCV Parties, and all their respective heirs, personal representatives, predecessors, successors, and assigns (the "Releasors"), hereby fully release, remise, and forever discharge CBCI, the parents of CBCI and all other affiliates and predecessors of CBCI, and all past and present officers, directors, agents, employees, servants, partners, shareholders, attorneys and managers of CBCI, for, from, and against any and all claims, counterclaims, liens, demands, causes of action, controversies, offsets, obligations, losses, damages and liabilities of every kind and character whatsoever, including, without limitation, any action, omission, misrepresentation or other basis of liability founded either in tort or contract and the duties arising thereunder, that the Releasors, or any one of more of them, has had in the past, or now has, whether known or unknown, whether asserted or unasserted, by reason of any matter, cause, or thing set forth in, relating to or arising out of, of in any way connected with or resulting from, the Amended Note and Modified Deed of Trust, this Forbearance Agreement, and any other agreement executed in connection this Forbearance Agreement.

**11. No Prejudice; Reservation of Rights.** Except for the limited forbearance specifically set forth herein, this Forbearance Agreement shall not prejudice any rights or remedies of CBCI under the Amended Note and Modified Deed of Trust. Except for the limited forbearance specifically set forth herein, CBCI reserves, without limitation, all its rights against any Obligated Party, indemnitor, guarantor, or endorser of any of the Amended Note and Modified Deed of Trust and any other party liable in any way for satisfaction of the Amended Note and Modified Deed of Trust or other losses suffered by CBCI.

**12. No Impairment/Security.** Except as otherwise specifically set forth herein, the Amended Note and Modified Deed of Trust remain unaffected by this Forbearance Agreement; and the Amended Note and Modified Deed of Trust shall remain in full force and effect. The Antos Parties and the SJCV Parties payment and performance of their various obligations to CBCI under the Amended Note and Modified Deed of Trust, including all extensions, amendments, renewals, or replacements thereof, continue to be and shall be secured by any and all liens arising under the Amended Note and Modified Deed of Trust. Nothing contained herein shall be deemed a waiver of any of the rights and remedies that CBCI may have against the Antos Parties and the SJCV Parties, or any other party, or of any of CBCI's rights and remedies arising out of the Amended Note and Modified Deed of Trust.

**13. INTENTIONALLY LEFT BLANK**

**14. Purpose and Effect of CBCI's Approval.** CBCI's approval of any matter in connection with the Amended Note and Modified Deed of Trust shall be for the sole purpose of protecting CBCI's security, rights, and remedies under the Note and Other 3rd Mortgage Documents. No such approval shall result in a waiver of any default of the Antos Parties and the SJCV Parties. In no event shall CBCI's approval be a representation by CBCI regarding the matter being approved.

**15. Integration.** The Amended Note and Modified Deed of Trust and this Forbearance Agreement and its exhibits: (a) integrate all the terms and conditions mentioned in or incidental to the 3<sup>rd</sup> Mortgage Documents; (b) supersede all oral negotiations and prior and other writings with respect to their subject matter; and (c) are intended by the parties as the final expression of the agreement with respect to the terms and conditions set forth in those documents and as the complete and exclusive statement of the terms agreed to by the parties. If there is any conflict

between the terms, conditions and provisions of this Forbearance Agreement and the terms, conditions, or provisions of any other agreement or instrument, including any of the other Amended Note and Modified Deed of Trust, the terms, conditions, and provisions of this Forbearance Agreement shall prevail. No modification of this Forbearance Agreement or the Amended Note and Modified Deed of Trust shall be effective unless in writing and signed by the applicable parties to be bound thereby.

**16. Notices.** All notices, reports, and other communications provided for herein (collectively, for purposes of this paragraph 16, "notices") will be in writing and will be delivered: (a) in person; (b) by telecopier, telefax, or other facsimile communication; or (c) by overnight courier, postage prepaid, addressed as follows:

<b>CBC Partners I, LLC</b> <b>777 108th Ave NE Suite 1895,</b> <b>Bellevue, WA 98004</b>  <b>With a copy to:</b>  <b>The Law Office of Vernon Nelson</b> <b>9480 S. Eastern Ave., Suite 252</b> <b>Las Vegas, NV 89123</b>	<b>Spanish Heights Acquisition Company, LLC</b> <b>c/o Maier Gutierrez &amp; Associates</b> <b>8816 Spanish Ridge Ave,</b> <b>Las Vegas, NV 89148</b>
<b>Kenneth &amp; Sheila Antos Living Trust</b>	<b>SJC Ventures, LLC</b> <b>c/o Maier Gutierrez &amp; Associates</b> <b>8816 Spanish Ridge Ave,</b> <b>Las Vegas, NV 89148</b>
<b>Kenneth M. Antos &amp; Sheila M. Neumann-Antos Trust</b>	<b>Sheila Antos</b>
<b>Kenneth Antos</b>	

**17. Counterparts.** This Forbearance Agreement and any attached consents or exhibits requiring signatures may be executed in as many counterparts as necessary or convenient, and by the different parties on separate counterparts each of which, when so executed, shall be deemed an original, but all such counterparts shall constitute but one and the same agreement.

**18. Invalidity.** If any court of competent jurisdiction determines any provision of this Forbearance Agreement or any of the Amended Note and Modified Deed of Trust to be invalid, illegal or unenforceable, that portion shall be deemed severed from the rest, which shall remain in full force and effect as though the invalid, illegal, or unenforceable portion had never been a part of the Forbearance Agreement or the Amended Note and Modified Deed of Trust.

**19. Governing Law, Venue, Forbearance of Jury Trial.** To the extent possible, this Forbearance Agreement shall be governed by and construed according to the laws of the State of Washington. The Antos Parties and the SJCV Parties hereby submit to jurisdiction and venue in King County, Washington, and, to the extent possible, agree that any and all pending or future litigation, arbitration, or bankruptcy proceedings relating to the Amended Note and Modified Deed of Trust may be venued and maintained in King County, Washington. The parties recognize that certain proceedings related to the possession of the Property may be required to be conducted in Clark County, Nevada and the parties submit to jurisdiction and venue in Clark County, Nevada. In the event of judicial proceedings relating to disputes arising under this Forbearance Agreement, the Antos Parties and the SJCV Parties agree that all issues (including defenses, cross-claims and counter-claims) shall be resolved by a judge and not a jury; and, therefore, the Antos Parties and the SJCV Parties waive their rights to a jury trial which it otherwise would have had.

**20. Successors and Assigns.** This Forbearance Agreement shall be binding upon and

inure to the benefit of the parties hereto and their respective successors and assigns; provided, however, Antos Parties and the SJCVC Parties may not transfer its rights under the Forbearance Agreement or the Amended Note and Modified Deed of Trust without the prior written consent of CBCI. CBCI may transfer its rights under this Forbearance Agreement or the Amended Note and Modified Deed of Trust to any successor in interest.

**21. Construction.** As used herein, the word "include(s)" means "include(s), without limitation", and the word "including" means "including, but not limited to".

**22. Default.** The failure of Antos Parties and the SJCVC Parties to comply with any provision of this Forbearance Agreement or the failure of Antos Parties and the SJCVC Parties to comply with the terms and conditions of the Amended Note and Modified Deed of Trust (other than the Identified Defaults) shall constitute an Event of Default and shall entitle CBCI to exercise all of its rights and remedies under the Amended Note and Modified Deed of Trust and this Forbearance Agreement.

**23. No Waiver.** No failure to exercise, and no delay in exercising any right, power or remedy under any of the Amended Note and Modified Deed of Trust or under this Forbearance Agreement shall impair any right, power, or remedy that CBCI may have, nor shall such delay be construed to be a waiver of any of such rights, powers or remedies. No waiver of any default or breach of Antos Parties and the SJCVC Parties shall be a waiver of any other default or breach or of any default or breach subsequently occurring. CBCI shall not be deemed to have waived any right, power, or remedy except in writing signed by an officer of CBCI expressly stating that it is a waiver of same right, power or remedy.

**24. No Consent.** Except as specifically provided in this Forbearance Agreement, no

express or implied consent to any further forbearance or modifications involving any of the matters set forth in this Forbearance Agreement or otherwise shall be inferred or implied by CBCI's execution of this Forbearance Agreement or any other action of CBCI. CBCI's execution of this Forbearance Agreement shall not constitute a waiver, either express or implied, of the requirement that any further forbearance or modification of the Amended Note and Modified Deed of Trust shall require the express written approval of CBCI. CBCI must provide any consent required from the CBCI under this Forbearance Agreement.

**25. Cumulative Remedies.** The rights and remedies of CBCI under this Forbearance Agreement and the Amended Note and Modified Deed of Trust are cumulative and not exclusive of any rights or remedies that CBCI would otherwise have, and may be pursued at any time and from time to time and in such order as CBCI shall determine in its sole discretion.

**26. Mutual Agreement.** The parties hereto agree that the terms and provisions of this Forbearance Agreement embody their mutual intent and that such terms and provisions are not to be construed more liberally in favor, or more strictly against, any party. This Forbearance Agreement shall not be construed as if it had been prepared by one of the parties, but rather as if it had been prepared by all of the parties.

**27. Time is of the Essence.** Time is of the essence of this Forbearance Agreement and the Amended Note and Modified Deed of Trust.

**28. Headings.** Section headings are for reference only and shall not affect the interpretation or meaning of any provisions of this Forbearance Agreement.

**29. Further Performance.** The Antos Parties and the SJCV Parties, whenever and as often as shall be requested by CBCI, shall execute, acknowledge, and deliver, or cause to be executed, acknowledged, and delivered such further instruments and documents and to do any



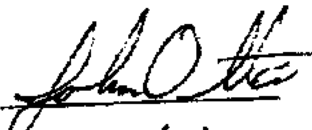
and all things as may be requested by CBCI in order to carry out the intent and purpose of this Forbearance Agreement and the Amended Note and Modified Deed of Trust.

**30. Survival.** The representations, warranties, acknowledgments, and agreements set forth herein shall survive the date of this Forbearance Agreement.

**31. Binding Effect.** This Forbearance Agreement shall be binding upon and inure to the benefit of CBCI, the Antos Parties and SJCV Parties, and their respective successors and assigns.


IN WITNESS WHEREOF, the parties hereto have caused this Forbearance Agreement to be executed on the dates set forth below to be effective as of the day and year set forth above.

CBC Partners I, LLC

BY:   
Its: President

Print  
Name: John Otter

Kenneth & Sheila Antos Living Trust

BY:   
Kenneth Antos, Trustee


BY:   
Sheila Antos, Trustee

Kenneth M. Antos & Sheila M. Neumann-  
Antos Trust


BY:   
Kenneth Antos, Trustee

BY:   
Sheila Antos, Trustee

  
Kenneth Antos, Individually

  
Sheila Antos, Individually,

SJC Ventures, LLC

BY:   
Its: Manager

Print  
Name: Jay Blum

# **EXHIBIT 12**

# **EXHIBIT 12**

**AMENDMENT TO FORBEARANCE AGREEMENT  
AND RELATED AGREEMENTS**

THIS AMENDMENT TO FORBEARANCE AGREEMENT AND RELATED AGREEMENTS (the "Amendment") is made and dated as of the 1st day of December 2019 by and among CBC Partners I, LLC ("CBCI"), Kenneth & Sheila Antos Living Trust (the "Living Trust"), Kenneth M. Antos & Sheila M. Neumann-Antos Trust (the "K & S Trust"), Kenneth Antos and Sheila Neumann-Antos, as Trustees of the Living Trust and the K & S Trust, and as Personal Guarantors of the Secured Promissory Note described below., Spanish Heights Acquisition Company, LLC ("SHAC"), and SJC Ventures, LLC ("SJC") (collectively the "Parties").

WHEREAS, on or about September 27, 2017, the parties executed a Forbearance Agreement whereby CBCI agreed to forbear from exercising the rights and remedies under certain loan documents executed by the "Antos Parties." In addition to the Forbearance Agreement, the parties executed "Exhibit B" to the Forbearance Agreement, a Lease Agreement, an Account Control Agreement, a Membership Pledge Agreement, an Assignment of Rents, and a Security Agreement (collectively the "Related Agreements").

WHEREAS, pursuant to the terms of the Forbearance Agreement and the Related Agreements, the Forbearance Period expired on or about August 31, 2019.

WHEREAS, subject to the terms of this Extension, the parties desire to extend the Forbearance Period until March 31<sup>st</sup>, 2020.

**NOW, THEREFORE**, in consideration of the mutual covenants and agreements set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

## AMENDMENT

**1. Extension of Forbearance Period.** By way of Amendment to Section 4 of the Forbearance Agreement, the parties agree the Forbearance Period shall be extended to March 31<sup>st</sup>, 2020 (the "Extended Forbearance Period"). CBCI's agreement to extend the Forbearance Period is subject to the following conditions:

**A. Conditions to Extension.** The parties shall adhere to their commitments and obligations under the Forbearance Agreement and the Related Agreements. Thus, the parties agree, without limitation, as follows:

1. The Forbearance Agreement shall remain in effect and the execution of this Amendment shall not be considered a waiver of CBCI's rights under the Forbearance Agreement.

2. The "K & S Trust", Kenneth Antos and Sheila Neumann-Antos, as Trustees of the Living Trust and the K & S Trust, and as Personal Guarantors of the Secured Promissory Note described below (collectively the "Antos Parties"), SHAC, and SJCVC represent and warrant they are not in default of the Forbearance Agreement or any of the Related Agreements.

3. SHAC and SJCVC continue to be limited liability companies, organized under the laws of the State of Nevada, and are duly authorized to execute this Amendment.

4. The Antos Parties and the SJCVC Parties represent that they have no knowledge of any Other Lenders having undertaken efforts to enforce any rights related to the Property.

5. The Membership Pledge Agreement executed by SJCVC and the Antos Trust shall remain in effect and the execution of this Amendment shall not be considered a waiver of CBCI's rights under the Membership Pledge Agreement.

6. SHAC will provide CBCI with evidence of homeowner's insurance coverage that is effective through March 31<sup>st</sup>, 2020.

7. The payment of the Balloon Payment described in Exhibit "B" to the Forbearance Agreement shall be due on March 31<sup>st</sup>, 2020.

8. The parties acknowledge the extension of the Lease Agreement and such Agreement shall continue to govern the lease of the premises.

9. The Membership Pledge Agreement executed by SJCVC and the Antos Trust shall remain in effect and the execution of this Amendment shall not be considered a waiver of CBCI's rights under the Membership Pledge Agreement.

10. The Assignment of Rents Agreement shall remain in effect and the execution of this Amendment shall not be considered a waiver of CBCI's rights under the Assignment of Rents Agreement.

11. The Account Control Agreement shall remain in effect and the execution of this Amendment shall not be considered a waiver of CBCI's rights under the Account Control Agreement.

12. The Security Agreement shall remain in effect and the execution of this Amendment shall not be considered a waiver of CBCI's rights under the Security Agreement. In addition, SJCVC agrees to obtain from counsel for SJCVC and 1st One Hundred Holdings, LLC, dated as of the effective date of this Amendment, in form and substance reasonably satisfactory to CBCI, to the effect that the Judgment/Lien Pledge Agreement: (i) constitutes valid and binding obligation of SJCVC and 1<sup>st</sup> One Hundred Holdings, LLC in accordance with its terms; (ii) properly evidences CBCI's First Priority Position and that no other party, apart from the Collection Professionals has priority over CBCI to receive payments in relation to the Judgment, and (iii) no ungiven notice to or obtained consent, authorization, approval or order of any court or governmental agency or body required to be obtained by SJCVC or 1<sup>st</sup> One Hundred Holdings is

required for the consummation of the transactions set forth therein. CBCI may require that the opinion of counsel address any other matters incident to the matters herein contemplated as CBCI may reasonably request.

13. SJCVC shall provide representations for SJCVC and 1<sup>st</sup> One Hundred Holdings, LLC, dated as of the effective date of this Amendment, in form and substance reasonably satisfactory to CBCI, to the effect that: (i) both SJCVC and 1<sup>st</sup> One Hundred Holdings, LLC are limited liability companies continue to be duly organized, validly existing and of active status under the laws of the State of Nevada; (ii) each party continues to have full power and authority to make, execute, deliver and perform the their obligations under the Security Agreement, and all corporate or other proceedings required to be taken by SJCVC and 1<sup>st</sup> One Hundred Holdings, LLC to authorize the execution, delivery, and performance of this Security Agreement have all been duly and properly taken; (iii) the Security Agreement continues to constitute a valid and binding obligation of SJCVC and 1<sup>st</sup> One Hundred Holdings, LLC in accordance with their respective terms,; and (iv) no ungiven notice to or obtained consent, authorization, approval or order of any court or governmental agency or body required to be obtained by SJCVC or 1<sup>st</sup> One Hundred Holdings, LLC is required for the consummation of the transactions of the Security Agreement and the Amendment. Such opinion shall include any other matters incident to the matters herein contemplated as CBCI may reasonably request. In rendering such opinion, such counsel may rely upon certificates of governmental officials and may place reasonable reliance upon certificates of officers of SJCVC and 1<sup>st</sup> One Hundred Holdings, LLC.

14. SJCVC and 1<sup>st</sup> One Hundred Holdings, LLC have provided CBCI with a representation that: (1) identifies any parties that may be liable to SJCVC and/or 1<sup>st</sup> One Hundred Holdings, LLC for the any portion of the Judgment; (2) provides an assessment of the current

status of efforts to collect amounts owed under the Judgment; (3) states whether any parties have undertaken legal action to oppose efforts to collect the Judgment; and (4) provides an evaluation of the likelihood of a favorable outcome before the end of the Extended Forbearance Period.

15. The Guarantees identified in Section 6 Security Agreement shall remain in Section 6(g) effect and the execution of this Amendment shall not be considered a waiver of CBCI's rights under the Guarantees.

16. The Antos Parties and the SJCV Parties represent that they have not incurred any liability or expended cash for any capital expenditures or improvements over and above \$350,000. The SJCV Parties and the Antos Parties shall provide CBCI with a statement that identifies all capital expenditures and/or capital improvement that have been made for the benefit of the Property.

17. The Antos Parties and the SJCV Parties represent and warrant:

- a. They have not incurred additional debt against the property from September 27, 2017 to present;
- b. They have not made payments of any kind (including principal, interest, or other amounts owed) on any existing or future loans related to the property from the principals of the Antos Parties and the SJCV Parties;
- c. They have not allowed any new liens to be secured by property which is owned or hereafter acquired by Antos Parties and the SJCV Parties or any of their affiliated companies;
- d. The Antos Parties and the SJCV Parties have not entered into any agreements for a party to acquire the Property; will not enter into any acquisitions without the prior approval of CBCI;



e. The Antos Parties have not declared or paid any dividends, bonuses, and Antos Parties and the SJCVC Parties did not repurchase any of their Membership Interests.

f. The Antos Parties and the SJCVC Parties represent SHAC, and SJCVC represent that the warranties and representations contained in Forbearance Agreement, the Related Agreements, and this Amendment are accurate and correct.

g. The Antos Parties and the SJCVC Parties represent they continue to lawfully possess and hold 100% of the ownership interest in the Property.

h. The Antos Parties and the SJCVC Parties represent they continue to acknowledge that the Amended Note, Modified Deed of Trust, and the Forbearance Agreement are legal, valid and binding agreements of the Antos Parties and the SJCVC Parties.

i. The Antos Parties and the SJCVC Parties represent they continue to acknowledge that CBCI has not breached any duty to the Antos Parties and the SJCVC Parties in connection with the Forbearance Agreement or the Amended Note and Modified Deed of Trust. The Antos Parties and the SJCVC Parties agree that CBCI has fully performed all obligations it may have had or now has to Antos Parties and the SJCVC Parties.

18. The Antos Parties and the SJCVC Parties represent they have not withdrawn funds in violation of the Account Control Agreement.

19. The Antos Parties and the SJCVC Parties represent they continue to acknowledge that they continue to pledge their stock in SHAC as collateral for the Forbearance Agreement. The Antos Parties and the SJCVC Parties represent and warrant they have not issued any new shares of stock that are not collateral for their obligation under the Forbearance Agreement.

## **B. Acknowledgements and Conditions Applicable to Lease Agreement.**

### **1. Options to Extend Have Terminated.**

The Lease Agreement between SHAC and SJCVC afforded SJCVC, the option to exercise two additional consecutive lease extensions consisting of a two years term for each of the two extensions (the "SJCVC Options"). The SJCVC Options were subject to certain conditions, which included: (1) that SJCVC provide written notice of its intent to exercise the SJCVC Options, and (2) that SJCVC not be in default of the Lease Agreement. The parties acknowledge that the conditions to which the SJCVC Options were subject have been satisfied and that the SJCVC Options have been exercised.

### **2. Extension of Lease Agreement**

The parties agree the Lease Agreement shall remain in effect and all terms and conditions thereunder shall continue in full force and effect.

## **C. Acknowledgements and Conditions Applicable to Refinancing.**

1. If the Antos Parties and the SJCVC Parties have not paid the amounts due under the Amended Note and the Modified Deed of Trust by the end of the Extend Forbearance Period, then the SJCVC Parties shall undertake good faith efforts to obtain new mortgages as part of the SJCVC Parties efforts to refinance the various loans secured by the Property (the "Refinancing Efforts"). Specifically, the SJCVC Parties shall undertake the Refinancing Efforts with the intention of obtaining new loans that provide SJCVC with the amounts necessary to pay to CBCI the amounts that are due under the Amended Note and the Modified Deed of Trust.

2. In connection with its obligations above, SJCVC will provide CBCI with written evidence, in a form reasonably satisfactory to CBCI, that SJCVC has filed applications for mortgages to refinance the Property.

**2. Conflict or Inconsistency.** All provisions of the Forbearance Agreement and the Related Agreements that are not modified by this Amendment shall remain in full force and effect. In the event of any conflict or inconsistency of any term or provision set forth in this Amendment and the Forbearance Agreement, or the Related Agreements, this Amendment shall control.

**3. Complete Agreement.** This Amendment, the Forbearance Agreement, and the Related Agreements represent the full and complete agreement and understanding of the parties with respect to the subject matter hereof (the "Complete Agreement"). The Complete Agreement supersedes and replaces all prior and contemporaneous understandings or agreements, whether oral, written or otherwise, regarding such subject matter. Any amendment thereof must be in writing and executed by the parties hereto.

**4. Multiple Counterparts.** This Amendment may be executed in multiple counterparts, each of which will be considered an original and all of which together will constitute one agreement. This Amendment may be executed by the attachment of signature pages which have been previously executed.

IN WITNESS WHEREOF, the Parties have executed this Amendment this 1<sup>st</sup> day of December 2019.

**CBC Partners I, LLC ("CBCI")**

BY: 

Its: President

Print

Name John Otter

**Kenneth & Sheila Antos Living Trust (the "Living Trust")**

BY: \_\_\_\_\_

Its: \_\_\_\_\_

Print  
Name: \_\_\_\_\_

**K&S Trust**

BY: \_\_\_\_\_

Its: \_\_\_\_\_

Print  
Name: \_\_\_\_\_

**Kenneth Antos**

\_\_\_\_\_  
Kenneth Antos, an Individual

**Sheila Neumann-Antos**

\_\_\_\_\_  
Sheila Neumann-Antos, an Individual


**Spanish Heights Acquisition Company ("SHAC")**

BY:  \_\_\_\_\_

Its: Manager \_\_\_\_\_

Print  
Name: Jay Bloom \_\_\_\_\_

**SJC Ventures, LLC ("SJCVC")**

BY:  \_\_\_\_\_

Its: Manager \_\_\_\_\_

Print  
Name: Jay Bloom \_\_\_\_\_

# **EXHIBIT 13**

# **EXHIBIT 13**

## PLEDGE AGREEMENT

THIS PLEDGE AGREEMENT dated 27<sup>th</sup> (this "Agreement") is made by Kenneth & Sheila Antos Living Trust (the "Antos Trust"), SJC Ventures, LLC ("SJC") (collectively the "Pledgors" to CBC Partners I, LLC, a Washington limited-liability company ("Secured Party" or "CBCI").

### WITNESSETH:

WHEREAS, Pledgors and Secured Party are parties to a certain Forbearance Agreement (the "Forbearance Agreement") dated as of the 27<sup>th</sup> day of September 2017 by and among CBC Partners I, LLC ("CBCI"), Kenneth & Sheila Antos Living Trust (the "Living Trust"), Kenneth M. Antos & Sheila M. Neumann-Antos Trust (the "K & S Trust"), Kenneth Antos and Sheila Neumann-Antos, as Trustees of the Living Trust and the K & S Trust, and as Personal Guarantors of the Secured Promissory Note described below, Spanish Heights Acquisition Company, LLC ("SHAC"), and SJC Ventures, LLC ("SJC").

WHEREAS, Pledgors are the owners of 100% of the membership interests (the "Membership Interests") of Spanish Heights Acquisition Company, LLC, a Nevada limited liability company ("SHAC"), which has been organized pursuant to the terms of the Limited Liability Company Agreement of Spanish Heights Acquisition Company, LLC.

WHEREAS, the Forbearance Agreement provides that several conditions must be satisfied before CBCI agrees to forbear from exercising its rights and remedies under the Forbearance Agreement. In particular, one of the conditions requires the Antos Trust and SJC have agreed to pledge all right, title and interest in and to 100% of its membership interests in Spanish Heights Acquisition Company to Secured Party pursuant to this Agreement.

NOW, THEREFORE, in consideration of the premises and intending to be legally bound hereby, Pledgors hereby agrees as follows:

1. Pledge. Pledgors hereby pledges to Secured Party, and grants to Secured Party security interests in and to the following (collectively, the "Pledged Collateral"):

- (a) the Membership Interests and the certificates representing the Membership Interests, if any, and all dividends, profits, income, cash, receipts, instruments, distributions (whether in cash or in-kind property) and other property from time to time received, receivable or otherwise distributed in respect of or in exchange for any or all of the Membership Interests;
- (b) any and all additional membership interests in SHAC acquired by Pledgors in any manner, and all securities convertible into and warrants, options, and other rights to purchase or otherwise acquire interest in SHAC and the certificates representing such additional shares, and all dividends, profits, income, cash, receipts, instruments and other property or proceeds from time to time received, receivable or otherwise distributed in respect of or in exchange for any or all of such shares, additional securities, warrants, options or other rights;

- (c) to the extent not covered by clauses (a) and (b) above, all proceeds of any or all of the foregoing Pledged Collateral.

For purposes of this Agreement, the term "proceeds" shall include whatever is receivable or received when Pledged Collateral or proceeds thereof are sold, exchanged, collected or otherwise disposed of, whether such disposition is voluntary or involuntary, and shall include, without limitation, proceeds of any indemnity or guaranty payable to Pledgors from time to time with respect to any of the Pledged Collateral.

2. Security for Obligations. This Agreement partially secures all the obligations of Pledgors under the Forbearance Agreement and this Pledge (all such obligations being collectively referred to herein as the "Obligations").

3. Delivery of Pledged Collateral. All certificates or instruments representing or evidencing the Pledged Collateral shall be delivered to and held by or on behalf of Secured Party pursuant hereto and shall be in suitable form for transfer by delivery, or shall be accompanied by duly executed instruments of transfer or assignment in blank, all in form and substance satisfactory to Secured Party. Secured Party shall have the right, at any time in Secured Party's discretion after a Non-Monetary Event of Default (as defined below) after notice and a 30 day cure period having been provided to Pledgors, to transfer to or to register in the name of Secured Party or any of Secured Party's nominees any or all of the Pledged Collateral, subject only to the revocable rights specified in Section 6(a). In addition, Secured Party shall have the right at any time to exchange certificates or instruments representing or evidencing Pledged Collateral for certificates or instruments of smaller or larger denominations.

4. Representations and Warranties. Pledgors, covenant, represent, warrant and agree as follows:

- (a) The Membership Interests have been duly authorized and are validly issued.
- (b) Pledgors are the legal and beneficial owner of the Pledged Collateral free and clear of any liens, security interests, options or other charges or encumbrances, except for the security interest created by this Agreement.
- (c) Upon the filing of the Uniform Commercial Code Financing Statement with respect to the Pledged Collateral, the pledge of the Membership Interests pursuant to this Agreement creates a valid and perfected first priority security interest in the Pledged Collateral, securing the payment of the Obligations.
- (d) Subject to such other consents or approvals which have been obtained, no consent of any other person or entity and no authorization, approval, or other action by, and no notice to or filing with, any governmental authority or regulatory body is required (i) for the pledge by Pledgors of the Pledged Collateral pursuant to this Agreement or for the execution, delivery or performance of this Agreement by Pledgors, (ii) for the perfection or maintenance of the security interests created hereby (including the first priority nature of such security interest), or (iii) for the exercise by Secured Party of the voting or other rights provided for in this Agreement or the remedies in respect of the Pledged Collateral pursuant to this Agreement (except as may be required in connection with any disposition of any portion of the Pledged Collateral by laws affecting the offering and sale of securities generally).

- (e) The Membership Interests constitute 100% of the membership interests of the Pledgors.
- (f) There are no conditions precedent to the effectiveness of this Agreement that have not been either satisfied or waived.
- (g) Pledgors have, independently and without reliance upon Secured Party, and based upon such documents and information as Pledgors have deemed appropriate, made their own credit analysis and decision to enter into this Agreement.

**5. Inconsistent Provision of the Operating Agreement.** If the Operating Agreement contains any provision that is contrary to the terms of this Agreement, this Agreement shall control. Such provisions include Sections 2.6 and 6.01 of the Operating Agreement. Regarding Section 2.6, the Members shall be liable to CBCI under this Agreement and the Forbearance Agreement. Regarding Section 6.01, SJCV agrees that it may not resign as Manager of SHAC and that SJCV will appoint Jay Bloom to perform the duties of the Manager throughout the term of this Agreement and the Forbearance Agreement.

**6. Further Assurances.** Pledgors agree that at any time and from time to time, at the sole cost and expense of Pledgors, Pledgors will promptly execute and deliver all further reasonable instruments and documents, and take all further reasonable action, that may be necessary or desirable, or that Secured Party may reasonably request, in order to perfect and protect any security interest granted or purported to be granted hereby or to enable Secured Party to exercise and enforce Secured Party's rights and remedies hereunder with respect to any Pledged Collateral.

**7. Voting Rights.** Pledgors shall refrain from exercising any and all voting and other consensual rights pertaining to the Pledged Collateral or any part thereof. Pledgors shall, as members, not undertake any action that would have a material adverse effect on the value of the Pledged Collateral or any part thereof.

**8. Transfers and Other Liens; Additional Shares.** Pledgors agrees that he will not (i) sell, assign (by operation of law or otherwise) or otherwise dispose of, or grant any option with respect to, any of the Pledged Collateral, or (ii) create or permit to exist any lien, security interest, option or other charge or encumbrance upon or with respect to any of the Pledged Collateral, except for the security interest under this Agreement.

Pledgors agree that Pledgors will (i) not consent or otherwise facilitate SHAC to issue any stock, membership interests, or other securities in addition to or in substitution for the Membership Interests, except to Pledgors, and (ii) pledge hereunder, immediately upon Pledgors' acquisition (directly or indirectly) thereof, any and all additional shares of stock, membership interests, or other securities of SHAC.

**9. Secured Party Appointed Attorney-in-Fact.** Upon an Event of Default, and after the requisite cure period expires, should such Event of Default continue to exist, Pledgors hereby appoint Secured Party as Pledgors' attorney-in-fact, with full authority in the place and stead of Pledgors and in the name of Pledgors or otherwise, from time to time in Secured Party's sole discretion, to take any action and to execute any instrument which Secured Party may deem necessary or advisable to accomplish the purposes of this Agreement, including, without limitation, to receive, indorse and collect all instruments made payable to Pledgors representing any dividend or other distribution in respect of the Pledged Collateral or any part thereof and to give full discharge for the same.



10. Secured Party May Perform. If Pledgors fail to perform any agreement contained herein following the expiration of any applicable grace period, Secured Party may perform, or cause performance of, any such agreement, and the reasonable expenses of Secured Party incurred in connection therewith (including attorneys' fees and expenses) shall be payable by Pledgors to Secured Party, or alternatively, Secured Party shall have the right to add such reasonable expenses incurred to the secured balance due, pursuant to the provisions of Section 13 hereof.

11. Secured Party's Duties. The powers conferred on Secured Party hereunder are solely to protect Secured Party's interest in the Pledged Collateral and shall not impose any duty upon Secured Party to exercise any such powers. Except for the safe custody of any Pledged Collateral in Secured Party's possession and the accounting for moneys actually received by Secured Party hereunder, Secured Party shall have no duty as to any Pledged Collateral, as to ascertaining or taking action with respect to calls, conversions, exchanges, maturities, tenders or other matters relative to any Pledged Collateral, whether or not Secured Party has or is deemed to have knowledge of such matters, or as to the taking of any necessary steps to preserve rights against any parties or any other rights pertaining to any Pledged Collateral.

12. Remedies upon Default. If any Event of Default shall have occurred and be continuing:

(a) Secured Party may exercise, in respect of the Pledged Collateral, in addition to other rights and remedies provided for herein or otherwise available to Secured Party at law or in equity, all of the rights and remedies of a secured party on default under the Uniform Commercial Code in effect in the State of Nevada at that time (the "Code") (whether or not the Code applies to the affected Pledged Collateral), and may also, without notice except as specified below, sell the Pledged Collateral or any part thereof in one or more parcels at public or private sale, at any exchange, broker's board or at any of Secured Party's offices or elsewhere, for cash, on credit or for future delivery, and upon such other terms as Secured Party may deem commercially reasonable. Pledgors agree that, to the extent notice of sale shall be required by law, at least ten (10) days' notice to Pledgors of the time and place of any public sale or the time after which any private sale is to be made shall constitute reasonable notification. Secured Party shall not be obligated to make any sale of Pledged Collateral regardless of notice of sale having been given. Secured Party may adjourn any public or private sale from time to time by announcement at the time and place fixed therefor, and such sale may, without further notice, be made at the time and place to which it was so adjourned.

(b) Any cash held by Secured Party as Pledged Collateral and all cash proceeds received by Secured Party in respect of any sale of, collection from, or other realization upon all or any part of the Pledged Collateral may, in the sole discretion of Secured Party, be held by Secured Party as collateral for, and/or then or at any time thereafter be applied (after payment of any amounts payable to Secured Party pursuant to Section 13) in whole or in part by Secured Party against, all or any part of the Obligations in such order as Secured Party shall elect. Any surplus of such cash or cash proceeds held by Secured Party and remaining after payment in full of all the Obligations shall be paid over to Pledgors or to whomsoever may be lawfully entitled to receive such surplus.

13. Event of Default. The occurrence of any of the following events shall constitute an "Event of Default" hereunder:

(a) Monetary Default. If there shall occur any breach, failure or violation by Pledgors in the payment or performance of any of Pledgors' obligations, covenants or warranties under this Agreement, the Note, the Other Pledges and such breach, failure or violation continues uncorrected for a period of fifteen (15) days after written notice thereof from Secured Party to Pledgors;

(b) Non-Monetary Default. A non-monetary Event of Default shall occur:

1. If there shall occur any Event of Default by Pledgors of the Obligations, that is not a Monetary Default.

2. If either of the Pledgors resigns or is removed from the position of manager of SHAC.

14. Expenses. Pledgors will, upon demand, pay to Secured Party, or in the alternative, the Secured Party may add to the amount due and receivable, the amount of any and all reasonable expenses, including the reasonable fees and expenses of Secured Party's counsel and of any experts and agents, which Secured Party may incur in connection with (i) the administration of this Agreement, (ii) the custody or preservation of, or the sale of, collection from, or other realization upon, any of the Pledged Collateral, (iii) the exercise or enforcement of any of the rights of Secured Party hereunder, or (iv) the failure by Pledgors to perform or observe any of the provisions hereof.

15. Security Interest Absolute. All rights of Secured Party and security interests hereunder, and all obligations of Pledgors hereunder, shall be absolute and unconditional irrespective of:

(a) any lack of validity or enforceability of the Other Pledges;

(b) any change in the time, manner or place of payment of, or in any other term of, all or any of the Obligations, or any other amendment or waiver of or any consent to any departure from the Other Pledges, including, without limitation, any increase in the Obligations resulting from the extension of additional credit to Pledgors or otherwise;

(c) any taking, exchange, release or non-perfection of any other collateral, or any taking, release or amendment or waiver of or consent to departure from any guaranty, for all or any of the Obligations;

(d) any manner of application of collateral, or proceeds thereof, to all or any of the Obligations, or any manner of sale or other disposition of any collateral for all or any of the Obligations or any other assets of Pledgors; or

(e) any other circumstance which might otherwise constitute a defense available to, or a discharge of, Pledgors or a third party pledgor.

16. Amendments. Etc. No amendment or waiver of any provision of this Agreement, and no consent to any departure by Pledgors therefrom, shall in any event be effective unless the same shall be in writing and signed by Secured Party, and then such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given.

17. Notices. Any notice, election, demand, request or other document or communication required or permitted under this Agreement shall be in writing and shall be deemed sufficiently given only if delivered in person or sent by certified or registered mail, postage prepaid, return receipt requested, addressed to Secured Party or Pledgors, as the case may be, as follows:

If to Pledgors:

c/o Maier Gutierrez & Associates 8816 Spanish Ridge Avenue  
Las Vegas, Nevada 89148

If to Secured Party:

777 108th Ave NE Suite 1895  
Bellevue, WA 98004

With a copy to:

The Law Office of Vernon Nelson  
9480 S. Eastern Ave., Suite 252  
Las Vegas, NV 89052

18. Continuing Security Interest: Assignments under Credit Agreement. This Agreement shall create a continuing security interest in the Pledged Collateral and shall (i) remain in full force and effect until the Pledgors' payment in full of, or their express written release by Secured Party from, the Obligations and all other amounts payable under this Agreement, (ii) be binding upon and inure to the benefit of Pledgors, and Pledgors' respective heirs, legal representatives, successors and assigns, and (iii) inure to the benefit of, and be enforceable by, and be binding upon Secured Party and Secured Party's heirs, legal representatives, successors, transferees and assigns. Without limiting the generality of the foregoing clause (iii), Secured Party may assign or otherwise transfer all or any portion of Secured Party's rights under the Loan Documents to any other person or entity, and such other person or entity shall thereupon become vested with all the benefits in respect thereof granted to Secured Party herein or otherwise and charged with the obligations and responsibilities of Pledgors thereunder. Upon the payment in full of all amounts due and payable under this Agreement and the release of Pledgors from the Obligations, the security interest granted hereby shall terminate and all rights to the Pledged Collateral shall revert to Pledgors. Upon any such termination, Secured Party will, at Pledgors' expense, promptly return to Pledgors such of the Pledged Collateral as shall not have been sold or otherwise applied pursuant to the terms hereof and execute and deliver to Pledgors such documents as Pledgors shall reasonably request to evidence such termination.

19. Governing Law, Terms. This Agreement shall be governed by, and construed in accordance with, the laws of the State of Nevada. Pledgors, on behalf of themselves and their respective heirs, legal representatives, successors and assigns, irrevocably consents that any legal action or proceeding against them under, arising out of, or in any manner relating to, this Agreement, may be brought in any court presiding in the State of Nevada, County of Clark. Pledgors, by execution and delivery of this Agreement and on behalf of themselves and their respective heirs, legal representatives, successors and assigns, expressly and irrevocably consents and submits to the personal jurisdiction of any of such courts in any such action or proceeding. Pledgors, on behalf of themselves and their respective heirs, legal representatives, successors and assigns, further irrevocably consents to the service of any complaint, summons, notice or other process relating to any such action or proceeding by delivery thereof to any of them by hand or by certified mail, delivered or addressed to Pledgors' address set forth herein.

Pledgors, on behalf of themselves and their respective heirs, legal representatives, successors and assigns, hereby expressly and irrevocably waives any claim or defense in any such action or proceeding based on any alleged lack of personal jurisdiction, improper venue or forum non conveniens or any similar basis. Nothing in this paragraph shall affect or impair in any manner or to any extent the right of Secured Party or Secured Party's heirs, legal representatives, successors or assigns, to commence legal proceedings or otherwise proceed against Pledgors in any jurisdiction or to serve process in any manner permitted by law.

Pledgors hereby waive all right to require a marshalling of assets by Secured Party.

Pledgors shall not, without Secured Party's prior written consent, create, incur or assume any Indebtedness in connection with the Pledged Collateral. "Indebtedness" means any and all liabilities and obligations owing by Pledgors to any person, including principal, interest, charges, fees, reimbursements and expenses, however evidenced, whether as principal, surety, endorser, guarantor or otherwise, direct or indirect, absolute or contingent, joint or several, due or not due, primary or secondary, liquidated or unliquidated, secured or unsecured, original, renewed or extended, (i) in respect of any borrowed money (whether by loans, the issuance and sale of debt securities or the sale of any property to another person subject to an understanding, agreement, contract or otherwise to repurchase such property) or for the deferred purchase price of any property or services, (ii) under direct or indirect guarantees and obligations (contingent or otherwise) to purchase or otherwise acquire, or otherwise assure any creditor against loss in respect of the obligations of others, (iii) in respect of letters of credit or similar instruments issued or accepted by banks and other financial institutions for the account of such indebted person, (v) in respect of unfunded vested benefits under plans covered by ERISA or any similar liabilities to, for the benefit of, or on behalf of, any employees of such indebted person, (vi) all obligations secured by any Lien on property owned by such person, whether or not the obligations have been assumed, (vii) all obligations under any agreement providing for a swap, ceiling rates, ceiling and floor rates, contingent participation or other hedging mechanisms with respect to interest payable on any of the items described above in this definition, or (viii) actual obligations imposed under the operating agreement for the LLC.

[THE NEXT PAGE IS THE SIGNATURE PAGE]

IN WITNESS WHEREOF, Pledgors has caused this Agreement to be duly executed and delivered as of the date first above written.

PLEDGORS:

Kenneth & Sheila Antos Living Trust

By: [Signature]  
Kenneth Antos, Trustee

By: [Signature]  
Sheila Antos, Trustee

ACKNOWLEDGMENTS:

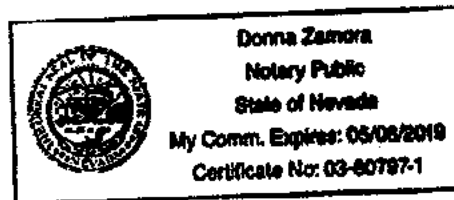
STATE OF NEVADA

ss.:

COUNTY OF CLARK

On the 27 day of September, 2017 before me, the undersigned, personally appeared Kenneth Antos, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is(are) subscribed to within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted executed the instrument.

[Signature]  
Notary Public



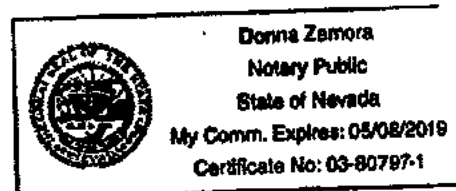
STATE OF NEVADA

ss.:

COUNTY OF CLARK

On the 27 day of September, 2017 before me, the undersigned, personally appeared Sheila Antos, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is(are) subscribed to within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted executed the instrument.

[Signature]  
Notary Public

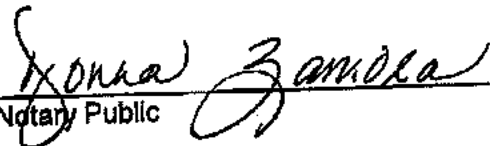


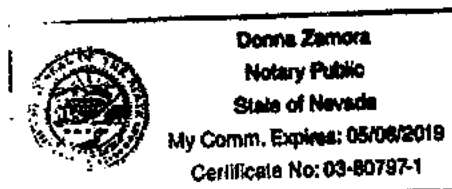
SPANISH HEIGHTS ACQUISITION COMPANY, LLC

BY:   
Jay Bloom, Manager

STATE OF NEVADA :  
: ss.:  
COUNTY OF CLARK :

On the 27 day of September, 2012 before me, the undersigned, personally appeared Jay Bloom, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is(are) subscribed to within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted executed the instrument.

  
Notary Public



# **EXHIBIT 14**

# **EXHIBIT 14**

# MUSHKIN & COPPEDGE

Michael R. Mushkin, Esq.  
L. Joe Coppedge, Esq.  
Mark C. Hafer, Esq.\*

\*of counsel

6070 South Eastern Avenue  
Suite 270  
Las Vegas, Nevada 89119

Telephone 702.454.3333  
Facsimile 702.386.4979

April 1, 2020

Jay Bloom, Manager  
Spanish Heights Acquisition Company, LLC  
c/o Maier Gutierrez & Associates  
8816 Spanish Ridge Avenue  
Las Vegas, NV 89148

Jay Bloom, Manager  
SJC Ventures, LLC  
c/o Maier Gutierrez & Associates  
8816 Spanish Ridge Avenue  
Las Vegas, NV 89148

Kenneth & Sheila Antos Living Trust  
4968 Mountain Foliage Drive  
Las Vegas, NV 89148-1429

Re: 5148 Spanish Heights Drive, Las Vegas, NV  
Forbearance Agreement dated September 27, 2017  
Amendment to Forbearance Agreement and Related Agreements

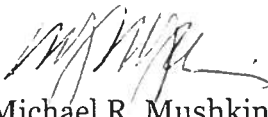
Dear Mr. Bloom and Mr. & Mrs. Antos:

As you are aware, the above law firm has been retained to represent the interests of CBC Partners I, LLC (CBCI) as it relates to the Secured Promissory Note dated June 22, 2012, Amended Secured Promissory Note, Modified Deed of trust, the Forbearance Agreement with additional collateral/security described therein, and the Amendment to Forbearance Agreement and Related Agreements (collectively the "Agreements").

A Notice of non-monetary default was delivered on March 16, 2020. This letter shall serve as notice that on April 15, 2020, CBCI will exercise its rights under the Pledge Agreement by transferring the pledged collateral to CBCI's nominee CBC Partners, LLC.

Enclosed herein, please find an Assignment of Membership Interest for your review and signature. Once you have signed, please forward to my attention. Should you have any questions, or need further assistance from our office, please do not hesitate to contact the undersigned.

Sincerely,



Michael R. Mushkin, Esq.

MRM:klf  
cc: CBC Partners I, LLC

PLTFS00179

AA2092



# **EXHIBIT 15**

# **EXHIBIT 15**

# MUSHKIN & COPPEDGE

Michael R. Mushkin, Esq.  
L. Joe Coppedge, Esq.  
Mark C. Hafer, Esq.\*

\*of counsel

6070 South Eastern Avenue  
Suite 270  
Las Vegas, Nevada 89119

Telephone 702.454.3333  
Facsimile 702.386.4979

April 1, 2020

Jay Bloom, Manager  
Spanish Heights Acquisition Company, LLC  
c/o Maier Gutierrez & Associates  
8816 Spanish Ridge Avenue  
Las Vegas, NV 89148

Jay Bloom, Manager  
SJC Ventures, LLC  
c/o Maier Gutierrez & Associates  
8816 Spanish Ridge Avenue  
Las Vegas, NV 89148

Kenneth & Sheila Antos Living Trust  
4968 Mountain Foliage Drive  
Las Vegas, NV 89148-1429

Re: 5148 Spanish Heights Drive, Las Vegas, NV  
Forbearance Agreement dated September 27, 2017  
Amendment to Forbearance Agreement and Related Agreements

Dear Mr. Bloom and Mr. & Mrs. Antos:

As you are aware, the above law firm has been retained to represent the interests of CBC Partners I, LLC (CBCI) as it relates to the Secured Promissory Note dated June 22, 2012, Amended Secured Promissory Note, Modified Deed of trust, the Forbearance Agreement with additional collateral/security described therein, and the Amendment to Forbearance Agreement and Related Agreements (collectively the "Agreements").

A Notice of non-monetary default was delivered on March 16, 2020. This letter shall serve as notice that on April 15, 2020, CBCI will exercise its rights under the Pledge Agreement by transferring the pledged collateral to CBCI's nominee CBC Partners, LLC.

Enclosed herein, please find an Assignment of Membership Interest for your review and signature. Once you have signed, please forward to my attention. Should you have any questions, or need further assistance from our office, please do not hesitate to contact the undersigned.

Sincerely,



Michael R. Mushkin, Esq.

MRM:klf  
cc: CBC Partners I, LLC

**ASSIGNMENT OF COMPANY AND  
MEMBERSHIP INTERESTS  
OF**

**SPANISH HEIGHTS ACQUISITION COMPANY, LLC  
A NEVADA LIMITED LIABILITY COMPANY**

In exchange for good and valuable consideration, the sufficiency and receipt of which are hereby acknowledged, Kenneth Antos and Sheila Neumann-Antos, Trustees of the Kenneth & Shelia Antos Living Trust and Kenneth M. Antos Sheila M. Neumann-Antos Trust ("Assignor") and CBC Partners, LLC, a Washington limited liability company ("Assignee") agree as follows:

1. Assignment. Assignor hereby absolutely and unconditionally assigns and transfers unto Assignee all the right, title, interest, and membership interest of Assignor in Spanish Heights Acquisition Company, LLC (hereinafter "Company") to Assignee.

2. Binding Effect. All agreements herein shall inure to the benefit of, and bind the respective heirs, executors, administrators, successors, and assigns of Assignor and Assignee.

3. Governing Law. This Assignment shall be governed by and construed in accordance with the laws of the State of Nevada.

4. Attorneys' Fees. In the event either party hereto institutes legal action against the other party with respect to this Assignment, the prevailing party in such action shall be entitled to an award of reasonable attorney's fees from the non-prevailing party. The prevailing party shall also be entitled to collect all reasonable attorneys' fees and costs.

ASSIGNOR:

ASSIGNEE:

By: \_\_\_\_\_  
KENNETH M. ANTOS, Trustee

By: \_\_\_\_\_  
JOHN OTTER, President  
CBC Partners, LLC,

By: \_\_\_\_\_  
SHEILA NEUMANN-ANTOS, Trustee

**ASSIGNMENT OF COMPANY AND  
MEMBERSHIP INTERESTS  
OF**

**SPANISH HEIGHTS ACQUISITION COMPANY, LLC  
A NEVADA LIMITED LIABILITY COMPANY**

In exchange for good and valuable consideration, the sufficiency and receipt of which are hereby acknowledged, SJC Ventures Holdings, LLC, a Nevada limited liability company ("Assignee") agree as follows:

1. Assignment. Assignor hereby absolutely and unconditionally assigns and transfers unto Assignee all the right, title, interest, and membership interest of Assignor in Spanish Heights Acquisition Company, LLC (hereinafter "Company") to Assignee.

2. Binding Effect. All agreements herein shall inure to the benefit of, and bind the respective heirs, executors, administrators, successors, and assigns of Assignor and Assignee.

3. Governing Law. This Assignment shall be governed by and construed in accordance with the laws of the State of Nevada.

4. Attorneys' Fees. In the event either party hereto institutes legal action against the other party with respect to this Assignment, the prevailing party in such action shall be entitled to an award of reasonable attorney's fees from the non-prevailing party. The prevailing party shall also be entitled to collect all reasonable attorneys' fees and costs.

ASSIGNOR:

ASSIGNEE:

By: \_\_\_\_\_  
JAY BLOOM, Manager

By: \_\_\_\_\_  
JOHN OTTER, President  
CBC Partners, LLC,

**ASSIGNMENT OF COMPANY AND  
MEMBERSHIP INTERESTS  
OF**

**SPANISH HEIGHTS ACQUISITION COMPANY, LLC  
A NEVADA LIMITED LIABILITY COMPANY**

In exchange for good and valuable consideration, the sufficiency and receipt of which are hereby acknowledged, Kenneth Antos and Sheila Neumann-Antos, Trustees of the Kenneth & Shelia Antos Living Trust and Kenneth M. Antos Sheila M. Neumann-Antos Trust ("Assignor") and CBC Partners, LLC, a Washington limited liability company ("Assignee") agree as follows:

1. Assignment. Assignor hereby absolutely and unconditionally assigns and transfers unto Assignee all the right, title, interest, and membership interest of Assignor in Spanish Heights Acquisition Company, LLC (hereinafter "Company") to Assignee.
2. Binding Effect. All agreements herein shall inure to the benefit of, and bind the respective heirs, executors, administrators, successors, and assigns of Assignor and Assignee.
3. Governing Law. This Assignment shall be governed by and construed in accordance with the laws of the State of Nevada.
4. Attorneys' Fees. In the event either party hereto institutes legal action against the other party with respect to this Assignment, the prevailing party in such action shall be entitled to an award of reasonable attorney's fees from the non-prevailing party. The prevailing party shall also be entitled to collect all reasonable attorneys' fees and costs.

ASSIGNOR:

ASSIGNEE:

By:

  
KENNETH M. ANTOS, Trustee

By:

  
JOHN OTTER, President  
CBC Partners, LLC,

By:

  
SHEILA NEUMANN-ANTOS, Trustee

# **EXHIBIT 16**

# **EXHIBIT 16**

# MUSHKIN & COPPEDGE

Michael R. Mushkin, Esq.  
L. Joe Coppedge, Esq.  
Mark C. Hafer, Esq.\*

\*of counsel

6070 South Eastern Avenue  
Suite 270  
Las Vegas, Nevada 89119

Telephone 702.454.3333  
Facsimile 702.386.4979

April 3, 2020

Via Certified Mail  
& USPS

Jay Bloom, Manager  
SJC Ventures, LLC  
c/o Maier Gutierrez & Associates  
8816 Spanish Ridge Avenue  
Las Vegas, NV 89148

Via Certified Mail  
& USPS

Jay Bloom, Manager  
SJC Ventures, LLC  
5148 Spanish Heights Drive  
Las Vegas, NV 89148

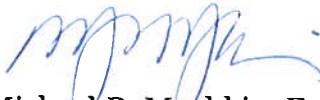
Re: Notice to Vacate  
5148 Spanish Heights Drive, Las Vegas, NV 89148

Dear Mr. Bloom:

As you are aware, CBC Partners I, LLC, (CBCI) has exercised their rights pursuant to the Pledge Agreement and having received the Assignment of Company and Membership Interests of Spanish Heights Acquisition Company, LLC (SHAC) from the Kenneth & Sheila Antos Living Trust, CBC Partners, LLC (CBCP) is now the owner of SHAC. This letter shall serve as notice for SJC Ventures, LLC (SJCVC) to vacate the premises located at 5148 Spanish Heights Drive, Las Vegas, NV 89148. SHAC is also the owner of certain fixtures, furniture, equipment and appliances on property. The inspection recently performed and the failure to provide proof of repairs contracted for; show that significant damage to the property has occurred.

My client appreciates these difficult times and would like to accommodate a reasonable plan for SJCVC to vacate. Please feel free to contact the undersigned to discuss a plan to vacate and the inventory of items owned by SHAC.

Sincerely,



Michael R. Mushkin, Esq.

MRM:klf  
cc: CBC Partners I, LLC

# **EXHIBIT 17**

# **EXHIBIT 17**



TRAN

DISTRICT COURT  
CLARK COUNTY, NEVADA  
\* \* \* \* \*

SPANISH HEIGHTS ACQUISITION )  
COMPANY LLC, )  
 )  
Plaintiffs, )  
 )  
vs. )  
 )  
CBC PARTNERS I LLC, )  
 )  
 )  
Defendant. )  
 )  
AND RELATED PARTIES )

CASE NO. A-20-813439-B  
DEPT NO. XI

**TRANSCRIPT OF  
PROCEEDINGS**

BEFORE THE HONORABLE ELIZABETH GONZALEZ, DISTRICT COURT JUDGE  
THURSDAY, MAY 14, 2020

**HEARING RE: PLAINTIFFS' APPLICATION FOR TEMPORARY  
RESTRAINING ORDER AND MOTION FOR PRELIMINARY  
INJUNCTION ON ORDER SHORTENING TIME**

APPEARANCES:

FOR THE PLAINTIFFS: JOSEPH A. GUTIERREZ, ESQ.  
DANIELLE J. BARRAZA, ESQ.

FOR CBC PARTNERS I: MICHAEL R. MUSHKIN, ESQ.

RECORDED BY: JILL HAWKINS, COURT RECORDER  
TRANSCRIBED BY: JD REPORTING, INC.

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1 **LAS VEGAS, CLARK COUNTY, NEVADA, MAY 14, 2020, 9:24 A.M.**

2 \* \* \* \* \*

3 THE COURT: So I've got two motions that were filed  
4 yesterday. There's a motion for a protective order and a  
5 motion to quash subpoena. Does anybody want to discuss either  
6 of those before we start?

7 MR. GUTIERREZ: You've already sent out a minute  
8 order, Judge. So they're moot I believe.

9 THE COURT: Only on the subpoena issue. So if  
10 that's -- if it's all covered by both of these steps -- because  
11 I read them, and it seemed like there was still a lingering  
12 issue, but we'll deal with it if it comes up.

13 MR. MUSHKIN: Whatever you want, Judge.

14 THE COURT: Okay. So do you guys.

15 All right. I'm going to go drink some more coffee,  
16 and you guys let me know when we're ready to start.

17 (Proceedings recessed at 9:25 a.m., until 9:26 a.m.)

18 MR. MUSHKIN: Well, if we can't make it work --

19 THE COURT: We can make it work.

20 MR. MUSHKIN: -- we don't want to waste judicial  
21 time. I can have my client listen in, and --

22 THE COURT: Can he listen until we fix it?

23 MR. MUSHKIN: That was my point.

24 THE COURT: Perfect. Okay. So we'll have him listen  
25 while we wait for IT.

1 relationship to defendant and CBC Partners?

2 A I am the chief credit officer.

3 Q And where is CBC Partners domiciled?

4 A Kirkland, Washington.

5 Q Is CBC Partners licensed to do business in Nevada?

6 A No.

7 Q I'm sorry. It's a no?

8 A No.

9 Q Okay. Is CBC Partners doing any business in Nevada?

10 A It's only through the origination of a loan to what  
11 was called PRBI, Pacific brands -- Pacific Restaurant Brands.  
12 And that was a restaurant domiciled in Nevada.

13 Q Mr. Hallberg, at some point, CBC Partners sold its  
14 note in this transaction; correct?

15 A Yes.

16 Q When was that?

17 A The first couple days of April.

18 Q What exact date did you sell the note?

19 A I believe it was effective on the 1st.

20 Q The note was sold on April 1st, 2020; is that your  
21 testimony?

22 A I say I believe it was sold. I don't have it in  
23 front of me. I believe it was sold on April 1st.

24 Q Well, what document would you look to to refresh your  
25 memory as to when exactly it was sold?

1 A Purchase and sale agreement.

2 Q Who is the purchase and sale agreement to and from?

3 A It's with -- it's the address LLC. I think it's 5248  
4 LLC.

5 Q Would that be 5148 Spanish Heights LLC?

6 A Yes. Yes. 5148.

7 Q How much did you sell the note for?

8 MR. MUSHKIN: Objection, Your Honor.

9 THE COURT: Overruled.

10 MR. MUSHKIN: Relevance and privilege.

11 THE COURT: Overruled.

12 BY MR. GUTIERREZ:

13 Q You can answer.

14 A I don't have it in front of me. It was I believe in  
15 the 3.3 to 3.4 million range.

16 Q So CBC was paid between 3.3 to 3.4 million for its  
17 note?

18 A Yes.

19 Q And CBC has accepted that money; correct?

20 A Yes.

21 Q And when was that money paid?

22 A The 1st week of April.

23 Q Okay. Then why is CBC still attempting to foreclose  
24 under its note?

25 A I'm not.

1 MR. MUSHKIN: Objection, Your Honor. Assumes facts  
2 not in evidence.

3 THE COURT: Overruled.

4 You can answer.

5 THE WITNESS: (No audible response.)

6 THE COURT: You can answer, sir.

7 THE WITNESS: I said I'm not.

8 THE COURT: Oh. Thank you.

9 MR. GUTIERREZ: Okay.

10 BY MR. GUTIERREZ:

11 Q So it's your testimony that CBC is not attempting to  
12 foreclose at all under its note; correct?

13 A Correct.

14 Q And that's because CBC does not have note or own the  
15 no anymore; isn't that true?

16 A We sold the note in early April.

17 Q Okay. And CBC is also not trying to evict SJC  
18 because -- from the premises; correct?

19 A Correct.

20 Q Okay. So CBC is also not attempting to utilize the  
21 exceptions in the governor's directive as a basis to continue  
22 foreclosure or eviction; correct?

23 A Correct.

24 Q Okay. Now, who purchased the note?

25 THE COURT: He already told you that.

1 MR. GUTIERREZ: Oh, I'm sorry.

2 THE COURT: That's asked and answered.

3 MR. GUTIERREZ: Who -- how are you --

4 MR. MUSHKIN: Thank you, Your Honor, for the  
5 objection.

6 BY MR. GUTIERREZ:

7 Q How were you introduced to 5148 Spanish Heights LLC?

8 A Through Ken Antos.

9 Q Okay.

10 A He was the original guarantor on the deal.

11 Q And who is the -- who is the owner of 5148 Spanish  
12 Heights LLC?

13 A I don't know. Mr. Mushkin is representing the  
14 ownership of that LLC.

15 Q And, Mr. Hallberg, do you have the exhibits in front  
16 of you?

17 A Some of them.

18 Q And do you have the -- you have Exhibit A in front of  
19 you? I just want to turn your attention to the Antos pledge  
20 agreement on A, Exhibit A, page 81.

21 THE COURT: Let us know when you found that, sir.

22 THE WITNESS: Okay.

23 BY MR. GUTIERREZ:

24 Q Do you have that in front of you?

25 A Yes.



1 Q Okay. And page 88 under this exhibit do you have  
2 that in front of you?

3 A Yes.

4 Q Now, isn't it true that SJC Ventures is not a pledgor  
5 under this contract?

6 A They're not on page 88.

7 Q Okay. Do you have a signature line under this pledge  
8 agreement for where SJC signed to pledge their interest?

9 A I have the acknowledgment of Spanish Heights, but not  
10 SJVC.

11 Q And CBC Partners signed the security agreement on  
12 Exhibit A, page 93; correct?

13 A Page 92, yes. Well, which page? The page 99  
14 security agreement, yes.

15 Q Okay. Is CBC -- are you contending that CBC is a --  
16 has an ownership interest in SHAC as of today, or was that sold  
17 as part of the note?

18 A That -- all of our rights were sold with the note.

19 Q Okay. So all the rights that CBC had under this,  
20 under these agreements have all been sold to another party at  
21 5148 Spanish Heights LLC; correct?

22 A Yes.

23 Q And you don't know who that person is who owns that  
24 company; correct?

25 A Correct. I know they're represented by Mr. Mushkin.

1 MR. GUTIERREZ: Give me one second, Your Honor.

2 BY MR. GUTIERREZ:

3 Q Mr. Hallberg, why is CBC here objecting to the  
4 preliminary injunction that's being requested by SHAC and SJC?

5 A I -- I just -- I don't see the need for it. We're  
6 actually out of the deal at this point. From our perspective,  
7 the forbearance agreement matured. There was no payment made.  
8 We had an offer to buy the note, and we sold it.

9 Q That goes back to my question: Why is CBC objecting  
10 to the injunction if it has no note?

11 A I don't know.

12 MR. GUTIERREZ: Pass the witness, Your Honor.

13 THE COURT: Thank you. Mr. Mushkin, you may examine  
14 as your direct, if you'd like.

15 MR. MUSHKIN: Thank you, Your Honor.

16 CROSS-EXAMINATION

17 BY MR. MUSHKIN:

18 Q Mr. Hallberg, will you state your name and address  
19 for the record.

20 A Alan Hallberg, 19367, 132nd Street Southeast, Monroe,  
21 Washington.

22 Q You've been listening all morning; is that fair?

23 A Yes.

24 Q And you heard Mr. Bloom testify?

25 A Yes.

1 Q Do you believe that Mr. Bloom testified truthfully?

2 A No.

3 Q Say that again?

4 A No.

5 Q Let's go through, see if we can unwind some of this.

6 Give us a little bit of your educational background, please.

7 A A bachelor of science, finance concentration,  
8 Georgetown University.

9 Q And you are the chief financial officer of CBC  
10 Partners; correct?

11 A Chief credit officer; correct.

12 Q Sorry. Chief credit officer. I apologize. CBC  
13 Partners is, if you will, the management entity for CBC; is  
14 that fair?

15 A Yes. CBC Partners is the general partnership that  
16 manages the fund which is CBC Partners 1.

17 Q Thank you. And you had discussions with Mr. Bloom in  
18 September, on or about September 17th of -- strike that -- on  
19 or about September of 2017 regarding the pledge agreement; is  
20 that correct?

21 A Yes.

22 Q And is it your understanding that the intent of the  
23 pledge agreement was to pledge 100 percent of the units of  
24 Spanish Heights Acquisition Company?

25 A Yes.

1 Q And did you have any specific discussions with  
2 Mr. Bloom regarding that pledge agreement?

3 A Yes. The --

4 Q What did --

5 A -- we discussed it predraft, and the understanding  
6 was, look, if this doesn't work out, which he had doubted that  
7 it would even lead to this because he indicated that the  
8 judgment claim would be paid very quickly. He said, look, if  
9 it turns out that the agreement matures, all you have to do is  
10 enforce your rights under the pledge, and you own SHAC.

11 Q He specifically said that to you in '17? 2017?

12 A Yes.

13 Q I mean, in -- yes, in 2017.

14 A Yes.

15 Q Now, did you have subsequent discussions with  
16 Mr. Bloom beginning in February of 2020?

17 A Yes, starting January, February, yes.

18 Q And tell me the nature of those discussions.

19 A I asked for updates on liquidity. It did not look  
20 like anything was going to happen prior to the maturity date in  
21 March, the end of March. I indicated that it would be tough  
22 for us to extend beyond March 31. I did not have any support  
23 in credit committee.

24 Q And what did Mr. Bloom start to say to you at that  
25 point?

1           A     He -- he asked me, well, what option do I have? I  
2     said, well, I can sell the note, and he indicated, well, you'll  
3     get nothing for it. And he also indicated he could just simply  
4     declare bankruptcy. And it would be better to work with him  
5     and just extend it because he thought that liquidity would be  
6     coming in by June.

7           Q     And he wanted -- did he give you a specific date for  
8     this liquidity event?

9           A     I don't know off the top of my head, but, yes, it was  
10    sometime in June, and it had to do with either the sale of tax  
11    credits related to a bit coin mining operation on the Nevada  
12    Arizona border and also a public offering, which is connected  
13    to that operation, which was supposed to have been floated on  
14    the London exchange.

15          Q     And did any of that come true to your knowledge?

16          A     No.

17          Q     Did you ever receive evidence of a hundred thousand  
18    dollars in repairs as required by the agreements?

19          A     It was all verbal. I did not see any of the  
20    paperwork.

21          Q     He never provided you anything?

22          A     No.

23          Q     Did you request it?

24          A     At times I'd ask him to send invoices. I did not get  
25    any.

1 Q Did you ever receive any of the property taxes due on  
2 the property?

3 A No.

4 Q Did you ever receive the letter from his counsel  
5 regarding the judgment collection process?

6 A No.

7 Q Did you instruct my office as a part of the closing  
8 on the note to make the payments that were due for the months  
9 leading up to the March 31st deadline of the forbearance  
10 agreement?

11 A Yes.

12 Q And I can represent to you that we've admitted into  
13 evidence some checks that were issued from my trust account.  
14 Were those in fact directed to be issued by you?

15 A Yes.

16 Q To the best of your knowledge, all obligations of CBC  
17 I have been met pursuant to the forbearance agreement?

18 A Yes.

19 Q You've seen the Bloom declaration in this matter; is  
20 that correct?

21 A Yes.

22 Q Do you believe that his declaration was honest and  
23 truthful?

24 A No.

25 Q So you've heard his testimony about there's this

1 change in the documents that somehow he was not pledging SHAC,  
2 and he was putting up the judgment. Did you hear that  
3 testimony?

4 A Yes, I did.

5 Q Was that truthful testimony?

6 A No.

7 Q In fact, it was always planned to have both the  
8 pledge agreement and the security agreement; correct?

9 A Yes. They're apples and oranges from a lender's  
10 perspective.

11 Q And, in fact, they were executed the same day,  
12 weren't they?

13 A Yes.

14 Q September 27th?

15 A [No audible response.]

16 Q So --

17 A Yes.

18 Q So do you -- is there any truth whatsoever to this  
19 notion that a hundred percent of the units of SHAC were not  
20 pledged? It's your understanding that they were pledged; is  
21 that correct?

22 A Yes, it is.

23 MR. MUSHKIN: Sorry for that terrible question,  
24 Judge.

25 / / /

1 BY MR. MUSHKIN:

2 Q Now, I want to real quickly go over the documents  
3 that were entered into that illuminate this point, and I'm  
4 going to go backwards. So let's take a look at the amendment  
5 to the forbearance agreement dated the 1st day of December  
6 2019, which is Exhibit C. Do you see that?

7 A I'm getting there. Yes.

8 Q On 001, at the end of the very first paragraph, it  
9 says that SJC Ventures LLC is a part collectively of the  
10 parties; correct?

11 A Correct.

12 Q And it says at paragraph 9 on C003 that the  
13 membership pledge agreement executed by SJCVC and the Antos  
14 Trust will remain in effect; correct?

15 A Correct.

16 Q Now, you've heard Mr. Bloom say that SJCVC didn't  
17 execute the pledge agreement; right?

18 A Yes, I heard that.

19 Q You don't believe that to be true, do you?

20 A No.

21 Q You just think that they put the wrong title on that  
22 signature; right?

23 A That is correct.

24 Q And the pledge agreement specifically recites that  
25 SJCVC is pledging its stock; correct?



1 A Yes.

2 Q I'd like to direct your attention to C006,  
3 paragraph 19.

4 A Okay.

5 Q And that paragraph says the Antos parties and the  
6 SJCVC parties represent they continue to acknowledge they  
7 continue to pledge their stock in SHAC. Do you see that?

8 A Yes.

9 Q And you understood that to be true?

10 A Yes.

11 Q And you relied upon that?

12 A Absolutely.

13 Q Okay. Now, let's take a look at C007, paragraph  
14 B1 in bold print: Options to extend have terminated. Do you  
15 see that?

16 A Yes.

17 Q Was it your understanding that the lease was  
18 extended, the consent that you had given, only to March 31st  
19 of 2020?

20 A Yes.

21 Q And that the -- all other extensions had been  
22 terminated, as stated in bold print?

23 A Yes. My -- to be clear, my understanding was they  
24 were extended. My expectation was he would not have the  
25 liquidity that was required on the maturity date, which would

1 then lead to the extermination of the leases.

2 Q Thank you.

3 A To be clear.

4 Q And that right to terminate appears -- well, before  
5 we get there, on page 9, you recognize that SJC Ventures has  
6 signed this document; is that correct?

7 A Yes.

8 Q And you relied upon their representation that their  
9 stock was pledged; correct?

10 A Yes, I did.

11 Q Mr. Hallberg, you've seen the answer and counterclaim  
12 in this case where 5148 now takes on a position in this case;  
13 is that correct?

14 A Yes.

15 Q And they are successor in interest to CBC 1 as the  
16 note; is that correct?

17 A Yes.

18 Q And the assignment of interest of SHAC in fact went  
19 to CBC Partners, not CBC I, and Mr. Otter is the managing  
20 member of CBC Partners; correct?

21 A Yes.

22 Q And it is his intention to assign those rights to  
23 whomever he is directed to by 5148; is that correct?

24 A That's correct.

25 Q But as of today, Mr. Otter, on behalf of CBC Partners

1 is the holder of the Antos interest in SHAC; is that correct?

2 A Yes.

3 Q One last question: The group of documents that  
4 represent the closing package in the main are in Exhibit 1.  
5 And I just want to go through these again, not individually but  
6 collectively. These documents were collectively delivered at  
7 the closing; correct?

8 A Yes.

9 Q So there was always intended to be a pledge agreement  
10 for a hundred percent of the units of SHAC; is that true?

11 A Yes.

12 Q And there was always intended to be a security  
13 agreement in Mr. Bloom's judgment as additional collateral for  
14 performance under the forbearance agreement; is that correct?

15 A Yes. From -- and to clarify, from a lender's  
16 perspective, the assignment of the judgment was to help repay  
17 the obligation. The pledge agreement was a remedy in case the  
18 first part did not come through. So those two work together,  
19 but they're apples and oranges.

20 Q And the testimony that Mr. Bloom gave was not  
21 truthful, was it?

22 A That's my belief, yes.

23 MR. GUTIERREZ: Thank you, Your Honor. No further  
24 questions.

25 THE COURT: Any redirect, Mr. Gutierrez?

REDIRECT EXAMINATION

BY MR. GUTIERREZ:

Q Mr. Hallberg, you stated that 5148 Spanish Heights LLC is a party to this case. Is that what you said?

A Yes, that's my belief.

Q Did they file a motion to intervene at any point on this case?

A Sir, I don't know. You're asking me a legal question. I'm here to talk about CBC's position up until the point we sold the note.

Q Well, is CBC a related entity to 5148 Spanish Heights?

A No.

Q Okay. And the lawsuit initially was between SJC Ventures and SHAC versus CBC Partners; correct?

A To my knowledge, yes.

Q Okay. Now, you sold the note on April 1st, 2020. Why is it that your counsel on April 3rd, 2020, in Exhibit N is still sending letters out on behalf of CBC to vacate the property for SJC?

A I don't know.

Q Turn to Exhibit N. You've seen this letter on Exhibit N; correct?

A Okay. I see the exhibit.

Q And you authorized your counsel to send this letter

1 out; correct?

2 A We did not talk about the letter before it went out.

3 Q Okay. So you didn't authorize this letter to be sent  
4 out on behalf of CBC Partners; is that what your testimony is?

5 A I did not authorize every letter. I'm not saying  
6 it's not correct. I was allowing the attorney to work on our  
7 behalf.

8 Q Go to Exhibit X.

9 A Right. Hold on.

10 I'm sorry. I'm not seeing Exhibit X. Can you  
11 describe it to me.

12 Q It's an April 8th, 2020, letter from Mr. Mushkin to  
13 my office that is stating that the default notice will not be  
14 withdrawn, and the foreclosure process will continue. My  
15 question to you is why was default notices still being sent on  
16 behalf of CBC if it sold the note the week before?

17 A I don't know. You know, I don't know.

18 Q Did you authorize this letter to go out?

19 A Not specifically, no.

20 Q Let's go to Exhibit C as in cat, page 7. Okay. And  
21 on Section B1, the last sentence of this paragraph says:

22 The parties acknowledge that the  
23 conditions to which CJCVC options were subject  
24 have been satisfied and that the SJCVC options  
25 have been exercised.

# **EXHIBIT 18**

# **EXHIBIT 18**

# MUSHKIN & COPPEDGE

Michael R. Mushkin, Esq.  
L. Joe Coppedge, Esq.  
Mark C. Hafer, Esq.\*

\*of counsel

6070 South Eastern Avenue  
Suite 270  
Las Vegas, Nevada 89119

Telephone 702.454.3333  
Facsimile 702.386.4979

July 2, 2020

Via Certified Mail  
& USPS

Jay Bloom, Manager  
Spanish Heights Acquisition Company, LLC  
c/o Maier Gutierrez & Associates  
8816 Spanish Ridge Avenue  
Las Vegas, NV 89148

Via Certified Mail  
& USPS

Jay Bloom, Manager  
SJC Ventures, LLC  
c/o Maier Gutierrez & Associates  
8816 Spanish Ridge Avenue  
Las Vegas, NV 89148

Via Certified Mail  
& USPS

Kenneth & Sheila Antos Living Trust  
4968 Mountain Foliage Drive  
Las Vegas, NV 89148-1429

Reference: Clark County Nevada APN 163-29-615-007  
5148 Spanish Heights Drive

**THIS NOTICE IS SENT FOR THE PURPOSE OF COLLECTING A DEBT. YOUR LOAN IS NOW DUE AND PAYABLE; AND REMAINS UNPAID AS OF THE ABOVE DATE.**

Dear Borrower:

READ THIS LETTER CAREFULLY. Your loan with CBC Partners I, LLC is in default. Because of this, CBC Partners I, LLC, at its option, without further demand, may evoke the power of sale and any other remedies permitted by Nevada Law.

This is your notice your default. It has been established that the beneficiary and/or mortgage servicer of the deed of trust may cause a trustee to exercise the power of sale pursuant to NRS 107.080, commence a civil action for the recovery of any debt, or to enforce any right under a mortgage loan that is not barred by NRS. 40.430.

You are in default by failing to make the final balloon payment on March 31, 2020. Failure to cure the default may result the sale of said property.

The undersigned, as attorney for the Beneficiary for the above referenced loan, does

July 2, 2020

Page 2

Re: APN: 163-29-615-007

hereby notify you that a Notice of Default and Election to sell will be recorded on the referenced property due to non-payment.

As a borrower, you have a right to discuss foreclosure prevention alternatives and subject to qualification criteria.

The following information is required to be provided to you under Nevada statute:

1. The amount of the payment required to make good the deficiency in performance or payment, avoid the exercise of the power of sale and reinstate the terms and conditions of the underlying obligation or debt existing before the deficiency in performance or payment, as of the date of this statement:

2. The amount in default: \$5,578,459.15

3. The current unpaid principal amount of the obligation or debt secured by the deed of trust: \$2,935,001.14

4. The amount of accrued interest and late charges: \$1,315,105.24

5. The amount in advances paid on your behalf: \$1,326,744.55

6. Interest accrual (at 20% pursuant to the Forbearance Agreement dated September 27, 2017) in the amount of \$1,608.22 per day from April 1, 2020 until paid in full.

7. A good faith estimate of all fees imposed in connection with the exercise of the power of sale is between \$9,000.00 and \$25,000.00, an amount that will be added in and which you may ultimately be responsible for.

8. Contact information and telephone number for obtaining the most current amounts due:

Michael R. Mushkin  
6070 S. Eastern Avenue, Suite 270  
Las Vegas, NV 89119  
Telephone: (702) 454-3333

To discuss the matter with a housing counseling agency approved by the United States Department of Housing and Urban Development, here is their telephone number in order to find such a housing counseling agency: 1-888-995-HOPE (4673). Additional contact information of one or more Counseling Agencies or Programs approved by the United States Department of Housing:



July 2, 2020

Page 3

Re: APN: 163-29-615-007

1. Community Services of Nevada  
730 W. Cheyenne Avenue #10  
North Las Vegas, Nevada 89030  
702-307-1710
2. Financial Guidance Center  
2650 S. Jones Blvd.  
Las Vegas, Nevada 89146  
702-364-0344

If you are a service member or a dependent of a service member, you may be entitled to certain protections under the federal Service members Civil Relief Act 50 U.S.C. Appx. 501 et seq., regarding the service member's interest rate and the risk of foreclosure, and counseling for covered service members that is available from Military OneSource and the United States Armed Forces Legal Assistance or any other similar agency. The telephone number for Military OneSource is 1-800-342-9647

As a borrower, you may request:

1. A copy of your note and forbearance agreements
2. A copy of the recorded deed of trust
3. A copy of the recorded assignment, if applicable

Should you have any questions, or need further assistance from our office, please do not hesitate to contact the undersigned.

Sincerely,

*Michael R. Mushkin*

Michael R. Mushkin, Esq.

MRM:klf

# **EXHIBIT 19**

# **EXHIBIT 19**



## Nevada Trust Deed Services

10161 Park Run Drive, Suite 150, Las Vegas, NV 89145  
Phone: (702)733-9900 Fax: (702)329-1170

September 15, 2020

JAY BLOOM MANAGER-SPANISH HEIGHTS ACQUISITION COMPANY LLC  
C/O MAIER GUTIERREZ & ASSOCIATES  
8816 SPANISH RIDGE AVENUE  
LAS VEGAS, NV 89148

RE: FILE NO.: 20-09-008-FCL

**YOU ARE HEREBY NOTIFIED** that the holder of the obligation secured by the Deed(s) of Trust listed in the attached Notice of Breach and Election to Sell under Deed of Trust, has executed and delivered to the undersigned, as duly appointed or substituted Trustee under said Deed(s) of Trust, a Declaration of Default and a NOTICE OF BREACH AND ELECTION TO SELL under Deed(s) of Trust to satisfy the obligations secured thereby, said notice having been recorded on September 15, 2020.

### **PROPERTY IN FORECLOSURE MAY BE SOLD WITHOUT ANY COURT ACTION.**

You may have the legal right to cure the breach of the obligation plus pay permitted costs and expenses. Please contact our office for the applicable date as provided by Nevada Revised Statutes Chapter 107.

For information as to the amount you must pay to cure the breach of the obligation and to arrange for payment, or if your property is in foreclosure for any other reason, contact the undersigned immediately. All payments for redemption should be deposited with NEVADA TRUST DEED SERVICES in the form of CERTIFIED FUNDS.

### **PLEASE TAKE NOTICE**

Effective June 12, 2017 Nevada passed Senate Bill SB490, which allows the owner of a single family residence to file for mediation. **This program applies to owner occupied single family residence properties only.**

If you are eligible for mediation, the forms to apply to the program are enclosed. Please read the forms and follow the directions. The forms must be filed with the Eighth Judicial District Court for the State of Nevada located at 200 Lewis Avenue, Las Vegas, Nevada, 89155. You are advised to promptly consult with an attorney if you need assistance with these forms. If the forms are not filed within the 30 day time period, you will not be permitted to enter into the Foreclosure Mediation Assistance Program.

### **YOU MAY LOSE LEGAL RIGHTS IF YOU DO NOT TAKE PROMPT ACTION.**

NEVADA TRUST DEED SERVICES

---

Michele Dobar  
Foreclosure Officer

Certified Mail  
Return Receipt Requested

Inst #: 20200915-0001405

Fees: \$292.00

09/15/2020 11:00:36 AM

Receipt #: 4210623

Requestor:

Nevada Trust Deed Services

Recorded By: TIKG Pgs: 6

Debbie Conway

CLARK COUNTY RECORDER

Src: ERECORD

Ofc: ERECORD

APN: 163-29-615-007

Property: 5148 Spanish Heights Dr  
Las Vegas, NV 89148

**RETURN TO/TRUSTEE CONTACT INFO:**

Nevada Trust Deed Services

10161 Park Run Drive, Suite 150

Las Vegas, NV 89145

(702)733-9900

**NOTICE OF BREACH AND ELECTION TO SELL UNDER DEED OF TRUST**

FILE NO.: 20-09-008-FCL

NOTICE IS HEREBY GIVEN:

That Nevada Trust Deed Services, is the current Trustee under a Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing (the "Deed of Trust") dated December 17, 2014, executed by Kenneth M. Antos and Sheila M. Neumann-Antos, Trustees of the Kenneth and Sheila Antos Living Trust dated April 26, 2007, and any amendments thereto, ("Trustor"), to secure obligations presently in favor of 5148 Spanish Heights, LLC, a Nevada limited liability company, ("Current Beneficiary"), recorded December 29, 2014 as Instrument No. 20141229-0002856, of Official Records in the Office of the County Recorder of CLARK County, Nevada as modified or amended, if applicable.

That a breach of the obligations for which such Deed of Trust is security has occurred in that:

The entire principal balance and interest accrued thereon which became due on March 31, 2020, has not been paid in full and the balance remains due, owing and delinquent.

Together with any and all foreclosure fees and expenses, interest, late charges due, insurance, accrued late charges, advancements, and expenses, if any, to preserve the security of the beneficiary.

That by reason thereof, the undersigned, present beneficiary under such Deed of Trust, has executed and delivered to said Trustee a written Declaration of Default and Demand for Sale, and has surrendered to said Trustee such Deed of Trust and all documents evidencing the obligations secured thereby, and has declared and does hereby declare all sums secured thereby immediately due and has elected and does hereby elect to cause the trust property to be sold to satisfy the obligations secured thereby.

**NOTICE**

YOU MAY HAVE THE RIGHT TO CURE THE DEFAULT HEREIN AND REINSTATE THE OBLIGATION SECURED BY SUCH DEED OF TRUST ABOVE DESCRIBED. SECTION 107.080 OF NRS PERMITS CERTAIN DEFAULTS TO BE CURED UPON THE PAYMENT OF THE AMOUNTS REQUIRED BY THAT SECTION WITHOUT REQUIRING PAYMENT OF THAT PORTION OF PRINCIPAL AND INTEREST WHICH WOULD NOT BE DUE HAD NO DEFAULT OCCURRED. WHERE REINSTATEMENT IS POSSIBLE, IF THE DEFAULT IS NOT CURED WITHIN 35 DAYS FOLLOWING THE RECORDING AND MAILING TO GRANTOR OR GRANTOR'S SUCCESSOR IN INTEREST OF THIS NOTICE, THE RIGHT OF REINSTATEMENT WILL TERMINATE AND THE PROPERTY MAY THEREAFTER BE SOLD.

To determine if reinstatement is possible, and the amount necessary to cure the default, contact the Beneficiary, their successor in interest, or the Trustee.

DATED: September 9, 2020

5148 Spanish Heights, LLC, a Nevada limited liability company

BY: [Signature]  
Michael R. Mushkin, Manager

Michael R. Mushkin

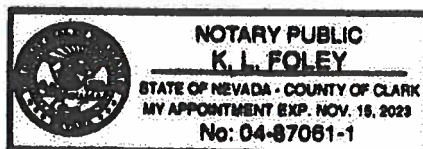
State of Nevada

County of Clark

}  
} ss.  
}

This instrument was acknowledged before me on September 9, 2020 by Michael R. Mushkin as Manager of 5148 Spanish Heights, LLC, a Nevada limited liability company

[Signature]  
NOTARY PUBLIC  
My Commission Expires: Nov. 15, 2023



**AFFIDAVIT OF AUTHORITY TO EXERCISE THE POWER OF SALE**  
**NRS § 107.080(2)(c)**

STATE OF Nevada )  
COUNTY OF Clark ): SS.

The affiant, Michael R. Mushkin as Manager of 5148 Spanish Heights, LLC, a Nevada limited liability company, being first duly sworn upon oath, based on my direct, personal knowledge, or personal knowledge that I acquired by a review of the business records of the beneficiary, the successor in interest of the beneficiary or the servicer of the obligation or debt secured by the deed of trust, which business records meet the standards set forth in NRS § 51.135, and under penalty of perjury attests that I am the authorized representative of the beneficiary, of the deed of trust described in the Notice of Breach and Election to Sell Under Deed of Trust to which this affidavit is attached (the "Deed of Trust").

I further attest, based on personal knowledge, and under penalty of perjury, to the following information, as required by NRS § 107.080(2)(c):

1. The full name and business address of the current trustee or the current trustee's representative or assignee is:

Nevada Trust Deed Services  
10161 Park Run Drive  
Suite 150  
Las Vegas, NV 89145

The full name and business address of the current holder of the note secured by the Deed of Trust and the current beneficiary of record of the Deed of Trust is:

5148 Spanish Heights, LLC, a Nevada limited liability company  
6070 S Eastern Ave., Ste. 270  
Las Vegas, NV 89119

The full name and business address of the current servicer of the obligation or debt secured by the Deed of Trust is:

N/A

2. The beneficiary, successor in interest of the beneficiary, or trustee of the Deed of Trust, is (i) in actual or constructive possession of the note secured by the Deed of Trust, or (ii) is entitled to enforce the obligation or debt secured by the Deed of Trust.
3. The beneficiary or its successor in interest, the servicer of the obligation or debt secured by the Deed of Trust, or the trustee, or an attorney representing any of those persons, has sent to the obligor or borrower of the obligation or debt secured by the Deed of Trust a written statement of:
- a. The amount of payment required to make good the deficiency in performance or payment, avoid the exercise of the power of sale and reinstate the terms and conditions of the underlying obligation or debt existing before the deficiency in performance of payment, as of the date of the statement;
  - b. The amount in default;

- c. The principal amount of the obligation or debt secured by the Deed of Trust;
  - d. The amount of accrued interest and late charges;
  - e. A good faith estimate of all fees imposed in connection with the exercise of the power of sale; and
  - f. Contact information for obtaining the most current amounts due and the local or toll-free telephone number as required by NRS § 107.080(2)(c)(4).
4. A local or toll-free telephone number that the obligor or borrower of the obligation or debt may call to receive the most current amount due and a recitation of the information contained in the affidavit is (702)454-3333.
5. The following is information regarding the instrument(s) that conveyed the interest of each beneficiary, which information may be based on any of the knowledge or information described in NRS § 107.080(2)(c)(5)(I-IV):

Title of Assignment Document: Assignment of Interest in Deed of Trust

Date: April 8, 2020

Recording Information: Instrument No. 20200528-0002508

Name of Assignee: 5148 Spanish Heights, LLC, a Nevada limited liability company

DATED: September 9, 2020

Affiant:

5148 Spanish Heights, LLC, a Nevada limited liability company

BY:

Michael R. Mushkin, Manager

Michael R. Mushkin

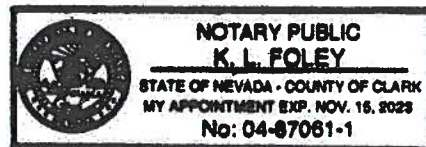
State of Nevada

County of Clark

}  
}ss.  
}

This instrument was acknowledged before me on September 9, 2020 by Michael R. Mushkin as Manager of 5148 Spanish Heights, LLC, a Nevada limited liability company

K. L. Foley  
NOTARY PUBLIC  
My Commission Expires: Nov. 15, 2023



File No.: 20-09-008-FCL

Property: 5148 Spanish Heights Dr  
Las Vegas, NV 89148

## NEVADA DECLARATION

The undersigned declares the following under the laws of the State of Nevada:

1. That pursuant to Nevada Revised Statute § 107.560(5) of the Nevada Homeowner Bill of Rights ("HOBR"), the lender is exempt from liability under, and deemed to be in compliance with, Nevada Revised Statutes § 107.400 through § 107.560 inclusive of the HOBR as a signatory to the consent judgment referenced therein.

2. That despite being exempt under the HOBR, the lender has, in a spirit of compliance, nevertheless undertaken to attempt to contact the borrower in accordance with the HOBR as set out below.

3. That I have reviewed the lender's business records maintained in the ordinary course of business, and having personal knowledge of the contents of those records, hereby state that those business records reflect that the bank attempted to contact the borrower in accordance with the HOBR or determined as follows:

5148 Spanish Heights, LLC, a Nevada limited liability company

☐ Contacted the borrower to assess the borrower's financial situation, explore options for the borrower to avoid foreclosure, and to offer a subsequent meeting with bank representatives in accordance with NRS 107.510(2).

☐ Tried with due diligence to contact the borrower in order to assess their financial situation and to explore options for the borrower to avoid foreclosure in accordance with NRS 107.510(5), including by:

- a. sending a letter via first class mail to the borrower(s) informing the borrower(s) of the right to discuss foreclosure alternatives, providing the telephone number for the United States Department of Housing and Urban Development ("HUD") and a toll-free telephone number providing access to a live representative during business hours in compliance with NRS 107.510(5)(a);
- b. posting a prominent link on its internet website homepage to the information required by NRS 107.510(5)(e);
- c. attempting to contact the borrower on three separate days at a different time each day as required by NRS 107.510(b);
- d. sending a letter via certified mail, return receipt requested as required under NRS 107.510(5)(c);

☐ Determined that no contact was required pursuant to NRS § 107.510 because the loan was not a "residential mortgage loan" secured by a mortgage or deed of trust on owner-occupied housing (principal residence), as defined by NRS 107.450.



☐ Determined that no contact was required pursuant to NRS § 107.510 because the mortgagor is not a "borrower" as defined by NRS 107.410. The mortgagor surrendered the secured property as evidenced by a letter confirming the surrender or delivered the keys to the property to the mortgagee, trustee, beneficiary of the deed of trust, or an authorized agent of such a person.

☐ Provided the borrower with each of the disclosures identified in NRS 107.500(1).

☐ Determined that providing the borrower with each of the disclosures identified in NRS 107.500(1) was not required because the loan was not a "residential mortgage loan" or the mortgagor is not a "borrower" as defined by NRS 107.450 and NRS 107.410 respectively.

☒ Determined that providing the borrower with each of the disclosures identified in NRS 107.500(1) was not required because the beneficiary is a financial institution or lender, that, during its immediately preceding annual reporting period, as established with its primary regulator, has foreclosed on 100 or fewer real properties located in this State which constitute owner-occupied housing, as defined by NRS 107.460.

DATED: September 9, 2017

5148 Spanish Heights, LLC, a Nevada limited liability company

BY: 

Michael R. Mushkin, Manager

Michael R. Mushkin

Nevada Trust Deed Services  
10161 Park Run Drive  
Suite 150  
Las Vegas NV 89145

---

**USPS CERTIFIED MAIL**



**9414 8118 9876 5827 7510 85**

---

20-09-008-FCL  
Jay Bloom-Spanish Heights Acquisition Company  
c/o Maier Gutierrez & Associates  
8816 Spanish Ridge Avenue  
Las Vegas NV 89148



**\$5.75 US POSTAGE**  
**FIRST-CLASS**  
Sep 16 2020  
Mailed from ZIP 89145

11923275



stamps  
indicia

062S0012913542

# **EXHIBIT 20**

# **EXHIBIT 20**

## Jay Bloom

---

**From:** Jonathan Ukeiley <ju12@ntrs.com>  
**Sent:** Monday, April 20, 2020 1:48 PM  
**To:** Jay Bloom  
**Cc:** Yeshim Korkmaz  
**Subject:** Northern Trust  
**Attachments:** ANTOS-April loan statement.pdf

Jay

It was good to speak with you today. Please find the April 9<sup>th</sup> bill attached.

As you can see on the bill to cure the January, February, March and April 2020 past due bills please forward a payment for \$13,161.29. This figure is in the box on the top right labeled Minimum Payment Due.

Can you please forward the check to the Las Vegas office as this will help expedite the payment process.

The address is:

The Northern Trust Company  
1995 Village Center Circle  
Las Vegas, Nevada 89134  
Attn: Yeshim Korkmaz

Let me know if there are any questions as all my contact information is below in the signature block.

Jonathan



**Jonathan Ukeiley | Vice President | Wealth Management**  
2398 E. Camelback Rd., Ste. 1100, Phoenix, AZ, 85016, USA | phone (602) 468-2613  
| fax (602) 468-2550 | [ju12@ntrs.com](mailto:ju12@ntrs.com) Please visit [northerntrust.com](http://northerntrust.com)

This email and any attachments are being presented for discussion purposes only. This email does not constitute, and should not be construed as, an offer or agreement by The Northern Trust Company to make a loan or any other type of financial accommodation to you, or to modify the terms of any existing loan or security documents between you and The Northern Trust Company. Any such offer or agreement by The Northern Trust Company is subject to final credit approval by The Northern Trust Company and the negotiation and execution of a formal written agreement, acceptable in form and substance to The Northern Trust Company, in its sole and absolute discretion.

Please read our [Privacy Notice](#) to learn how we use the personal information you provide and your related rights. If you would like our latest insights, including Cyber Security topics, add [e.northerntrust.com](mailto:e.northerntrust.com) to your contacts. [Learn](#) more about how to safelist messages from Northern Trust.

CONFIDENTIALITY NOTICE: This communication is confidential, may be privileged and is meant only for the intended recipient. If you are not the intended recipient, please notify the sender ASAP and delete this message from your system. NTAC:2SE-18

# **EXHIBIT 21**

# **EXHIBIT 21**

1 **TRO**

2 JOSEPH A. GUTIERREZ, ESQ.

3 Nevada Bar No. 9046

4 DANIELLE J. BARRAZA, ESQ.

5 Nevada Bar No. 13822

6 **MAIER GUTIERREZ & ASSOCIATES**

7 8816 Spanish Ridge Avenue

8 Las Vegas, Nevada 89148

9 Telephone: 702.629.7900

10 Facsimile: 702.629.7925

11 E-mail: [jag@mgalaw.com](mailto:jag@mgalaw.com)  
[djb@mgalaw.com](mailto:djb@mgalaw.com)

12 *Attorneys for Plaintiffs*

13 **DISTRICT COURT**

14 **CLARK COUNTY, NEVADA**

15 SPANISH HEIGHTS ACQUISITION  
16 COMPANY, LLC, a Nevada Limited Liability  
17 Company; SJC VENTURES HOLDING  
18 COMPANY, LLC, d/b/a SJC VENTURES,  
19 LLC, a Delaware Limited Liability Company,

20 Plaintiffs,

21 vs.

22 CBC PARTNERS I, LLC, a foreign Limited  
23 Liability Company; CBC PARTNERS, LLC, a  
24 foreign Limited Liability Company; 5148  
25 SPANISH HEIGHTS, LLC, a Nevada Limited  
26 Liability Company; KENNETH ANTOS AND  
27 SHEILA NEUMANN-ANTOS, as Trustees of  
28 the Kenneth & Sheila Antos Living Trust and  
the Kenneth M. Antos & Sheila M. Neumann-  
Antos Trust; DACIA, LLC, a foreign Limited  
Liability Company; DOES I through X; and  
ROE CORPORATIONS I through X, inclusive,

Defendants.

AND RELATED CLAIMS.

Case No.: A-20-813439-B

Dept. No.: 11

**TEMPORARY RESTRAINING ORDER**

The Court, having reviewed the application for temporary restraining order filed by Plaintiffs Spanish Heights Acquisition Company, LLC and SJC Ventures Holding Company, LLC

1 (“Plaintiffs”), including all other pleadings, declarations, and affidavits on file herein, and for good  
2 cause appearing, finds that this is a proper instance for a temporary restraining order to be issued and  
3 that if defendants CBC Partners I, LLC, CBC Partners, LLC, and 5148 Spanish Heights, LLC  
4 (“Defendants”) are not restrained and enjoined by order of this Court, Plaintiffs will continue to suffer  
5 immediate and irreparable injury. Accordingly,

6 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the application for  
7 temporary restraining order filed by Plaintiffs be, and the same is hereby GRANTED.

8 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Defendants, together with  
9 any and all of its affiliates, agents, employees, and attorneys, are immediately and until after the  
10 hearing on Plaintiffs’ motion or preliminary injunction:

- 11 1. Ordered to rescind the Notice of Default conveyed on July 2, 2020 by CBC Partners I,  
12 LLC, as CBC Partners I, LLC had no claimed interest in the Property by July 2, 2020;
- 13 2. Ordered to rescind the Notice of Breach and Election to Sell Under Deed of Trust recorded  
14 on September 15, 2020, as there are questions of fact regarding the legitimacy of the  
15 claimed third-position Deed of Trust; and
- 16 3. Prevented and precluded from engaging in any further foreclosure activities until after the  
17 hearing on Plaintiffs’ motion for preliminary injunction.

18 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that a hearing on the motion  
19 or preliminary injunction filed by Plaintiffs will take place on the \_\_\_\_ day of \_\_\_\_\_, 2020/2021, at  
20 \_\_\_\_\_ a.m., in Department 11 of the above-entitled Court. Notice of said hearing and the time  
21 and place thereof shall be given by Plaintiffs to Defendants’ counsel no later than the \_\_\_\_ day of  
22 \_\_\_\_\_, 2020/2021, by serving upon Defendants’ counsel a copy of this temporary restraining  
23 order, together with a copy of the moving papers. An opposition, if the opposing party desires to file  
24 one, shall be filed and served on or before \_\_\_\_\_. A reply shall be filed and served on or before  
25 \_\_\_\_\_.

26 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Plaintiffs shall not be  
27 required to post a bond/ post a bond or cash with the Court in the amount of \_\_\_\_\_ in  
28 accordance with NRC 65(c) as security for the payment of such costs and damages as may be

1 incurred or suffered by any party who is found to have been wrongfully enjoined or restrained in this  
2 action.

3 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that this temporary restraining  
4 order shall remain in effect until the hearing on the motion for preliminary injunction, unless further  
5 extended by order of this Court or stipulation of the parties.

6  
7  
8  
9  
10 Respectfully submitted,

11 **MAIER GUTIERREZ & ASSOCIATES**

12 /s/ Danielle J. Barraza

13 JOSEPH A. GUTIERREZ, ESQ.  
14 Nevada Bar No. 9046  
15 DANIELLE J. BARRAZA, ESQ.  
16 Nevada Bar No. 13822  
17 8816 Spanish Ridge Avenue  
18 Las Vegas, Nevada 89148  
19 *Attorneys for Plaintiffs*  
20  
21  
22  
23  
24  
25  
26  
27  
28



# **EXHIBIT 22**

# **EXHIBIT 22**

1 **DECL**

2 JOSEPH A. GUTIERREZ, ESQ.

3 Nevada Bar No. 9046

4 DANIELLE J. BARRAZA, ESQ.

5 Nevada Bar No. 13822

6 **MAIER GUTIERREZ & ASSOCIATES**

7 8816 Spanish Ridge Avenue

8 Las Vegas, Nevada 89148

9 Telephone: 702.629.7900

10 Facsimile: 702.629.7925

11 E-mail: [jag@mgalaw.com](mailto:jag@mgalaw.com)

12 [djb@mgalaw.com](mailto:djb@mgalaw.com)

13 *Attorneys for Plaintiffs*

14 **DISTRICT COURT**

15 **CLARK COUNTY, NEVADA**

16 SPANISH HEIGHTS ACQUISITION  
17 COMPANY, LLC, a Nevada Limited Liability  
18 Company; SJC VENTURES HOLDING  
19 COMPANY, LLC, d/b/a SJC VENTURES, LLC,  
20 a Delaware Limited Liability Company,

21 Plaintiffs,

22 vs.

23 CBC PARTNERS I, LLC, a foreign Limited  
24 Liability Company; CBC PARTNERS, LLC, a  
25 foreign Limited Liability Company; 5148  
26 SPANISH HEIGHTS, LLC, a Nevada Limited  
27 Liability Company; KENNETH ANTOS AND  
28 SHEILA NEUMANN-ANTOS, as Trustees of  
the Kenneth & Sheila Antos Living Trust and  
the Kenneth M. Antos & Sheila M. Neumann-  
Antos Trust; DACIA, LLC, a foreign Limited  
Liability Company; DOES I through X; and  
ROE CORPORATIONS I through X, inclusive,

Defendants.

**AND RELATED CLAIMS**

Case No.: A-20-813439-C

Dept. No.: 11

**EXHIBIT 22, DECLARATION OF JAY  
BLOOM IN SUPPORT OF PLAINTIFFS'  
RENEWED APPLICATION FOR  
TEMPORARY RESTRAINING ORDER  
AND MOTION FOR PRELIMINARY  
INJUNCTION ON AN ORDER  
SHORTENING TIME**

I, JAY BLOOM, hereby declare as follows:

1. I am over the age of eighteen (18) and I have personal knowledge of all the facts set

1 forth herein. Except otherwise indicated, all facts set forth in this declaration are based upon my own  
2 personal knowledge, my review of the relevant documents, and my opinion of the matters that are the  
3 issues of this lawsuit. If called to do so, I would competently and truthfully testify to all matters set  
4 forth herein, except for those matters stated to be based upon information and belief.

5 2. I am providing this declaration in my capacity as manager of the entity owning the  
6 majority interest in Spanish Heights Acquisition Company, LLC, a plaintiff in this matter.

7 3. I have reviewed the "PLAINTIFFS' RENEWED APPLICATION FOR  
8 TEMPORARY RESTRAINING ORDER AND MOTION FOR PRELIMINARY INJUNCTION ON  
9 AN ORDER SHORTENING TIME" dated December 14, 2020 ("Motion") and the factual assertions  
10 in that Motion are true and accurate to the best of my knowledge.

11 4. Enclosed herein with my Declaration is a true and accurate copy of correspondence  
12 that I received on December 11, 2020 at the mailbox for the Property at issue, claiming that "a  
13 foreclosure sale date has been recorded and scheduled for 01/13/2021 on property located at 5148  
14 SPANISH HEIGHTS DR, LAS VEGAS, NV 89148-1422."

15 5. This correspondence was the first I heard about a foreclosure sale being scheduled.

16 6. I am not aware of a Notice of Sale being recorded with the Property records, nor have  
17 I received correspondence from Defendants' counsel regarding a foreclosure sale, nor has a Notice of  
18 Sale been posted on the Property.

19 7. However, given that I received correspondence in the mail indicating a foreclosure sale  
20 date has been set for January 13, 2021, I believe I have no choice but to move forward with seeking  
21 relief from the Court.

22 I declare under penalty of perjury under the laws of the United States of America that the  
23 foregoing is true and correct to the best of knowledge, information and belief.

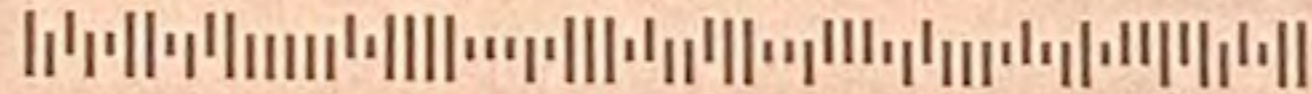
24 DATED this 14th day of December, 2020.

25  
26   
27 JAY BLOOM  
28



SE HABLA ESPAÑOL

SPANISH HEIGHTS ACQUISITIONS COM  
5148 SPANISH HEIGHTS DR  
LAS VEGAS, NV 89148-1422



RE: 5148 SPANISH HEIGHTS LLC  
Free Re-Evaluation of  
Original Loan: \$3,250,000.00

File#: P24666D8

Re-Negotiation Assistance

Dear SPANISH HEIGHTS ACQUISITIONS COM,

**Urgent!** According to records obtained through the county, a **foreclosure sale date** has been recorded and **scheduled for 01/13/2021** on property located at 5148 SPANISH HEIGHTS DR, LAS VEGAS, NV 89148-1422. APN #163-29-615-007. Your first mortgage, originally funded by 5148 SPANISH HEIGHTS LLC, may be eligible to be **RESTRUCTURED** as a result of new government programs effective to a 5, 10, or a 30 year fixed rate mortgage with a payment of only **\$12,012.63** per month **even if you were denied a loan modification, your home recently sold or have a foreclosure sale date.**

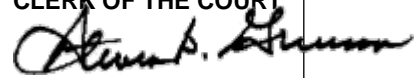
This offer to assist you with your current home loan may include a **Reduction in your monthly rate, payments and principal balance owed by up to 20%-50%.** We may also be able to prevent your home from going to foreclosure auction and postpone a sale date. With our current strategy, we push banks to re-negotiate the terms of your home loan, reduce the balance owed, stop foreclosure auctions, and in some cases help you reacquire your home at current market value. No appraisal, no equity, and no credit verification are required. **Late Payments, Notices Of Default, And Foreclosure Sale Dates Are Okay.** This will be our final attempt to contact you.

**Example of how we can help you:**

OLD RATE	OLD PAYMENT	
8.5%	\$24,989.69	
NEW RATE	NEW PAYMENT	MONTHLY SAVINGS
2%	\$12,012.63	\$12,977.06

If you are facing a financial hardship or in danger of losing your home to foreclosure,  
**CALL IMMEDIATELY TO HELP WITH POSTPONING ANY  
AND ALL SCHEDULED FORECLOSURE SALES IN  
RELATION TO THE SUBJECT PROPERTY AT 1-800-343-9167**  
**Our business hours are Monday – Friday 8AM to 8 PM.  
Saturday 8AM to 4PM**





Michael R. Mushkin, Esq.  
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L. Joe Coppedge, Esq.  
Nevada Bar No. 4954  
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jcoppedge@mccnvlaw.com

*Attorneys for Defendant and  
Counterclaimants*

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

SPANISH HEIGHTS ACQUISITION  
COMPANY, LLC, a Nevada Limited Liability  
Company; SJC VENTURES HOLDING  
COMPANY, LLC, d/b/a SJC VENTURES,  
LLC, a Delaware Limited Liability Company,

Plaintiffs,

v.

CBC PARTNERS I, LLC, a foreign Limited  
Liability Company; CBC PARTNERS, LLC, a  
foreign Limited Liability Company; 5148  
SPANISH HEIGHTS, LLC, a Nevada Limited  
Liability Company; KENNETH ANTOS AND  
SHEILA NEUMANN-ANTOS, as Trustees of  
the Kenneth & Sheila Antos Living Trust and  
the Kenneth M. Antos & Sheila M. Neumann-  
Antos Trust; DACIA, LLC, a foreign Limited  
Liability Company; DOES I through X; and  
ROE CORPORATIONS I through X,  
inclusive,

Defendants.

Case No. A-20-813439-B

Dept. No.: 11

Hearing Date: January 4, 2021

Hearing Time: 9:00 am

**DEFENDANTS/COUNTERCLAIMANTS'  
OPPOSITION TO PLAINTIFFS'  
RENEWED APPLICATION FOR  
TEMPORARY RESTRAINING ORDER  
AND MOTION FOR PRELIMINARY  
INJUNCTION ON AN ORDER  
SHORTENING TIME**

CAPTION CONTINUES BELOW

1 5148 SPANISH HEIGHTS, LLC, a Nevada  
2 limited liability company; and CBC  
3 PARTNERS I, LLC, a Washington limited  
4 liability company,  
5 Counterclaimants,  
6 v.  
7 SPANISH HEIGHTS ACQUISITION  
8 COMPANY, LLC, a Nevada Limited Liability  
9 Company; SJC VENTURES, LLC, a Delaware  
10 limited liability company; SJC VENTURES  
11 HOLDING COMPANY, LLC, a Delaware  
12 limited liability company; JAY BLOOM,  
individually and as Manager, DOE  
DEFENDANTS 1-10; and ROE  
DEFENDANTS 11-20,  
Counterdefendants.

13 **DEFENDANTS/COUNTERCLAIMANTS' OPPOSITION TO PLAINTIFFS' RENEWED**  
14 **APPLICATION FOR TEMPORARY RESTRAINING ORDER AND MOTION FOR**  
15 **PRELIMINARY INJUNCTION ON AN ORDER SHORTENING TIME**

16 Defendants/Counterclaimants, by and through their attorney, Michael R. Mushkin, of the  
17 law firm of Mushkin & Coppedge, hereby submit their Opposition to Plaintiffs' Renewed  
18 Application for Temporary Restraining Order and Motion for Preliminary Injunction on an  
19 Order Shortening Time.

20 This Opposition is made and based upon the following Memorandum of Points and  
21 Authorities, the papers, pleadings, and records on file herein, and any and all arguments that  
22 may be allowed at the time of hearing of this motion.

23  
24 **POINTS AND AUTHORITIES**

25 **I. Introduction**

26 This action involves a Secured Commercial Promissory Note, that through several  
27 modifications and forbearances (the "Documents"), is now fully matured and secured by real  
28 property located at 5148 Spanish Heights Drive, Las Vegas, Nevada 89148 (the "Property").

1 Plaintiffs are attempting to evade payment of a fully matured debt by misrepresenting the  
2 contents of the Documents and are advocating an interpretation of the Documents that is  
3 entirely contrary to law. Moreover, throughout his deposition, Mr. Bloom on behalf of the  
4 Plaintiffs, continually stated that the documents speak for themselves and specifically stated that  
5 Plaintiffs were not arguing the authenticity of the documents, See Exhibit GG Deposition of Jay  
6 Bloom Vol. 1 (“Bloom Deposition Vol. 1”) at 97:2-14 and Exhibit HH Deposition of Jay Bloom  
7 Vol. 2 (“Bloom Deposition Vol. 2”) at 260:6-8. Plaintiff’s counsel also authenticated the  
8 Documents during Mr. Antos deposition. See Exhibit NN, Deposition Transcript of Kenneth  
9 Antos at 73:2-80:12

10 Plaintiffs’ mischaracterization of the Documents and Testimony represent a  
11 disingenuous attempt to avoid their contractual obligations under the Documents. Plaintiffs have  
12 always been aware of the events and Documents leading to the Property becoming security for  
13 the Secured Promissory Note. As the history of the Documents is disclosed on Page 1 of the  
14 Forbearance Agreement, the first document in a detailed transaction; including the Secured  
15 Promissory Note, Pledge Agreement, and Security Agreement all as additional collateral  
16 securing this Promissory Note. Plaintiffs Motion is an in attempt to avoid their contractual  
17 obligations under the Documents.

18 Plaintiffs suggest that the Court simply ignore applicable law and the plain language of  
19 the Documents, by posing theories without factual or legal support, including the Doctrine of  
20 Merger and the One Action Rule. These arguments are demonstrative of either a fundamental  
21 misunderstanding of basic legal concepts and real property law, or a transparent attempt to  
22 confuse and mislead the Court with semantics. In either case, Plaintiffs arguments lack merit.

23 Plaintiffs completely ignore their contractual obligations to the Antos Parties. Plaintiffs  
24 seek only the benefits of the contract Documents without the burden. Plaintiffs have paid  
25 nothing to CBC Partners I, LLC, or its successor 5148 Spanish Heights, LLC, since March of  
26 2020. Plaintiffs have paid nothing towards the obligations to the Antos parties, ever.

27 Additionally, Plaintiffs’ claims that the Notice of Default and Notice to Breach are  
28 defective and improper by citing NRS 107.500. It is important to note that NRS 107.400 – NRS

1 107.560 is only required of **Owner-Occupied** housing; clearly not the case here.

## 3 **II. Facts and Procedural History**

4 1. This action involves real property located in Clark County, Nevada commonly  
5 known as 5148 Spanish Heights Drive, Las Vegas, Nevada 89148 (the “Property”).

6 2. On or about October 14, 2010 Kenneth M. Antos and Sheila M. Neumann-Antos  
7 transferred to Kenneth M. Antos and Sheila M. Neumann-Antos, Trustees of the Kenneth and  
8 Shelia Antos Living Trust dated April 26, 2007 (“Antos”) real property located in Clark County,  
9 Nevada commonly known as 5148 Spanish Heights Drive, Las Vegas, Nevada 89148 (the  
10 “Property”). See Exhibit A, Grant, Bargain, Sale Deed.

11 3. On or about June 22, 2012, Antos with nonparties KCI Investments, LLC a  
12 Nevada limited liability company (“KCI”) entered into a Secured Promissory Note with CBC  
13 Partners I, LLC, a Washington limited liability company (“CBCI”). See Exhibit B, Secured  
14 Promissory Note.

15 4. The June 22, 2012, Secured Promissory Note (the “Note”) was modified and  
16 amended several times. See Exhibit C, First Second, Third, Fifth, Sixth, and Eighth  
17 Modifications to Secured Promissory Note.

18 5. On November 13, 2013, a Fourth Modification to Secured Promissory Note  
19 (“Fourth Modification”) was entered into. See Exhibit D.

20 6. Paragraph 4 of the Fourth Modification Amended Paragraph 6.12 of the Secured  
21 Promissory Note as follows:

22 6.12 Antos Debt. Permit guarantor Kenneth M. Antos (“Antos”) to incur,  
23 create, assume or permit to exist any debt secured by the real property  
24 located at 5148 Spanish Heights Drive, Las Vegas, Nevada 89148

25 Exhibit D, specifically Bates No 5148SH 00293

26 7. Along with the Fourth Modification, Antos provided a Security Agreement with  
27 Respect to Interest in Settlement Agreement and Mutual Release. Exhibit E. This Security  
28 Agreement not only granted a security interest in a Settlement Agreement but also set out



1 Representations, Warranties and Covenants of Antos:

2 3.3 Sale, Encumbrance or Disposition. Without the prior written consent  
3 of the Secured Party, Antos will not (a) allow the sale or encumbrance of  
4 any portion of the Collateral and (b) incur, create, assume or permit to  
5 exist any debt secured by the real property located at 5148 Spanish  
Heights Drive, Las Vegas, NV 89148, other than the first and second  
position deeds of trust or mortgages...

6 Exhibit E, specifically Bates No 5148SH 000287.

7 8. KCI was ultimately acquired by Preferred Restaurant Brands, Inc. fka Dixie  
8 Foods International, Inc. ("Dixie") and the Secured Promissory Note was assumed by Dixie,  
9 with the Antos' continuing to guaranty the obligation.

10 9. On or about October 31, 2014, a Seventh Modification to Secured Promissory  
11 Note and Waiver of Defaults ("Seventh Modification") was entered into. See Exhibit F, Seventh  
12 Modification.

13 10. In addition, Paragraph 18(f) of the Seventh Modification set out a condition  
14 precedent

15 Execution and delivery by Kenneth M. Antos and Sheila M. Neumann-  
16 Antos, as Trustees of the Kenneth and Sheila Antos Living Trust dated  
17 April 26, 2007 and any amendment thereto (the "Antos Trust") to Lender  
18 of a Deed of Trust on the real property located at 5148 Spanish Heights  
Drive, Las Vegas, Nevada 89148 (the "Real Property"), in form and  
substance satisfactory to Lender in its sole discretion.

19 Exhibit F, specifically Bates No 5148SH 000328, emphasis in original.

20 11. On or about December 17, 2014, Antos delivered to CBCI a Certificate of Trust  
21 Existence and Authority. The Certificate of Trust Existence and Authority provides:

22 Kenneth M. Antos and Sheila M. Neumann-Antos, as trustees (each, a  
23 "Trustee") acting on behalf of the Trust, are each authorized and  
24 empowered in the name of the Trust without the approval or consent of the  
other Trustee, the beneficiaries, or any other person:

25 To execute and deliver a Deed of Trust, Assignment of Rents,  
26 Security Agreement and Fixture Filing (the "Deed of Trust"), to  
27 secure (i) obligations owing to Lender by KCI Investments, LLC, a  
28 Nevada limited liability company, and Preferred Restaurant  
Brands, Inc., a Florida corporation (individually and collectively,  
"Borrower"), (ii) that certain Secured Promissory Note dated as of

1 June 22, 2012, in the maximum principal amount of \$3,250,000.00  
2 (the "Note") executed by Borrower in favor of Lender, (iii) that  
3 certain Guaranty dated June 22, 2012, executed by the Grantors as  
4 individuals and not in their capacity as trustees, and (iv) the other  
documents and instruments executed or delivered in connection  
with the foregoing.

5 See Exhibit G. The Certificate of Trust Existence and Authority further provides,

6 **The Deed of Trust and Lender's provision of credit under the terms of**  
7 **the Note will directly and indirectly benefit the Trust and its**  
8 **beneficiaries.**

9 The Trustees of the Trust have the authority to enter into the transactions  
10 with respect to which this Certificate is being delivered, and such  
transactions will create binding obligations on the assets of the Trust.

11 See Exhibit G, specifically 5148SH 000335 (emphasis added).

12 12. On or about December 29, 2014, a Deed of Trust, Assignment of Rents, Security  
13 Agreement and Fixture Filing ("Deed of Trust") was recorded against the Property in the Clark  
14 County Recorder's Office as Instrument No. 201412290002856, for the purpose of securing the  
15 Note. See Exhibit H.

16 13. This Deed of Trust is subordinate to two (2) additional Deeds of Trust recorded  
17 against the Property. The First Mortgage to City National is in the principal amount of  
18 approximately \$3,240,000.00 with monthly payment of \$19,181.07. The Second Mortgage to  
19 Northern Trust Bank is in the principal amount of approximately \$599,000.00 with monthly  
20 payments of \$3,034.00.

21 14. On or about April 30, 2015, a Ninth Modification to Secured Promissory Note  
22 and Waiver of Defaults (Ninth Modification) was entered into. Paragraph 14(c) of the Ninth  
23 Modification set out a condition precedent of

24 Execution by the Trustees of the Kenneth and Sheila Antos Living Trust  
25 dated April 26, 2007, and any amendments thereto, and delivery to Lender  
26 of the Correction to Deed of Trust Assignment of Rents, Security  
27 Agreement and Fixture Filing, in form and substance satisfactory to  
Lender.

28 See Exhibit I at page 5148SH 000696.

1           15.     On July 22, 2015, a Correction to Deed of Trust, Assignment of Rent, Security  
2 Agreement and Fixture Filing was recorded in the Clark County Recorder's Office Instrument  
3 No 201507220001146.

4           16.     On or about December 2, 2016, CBCI sold a portion of the monetary obligations  
5 of Secured Promissory Note, in the amount of \$15,000.00, to Southridge Partners II, LP. See  
6 Exhibit J Debt Purchase Agreement.

7           17.     On or about December 2, 2016, CBCI and KCI entered into a Forbearance  
8 Agreement. See Exhibit K.

9           18.     As part of this Forbearance Agreement, the Antos Trust executed a Consent,  
10 Reaffirmation, and General Release by the Trust wherein the Antos Trust agreed

11                   to join in and be bound to the terms of the Representations and Warranties  
12                   contained in Sections 4 and 7, and the General Release contained in  
13                   Section 8 of the Agreement applicable **as though the Trust were a**  
14                   **Credit Party**

15           See Exhibit K, specifically Bates No 5148SH 000506, emphasis added.

16           19.     On or about December 2, 2016, a Tenth Modification to Secured Promissory  
17 Note (Tenth Modification) was entered into. Paragraph 6(e) set out a condition precedent

18                   Delivery to Lender of a duly executed First Modification to Deed of Trust,  
19                   Assignment of Rents, Security Agreement and Fixture Filing, by Kenneth  
20                   M. Antos and Sheila M. Neumann-Antos, Trustees of the Kenneth and  
21                   Sheila Antos Living Trust dated April 26, 2007, and any amendments  
22                   thereto, as trustor, related to that certain Deed of Trust, Assignment of  
23                   Rents, Security Agreement and Fixture Filing made December 17, 2014,  
24                   and recorded in the Official Records of Clark County, Nevada on  
25                   December 29, 2014, as instrument number 20141229-0002856;

26           See Exhibit L at 5148SH 000746.

27           20.     On December 19, 2016, the First Modification to Deed of Trust, Assignment of  
28 Rents, Security Agreement and Fixture Filing was recorded in the Clark County Recorder's  
Office as Instrument No. 201612190002739. See Exhibit M.

          21.     On or about July 21, 2017, Jay Bloom proposed to service the CBCI Note in  
exchange for the ownership in the Property. Specifically, Mr. Bloom states:

1 My thought is that this proposal gets the 3rd lender:

- 2 • a full recovery of its Note balance plus all protective advances past and future,
- 3 • interim cash flow and
- 4 • provides interim additional full collateral where, given the current value of the property, the 3rd position lender is currently unsecured.

5 As to the Seller, he:

- 6 • gets out from under a potential deficiency judgment from the 3rd position lender and
- 7 • unburdens himself from any additional assets that may have been pledged.

8 See Exhibit N.

9 22. On or about September 27, 2017, Antos, Plaintiff Spanish Heights Acquisition  
10 Company, LLC (“SHAC”) and Defendant SJC Ventures, LLC (“SJC”) entered into a  
11 Forbearance Agreement of the Note, acknowledging default and affirming CBCI has fully  
12 performed. See Exhibit O.

13 23. As part of the Forbearance Agreement Antos conveyed the Property to SHAC  
14 (Exhibit O page 5148SH 000002) and SHAC leased the property to SJC (Exhibit O page  
15 5148SH 000003).

16 24. Pursuant to the terms of the Forbearance Agreement SHAC was to make certain  
17 payments to CBCI and other parties. In addition, a balloon payment of the total amount owing  
18 was due on August 31, 2019.

19 25. Pursuant to the Forbearance Agreement, SJC affirmed all obligations due to  
20 CBCI under the Amended Note and Modified Deed of Trust. See Exhibit O, page 5148SH  
21 000005 paragraph 2.

22 26. Pursuant to the Forbearance Agreement, “CBCI is free to exercise all of its rights  
23 and remedies under the Amended Note and Modified Deed of Trust...” See Exhibit O, page  
24 5148SH 000007 paragraph 4.5. (emphasis added).

25 27. Pursuant to the Forbearance Agreement, The rights and remedies are cumulative  
26 and not exclusive, and may be pursued at any time. See Exhibit O, page 5148SH 000023  
27 paragraph 25.

28 28. As part of the Forbearance Agreement there were certain requirements of SHAC  
attached as Exhibit B to the Forbearance Agreement, (Exhibit O pages 5148SH 000079-5148SH

1 000088). Among the certain requirements was the understanding that the First Lien holder  
2 would pay the real property taxes, that CBCI would pay the 1st and 2nd Mortgage payments to  
3 prevent default, that SHAC would make certain repairs and improvements to the Property in  
4 approximately the amount of \$100,000.00, SHAC would maintain the Property, and SHAC  
5 would pay for a customary homeowner's insurance policy and all Homeowner's Association  
6 dues (Exhibit O pages 5148SH 000082-5148SH 000083).

7 29. In addition to the certain requirements of the Forbearance Agreement there was  
8 Additional Security to be provided by SHAC, SJCVC, and Other Parties. See Exhibit O pages  
9 5148SH 000084-5148SH 000085, Paragraph 6

10 30. Among the additional security was a Pledge Agreement, pledging 100% of the  
11 membership interest in SHAC. See Pledge Agreement Exhibit O pages 5148SH 000089-  
12 5148SH 000097.

13 31. Pursuant to the Pledge Agreement, "Secured Party shall have the right, at any  
14 time in Secured Party's discretion after a Non-Monetary Event of Default ... to transfer to or to  
15 register in the name of Secured Party or any of Secured Party's nominees any or all of the  
16 Pledged Collateral." See Exhibit O, 5148SH 000090 paragraph 3.

17 32. Pursuant to the Pledge Agreement, upon an event of default, Pledgors (SJCVC and  
18 Antos) appointed the Secured Party (CBCI) as Pledgors' attorney-in-fact to execute any  
19 instrument which Secured Party may deem necessary or advisable to accomplish the purposes  
20 of the Pledge Agreement. See Exhibit O, 5148SH 000091 paragraph 9.

21 33. Among the additional required security was a Security Agreement wherein SJCVC  
22 agreed to grant CBCI a Security Interest in a Judgment described as:

23 SJCVC represents that First 100, LLC and 1st One Hundred Holdings,  
24 LLC, obtained a Judgment in the amount of \$2,221,039,718.46 against  
25 Raymond Ngan and other Defendants in the matter styled *First 100, LLC,*  
26 *Plaintiff(s) vs. Raymond Ngan, Defendant(s)*, Case No, A-17-753459-C in  
27 the 8th Judicial District Court for Clark County, Nevada (the "Judgment"),  
28 SJCVC represents It holds a 24,912% Membership Interest in 1st One  
Hundred Holdings, LLC. SJCVC represents and warrant that no party, other  
than the Collection Professionals engaged to collect the Judgment, have a  
priority to receive net Judgment proceeds attributable to SJCVC before

1 SJCVC; and that SJCVC shall receive Its interest at a minimum in pari passu  
2 with other parties who hold interests in the Judgment, 1st One Hundred  
3 Holdings, LLC represents and warrant that no party, other. than the  
4 Collection Professionals engaged to collect the Judgment and certain other  
5 creditors of 1st One Hundred Holdings, have a priority to receive net  
Judgment proceeds prior to distributions to 1” One Hundred Holdings  
Members; and that SJCVC shall receive Its interest at a minimum in pari  
passu with other parties who hold interests in the Judgment.

6 See Security Agreement Exhibit O pages 5148SH 000101-5148SH 000107.

7 34. In addition to the other consideration in the Forbearance Agreement, the Antos  
8 Trust signed a Personal Guaranty Agreement, guaranteeing to CBCI the full and punctual  
9 performance of all the obligations described in the Forbearance Agreement. See Exhibit O  
10 5148SH 000119-5148SH 000121.

11 35. On or about December 1, 2019, CBCI, SHAC and SJCVC entered into an  
12 Amendment to Forbearance Agreement, extending the date of the balloon payment to March 31,  
13 2020. See Exhibit P.

14 36. Pursuant to the Amendment to Forbearance Agreement and Related Agreements,  
15 dated December 1, 2019, (Amendment to Forbearance Agreement) SJCVC continues to  
16 acknowledge that they continue to pledge their stock in SHAC in as collateral for the  
17 Forbearance Agreement. See Exhibit P, page 5148SH 000159 paragraph 19.

18 37. Pursuant to the Amendment to Forbearance Agreement, the Security Agreement  
19 “shall remain in effect and the execution of this Amendment shall not be considered a waiver of  
20 CBCI’s rights under the Security Agreement...” See Exhibit P page 5148SH 000156 paragraph  
21 12.

22 38. Pursuant to the Amendment to Forbearance Agreement, any amendment must be  
23 in writing. See Exhibit P, page 5148SH 000161 paragraph 3.

24 39. On or about February 21, 2020, after receiving an offer of purchase of the  
25 Promissory Note and Deed of Trust, CBCI began reviewing their documents to ensure that all  
26 the obligations of SHAC and SJCVC were delineated to the purchasers of the Note.

27 40. On March 12, 2020, Spanish Hills Community Association recorded a Health  
28 and Safety Lien against the Property. This Lien is for Nuisances and Hazardous Activities. See

1 Exhibit Q.

2 41. On or about March 16, 2020, CBCI mailed a Notice of Non-Monetary Defaults  
3 to SHAC and SJCVC. This Notice of Non-Monetary Default delineated the following defaults:

- 4 1. Evidence of homeowner's insurance coverage Pursuant to Paragraph  
5 1(A)(6) of Amendment to Forbearance Agreement and Related  
6 Agreements;
- 7 2. Evidence of repairs pursuant to Paragraph 3(c)(1) of Exhibit B to  
8 Forbearance Agreement;
- 9 3. Evidence of Bank of America account balance of \$150,000.00 pursuant  
10 to Paragraph 6(c) of Exhibit B to Forbearance Agreement;
- 11 4. Opinion letter from SJC Ventures and 1st One Hundred Holdings  
12 counsel regarding the Judgment and Security Agreement pursuant to  
13 Paragraph 1(A)(12) of Amendment to Forbearance Agreement and  
14 Related Agreements;
- 15 5. Evidence of corporate authority for SJC Ventures and 1st One Hundred  
16 Holdings pursuant to Paragraph 1(A)(13) of Amendment to  
17 Forbearance Agreement and Related Agreements; and
- 18 6. Evidence of SJC Ventures filing of applications for mortgages to  
19 refinance 5148 Spanish Heights Drive, pursuant to paragraph 1(C) of  
20 Amendment to Forbearance Agreement and Related Agreements.

21 See Exhibit R.

22 42. On or about March 23, 2020, counsel for CBCI received a letter from counsel for  
23 SHAC and Jay Bloom. This letter ignored the request for the outstanding documents and  
24 defaults, stating there could be no default until March 31, 2020. Exhibit S.

25 43. On March 26, 2020, an inspection was performed on the Property. This  
26 inspection showed that the Property had water damage and required numerous repairs. Exhibit  
27 T.

28 44. As of March 31, 2020, the Note, real property taxes and homeowners'  
association lien had not been paid.

45. On April 1, 2020, a Notice of Default and Demand for Payment was sent to  
SHAC and SJCVC. This letter had a typo on the date of final balloon payment being due on  
March 31, 2021. See Exhibit U. This was corrected and emailed to SHAC's and SJCVC's counsel  
noting that the default date was corrected to March 31, 2020. See Exhibit V and Exhibit X.

46. On April 1, 2020, under separate cover, counsel for CBCI sent a Notice to

1 SHAC, SJCVC, and Antos that CBCI would exercise its rights under the Pledge Agreement by  
2 transferring the pledged collateral to CBCI's nominee CBC Partners, LLC. See Exhibit Y.

3 47. On April 1, 2020, CBC Partners received the Assignment of Company and  
4 Membership Interest of SHAC from Antos. See Exhibit Z.

5 48. On April 3, 2020, a Notice to Vacate was sent to SJCVC, this letter clearly  
6 indicated that an accommodation would be made under these difficult times. See Exhibit AA.

7 49. On April 6, 2020, CBCI sold the Promissory Note and Amendments to 5148  
8 Spanish Heights. See Exhibit BB. Note Purchase and Sale Agreement, Allonge, and Assignment  
9 and Assumption Agreement.

10 50. As the Court is aware Plaintiffs' filed a Motion for Preliminary Injunction and an  
11 Evidentiary Hearing was held on May 14, 2020, wherein the Court granted a Preliminary  
12 Injunction on a limited basis that remained in effect until after expiration of the Governor's  
13 Emergency Directive 008. See Exhibit CC Order Granting Plaintiffs' Motion for Preliminary  
14 Injunction on a Limited Basis filed May 29, 2020.

15 51. During the May 14, 2020 Evidentiary Hearing, Jay Bloom, manager of SJCVC  
16 which is manager of SHAC, admits that CBCI is a commercial lender that has a secured third  
17 position lien holder on the Property. See May 14, 2020, Evidentiary Hearing Transcript 29:22-  
18 25, filed May 28, 2020, attached hereto as Exhibit DD.

19 52. During the May 14, 2020 Evidentiary Hearing, Mr. Bloom additionally testified  
20 that he could not remember who his attorney was for the preparation of the Forbearance  
21 Agreements. Exhibit DD Evidentiary Hearing Transcript at 72:18-19 and 114:18-115:3

22 53. The Forbearance Agreement and related documents were undisputed and  
23 admitted into evidence at the May 14, 2020, Evidentiary Hearing. See May 14, 2020,  
24 Evidentiary Hearing Transcript 20:14-25, filed May 28, 2020, attached hereto as Exhibit DD.

25 54. On May 28, 2020, the Assignment of Interest in Deed of Trust was recorded in  
26 the Clark County Recorder's Office Instrument No 202005280002508. See Exhibit EE.

27 55. On September 15, 2020, Notice of Breach and Election to Sell Under Deed of  
28 Trust was recorded in the Clark County Recorder's Office Instrument No 202009150001405.



1 See Exhibit FF.

2 56. On November 4 and 5, 2020, Jay Bloom was deposed as the representative of  
3 Plaintiffs. During Mr. Blooms testimony, he specifically stated that they were not arguing  
4 authenticity of the documents. Deposition of Jay Bloom Vol 1. at 67:2-14 and Vol. 2 at 260:6-8  
5 Exhibits GG and HH.

6 57. In addition, throughout Mr. Blooms testimony, he specifically states that the  
7 “Documents speak for themselves.” See Exhibit GG Bloom Deposition Vol. 1 at 10:9, 40:23,  
8 58:4, 83:18, 83:22-23, 86:22-23, 88:24-25, 94:16-17, 99:6-7, 101:8-9, 101:18-19, 102:24-25,  
9 103:16-17 and Exhibit HH Bloom Deposition Vol. 2 at 181:20-21, 182:1-3, 182:13-16, 247:20-  
10 22, 294:7-8, 325:20-21, 332:23-24.

11 58. Additionally, Mr. Bloom testified that he is the only authority for his legal  
12 theories. See Exhibit HH Bloom Deposition Vol 2 at 272:18-22, 290:1-291:1, 297:6-19, 301:3-  
13 10.

14 59. On December 15, 2020, Notice of Trustee’s Sale was recorded in the Clark  
15 County Recorder’s Office Instrument No 20201215-0000746, See Exhibit II. The Sale is  
16 currently set for January 5, 2021.

17 60. The balance due is approximately \$5,578,459.15 (\$2,935,001.14 for principal,  
18 pre-forbearance and post-forbearance protection payments of \$1,326,744.55, interest and late  
19 charges of \$1,315,105.24 and interest accrued at the rate of 20% in the amount of \$1,608.22 per  
20 day from April 1, 2020).

### 21 22 **III. Summary of Argument**

23 Once again Plaintiffs’ misstate the documents and testimony put before this Court. The  
24 Plaintiffs have not shown this Court facts or law to meet their burden. The Plaintiffs have not  
25 demonstrated irreparable harm and cannot show the likelihood of success on the merits.

26 Plaintiffs come before this Court with unclean hands. Plaintiffs have exhausted not one  
27 but two forbearance periods. Plaintiffs have failed to perform numerous obligations contracted  
28 for and Plaintiffs have intentionally omitted critical parts of the facts and authority they rely

1 upon. The simple truth in this case is Plaintiff has failed to perform and as a result, the  
2 Promissory Note and Deed of Trust are fully due and payable. Plaintiffs new defense is that the  
3 Deed of Trust lacked consideration, that Plaintiffs was somehow tricked into this transaction.

4 Mr. Antos sold collateral that was security for the Note in 2014 and replaced the  
5 collateral sold with a Deed of Trust on the Property. See Declaration of Kenneth Antos and  
6 Alan Hallberg in Support of this Opposition filed contemporaneously herein. Also see Exhibit  
7 JJ, Deposition Transcript of Alan Hallberg, NRCF 30(b)(6) witness for CBCI at 22:21-23:13.  
8 Plaintiffs have provided no material facts and no law to support their burden of showing a  
9 likelihood of success on the merits.

#### 10 11 **IV. Argument**

##### 12 **A. Legal Standard**

13 The legal standard for granting injunctive relief is well established in Nevada. NRS  
14 33.010 provides:

15 Cases in which injunction may be granted. An injunction may be  
16 granted in the following cases:

17 1. When it shall appear by the complaint that the plaintiff is  
18 entitled to the relief demanded, and such relief or any part thereof  
19 consists in restraining the commission or continuance of the act  
20 complained of, either for a limited period or perpetually.

21 2. When it shall appear by the complaint or affidavit that the  
22 commission or continuance of some act, during the litigation,  
23 would produce great or irreparable injury to the plaintiff.

24 3. When it shall appear, during the litigation, that the  
25 defendant is doing or threatens, or is about to do, or is procuring or  
26 suffering to be done, some act in violation of the plaintiff's rights  
27 respecting the subject of the action, and tending to render the  
28 judgment ineffectual.

26 Interpreting NRS 33.010, the legislative authority for injunctive relief, the Nevada  
27 Supreme Court has held that "[a] preliminary injunction is available if an applicant can show a  
28 likelihood of success on the merits and a reasonable probability that the non-moving party's

1 conduct, if allowed to continue, will cause irreparable harm for which compensatory damage is  
2 an inadequate remedy.” *Dangberg Holdings Nevada, LLC v. Douglas County*, 115 Nev. 129,  
3 142, 978 P.2d 311, 319 (1999) (affirming order granting a preliminary injunction).

4 Plaintiffs have wholly failed to satisfy the pre-requisites for injunctive relief. Plaintiffs  
5 Motion is wrought with misleading information. Plaintiffs must show specific facts in an  
6 affidavit or verified complaint that show immediate and irreparable injury, loss, or damage.  
7 Plaintiffs have failed in this threshold requirement.

8 **B. Plaintiffs cannot prevail on their claims for relief.**

9 In order to obtain injunctive relief, Plaintiffs must show a likelihood of success on the  
10 merits. *Id.* As set forth below, Plaintiffs have absolutely no chance of prevailing in this matter.

11 It is clear by the documents that a Promissory Note secured by the Property exists.  
12 “Where a document is clear and unambiguous on its face, the court must construe it from the  
13 language therein.” *Southern Trust Mortgage Co., v. K & B Door Co., Inc.*, 104 Nev. 564, 568,  
14 763 P. 2d 353, 355 (1988). A court has no power to create a new contract or new duties for the  
15 parties, which they have not created or intended themselves. *Old Aztec Mine, Inc. v. Brown*, 97  
16 Nev. 49, 52, 623 P.2d, 901, 983 (1981).

17 Indeed, it is well settled in Nevada that “[p]arties are free to contract, and the courts will  
18 enforce their contracts if they are not unconscionable, illegal, or in violation of public policy.”  
19 *Rivero v. Rivoero*, 125 Nev. 410, 429, 216 P.3d 213, 226-227 (2009) (citing *NAD, Inc. v. Dist*  
20 *Ct.*, 115 Nev. 71, 77, 976 P.2d 994, 997 (1999) (explaining that “parties are free to contract in  
21 any lawful matter”)). In fact, the Supreme Court of Nevada has specifically held:

22  
23 It is not a proper function of the court to re-write or distort a  
24 contract under the guise of judicial construction. **The law will not**  
25 **make a better contract for the parties than they themselves**  
26 **have seen fit to enter into, or alter it for the benefit of one**  
**party and to the detriment of the other. The judicial function**  
**of a court of law is to enforce the contract as it is written.**

27 *Pioneer Title Ins. & Trust Co. v. Cantrell*, 71 Nev. 243, 245-246, 286 P.2d 261, 263 (1955)  
28 (internal citations omitted) (emphasis added).

1 As shown by the attached Exhibits it is clear that as a condition precedent to the Fourth,  
2 Seventh, Ninth, and Tenth Modifications to the Secured Promissory Note, that a Deed of Trust  
3 encumbering the Property was required. Plaintiffs have waived any defects, acknowledged the  
4 encumbrance and agreed to pay **twice**. First, in the Forbearance Agreement (See Exhibit O,  
5 page 5148SH 000005) and Second, in the Amended Forbearance Agreement (See Exhibit P,  
6 page 5148SH 000155).

7 In addition, Plaintiffs have agreed in the Forbearance Agreements to pay the amounts in  
8 question by separate promise to the Antos parties; see Exhibit O and Exhibit P. In truth and fact  
9 SJCV owes the money to the Antos parties as consideration for their interest in SHAC. Exhibit  
10 KK, Limited Liability Company Agreement of Spanish Heights Acquisition Company, LLC,  
11 (the “Operating Agreement”) specifically 5148SH 000546-5148SH 000547.

12 The Forbearance Agreements clearly set forth the underlying Secured Promissory Note.  
13 Mr. Bloom, during his deposition, set forth the new defense to payment of the Note; he was  
14 tricked into this deal, the Trust doesn’t owe the money. See Exhibit HH Bloom Deposition Vol.  
15 2 at 266:5-267:1. To add to the absurdity of his testimony, Mr. Bloom goes on to say that he is  
16 the authority for this defense having learned about real estate law from his work experience. See  
17 Exhibit HH Bloom Deposition Vol. 2 at 272:18-22, 290:11-291:1, 297:6-19, 301:3-10.

18 Defendants/Counterclaimants have provided this Court with authenticated Documents  
19 and Declarations of the parties present at the time the documents were created. Plaintiffs do not  
20 dispute the amount of the debt; they challenge the entirety of the obligation. CBCI, through Mr.  
21 Hallberg, the holder and Mr. & Mrs. Antos, both individually and as Trustees of their revocable  
22 living trust as makers confirm the original debt and the substitution of collateral. The Plaintiffs  
23 have twice ratified this obligation and all amounts are due; the obligations to the Antos parties  
24 remain unfulfilled.

### 25 **1. The Deed of Trust is Valid**

26 The initial Secured Promissory Note was modified several times. Throughout the  
27 modifications, the collateral was changed with the Property ultimately becoming the collateral  
28 for the Secured Promissory Note. It is important to note that Mr. Antos has never denied that the

1 Property was used as security in exchange for release of other collateral from CBC Partners I,  
2 LLC. *See Declaration of Ken Antos*. In fact, Mr. and Mrs. Antos agree with CBC Partners I,  
3 LLC, CBC Partners, LLC, and 5148 Spanish Heights, LLC, that Plaintiffs have failed to  
4 perform and have no meritorious defense. See Deposition of Sheila Antos, Exhibit LL 11:8-15.

5 [s]o that we could facilitate the possibility that Mr. Bloom had been sitting  
6 on this house. It was supposed to be done in two years. He was supposed  
7 to -- he was so wonderful and told us all about his billion-dollar judgment  
8 he got against someone, and he was going to purchase our home probably  
or end up buying out CBC in two years and working with the other two  
deeds of trust, first and second, to be able to purchase the home.

9 In addition, it is clear from Mr. Antos Deposition that the Antos' understood that CBCI  
10 had a third position valid Deed of Trust.

11 A. I said that they already had a third position on the house which, when  
12 added to the first and second, exceeded the value of the house. So  
13 there was -- to me, there was no negative side here.

14 Deposition of Kenneth Antos Exhibit NN at 34:11-14

15 Q. Okay. Now, the -- what damages is the trust claiming for breach of  
contract?

16 MR. MUSHKIN: To the extent it calls for a legal conclusion, we object.  
You may certainly answer.

17 THE WITNESS: There is a whole list of things that Bloom was supposed  
18 to do that have not been done.

BY MS. BARRAZA:

19 Q. So what -- how is the trust damaged and what damages is the trust  
claiming specifically?

20 MR. MUSHKIN: Same objection.

21 THE WITNESS: I'm sitting on a piece of property that I shouldn't have  
to. He was to close out this deal well over a year ago.

22 Exhibit NN at 38:9-22

23 Q. Okay. Are you familiar that the trust has asserted a claim against SJC  
for alter ego?

24 A. Sounds logical.

25 Q. Okay. So what's your basis for that? What's the trust's basis for that  
claim?

26 A. Just all the kinds of things that Mr. Bloom has perpetrated.

Q. Like what?

27 A. Hasn't paid for and hasn't closed, hasn't provided by the time frames  
28 available to him for the pending of the forbearance. I want this house  
done with.

1 Exhibit NN at 41:15-42:1

2 Q. All right. And I want to touch base -- it looks like, as we discussed,  
3 this original note was from 2012, and then we discussed there's a deed  
4 of trust that was recorded some two years later in 2014. So I'm trying  
to understand, how did we get to the point of CBC having a deed of  
trust and that being recorded two years after the -- the initial note?

5 A. Dollars.

(Court reporter interrupts.)

6 THE WITNESS: The amount of dollars increased to the point they did  
not want to take the risk. So they wanted collateral.

7 Exhibit NN at 66:9-20

8 Q. Okay. So you're saying that there were -- there were numerous  
9 modifications to this loan; correct?

10 A. Correct.

11 Q. Okay. And you're saying that in one of the modifications, it got to the  
point where CBC was demanding to also have a deed of trust on the  
property; is that correct?

12 A. Correct.

13 Exhibit NN at 66:22-67:4

14 Q. Okay. So you would agree that you signed off on this -- on this Deed  
of Trust with CBC in your capacity as the trustee of the trust; correct?

15 A. Correct.

16 Q. Because the trust -- by this time, the trust was the -- the owner of  
record of the property; correct?

17 A. That is correct.

18 Q. Okay. And so, you know, our question is why is the trust basically  
signing off on a deed of trust for whatever -- the underlying note was  
not issued to the trust? That's what we're trying to figure out.

19 MR. MUSHKIN: Objection. Calls for a legal conclusion. Answer if you  
can, please.

20 THE WITNESS: I don't see any problem with it.

21 Exhibit NN at 68:12-69:1

22 As is evident from the testimony above, Mr. Antos believes the money is due. Each time  
23 Plaintiffs' counsel seeks to have Mr. Antos address the legal issue of consideration Defense  
24 counsel objects. Never does Plaintiffs' counsel address the substitution of collateral. Clearly Mr.  
25 Antos did not make the connection between the legal term consideration and the practical  
26 implication of substituting collateral.

27 **2. The Notice of Breach and Election to Sell is not Defective**

28 Plaintiffs completely rely upon NRS 107.500 to mislead the Court that a Notice of

1 Default was required. NRS 107.400 – NRS 107.560 was codified by Senate Bill No. 321 on  
2 March 18, 2013, enacting the “Homeowner’s Bill of Rights;” NRS 107.500 is only required of  
3 **Owner-Occupied** housing. The Property is owned by Spanish Heights Acquisition Company,  
4 LLC and being leased to SJC Ventures, LLC. The Property is not owner occupied. Defendants  
5 mailed the Notice of Default to Plaintiffs as a courtesy. The Promissory Note is fully matured,  
6 and the monies are owed. The Notice of Breach and Election to Sell is not Defective.

7 The initial Notice shows the holder on the Secured Promissory Note and Deed of Trust  
8 as recorded. The Notice of Breach and Election to Sell, recorded September 15, 2020, shows the  
9 assignment of beneficiary, see Exhibit FF. NRS 107.080 sets forth the notice requirements that  
10 were followed by 5148 Spanish Heights, LLC and Nevada Trust Deed Services. Plaintiff has  
11 shown no defect or lack of adequate statutory notice.

### 12 3. The Doctrine of Merger Does Not Apply

13 The Doctrine of Merger offers no protection to Plaintiffs. The doctrine of merger  
14 provides that “[w]henever a greater and a less estate coincide and meet in one and the same  
15 person, without any intermediate estate, the less is immediately merged in the greater, and thus  
16 annihilated.” 31 C.J.S. Estates § 153. Applying the merger doctrine to the mortgage context,  
17 when the mortgagee acquires legal title to the subject property by way of foreclosure, the  
18 mortgage lien merges with the legal title, and the lien is extinguished as a matter of law. *See*  
19 *Citizens State Bank of New Castle v. Countrywide Home Loans, Inc.*, 949 N.E.2d 1195, 1197  
20 (Ind. 2011). When one of the entities acquires both the mortgage lien and the legal title to the  
21 property, the two interests are said to merge. *Id.* Specifically, the mortgage merges with the  
22 legal title, and the mortgage lien is thereby extinguished. *Id.* The key factor in deciding whether  
23 merger has occurred is determining what the parties, **primarily the mortgagee**, intended.  
24 *Deutsche Bank Nat’l Trust Co. v. Mark Dill Plumbing Co.*, 908 N.E.2d 1273, 1274 (Ind. Ct.  
25 App. 2009). (emphasis added). This Court should note that only the lien is extinguished. *Id.*

26 The Nevada Courts have held similarly as the Indiana Courts. In *Aladdin Heating Corp.*  
27 *v. Trustees of Cent. States*, 93 Nev. 257, 563 P.2d 82 (1977). Appellants argued that the  
28 respondents could not foreclose on their deed of trust because that deed had been extinguished

1 by merger when the respondents received the deed of sale. *Id.* at 261, 563 P.2d at 84-5. The  
2 court held that a merger had not occurred for two reasons: (1) the parties did not intend for a  
3 merger to take place, and (2) the interests said to merge were not coextensive and  
4 commensurate. *Id.*, 563 P.2d at 85. Plaintiffs have made no showing of the applications of the  
5 doctrine of merger in the case. Plaintiffs only allege that by taking a membership interest in the  
6 LLC (that is the title holder) that a merger has occurred; an erroneous application.

7 In the instant matter, no interests have merged. As the Court is aware, the Property is  
8 owned by Spanish Heights Acquisition Company, LLC, see Exhibit MM. The original members  
9 of SHAC were the Antos parties and SJCVC, see Exhibit KK, SHAC's Operating Agreement.  
10 After a Notice of default (Exhibit R), CBCI elected to exercise one of its remedies; namely its  
11 rights under the Pledge Agreement and transfer the pledged collateral to CBCI's nominee CBC  
12 Partners, LLC. Just as in the *Aladdin* case, there is no intent to merge and the interests are not  
13 coextensive. *Id.*

14 In addition, the Documents in this case create a separate obligation on behalf of SJCVC to  
15 the Antos parties. The only consideration paid by Plaintiffs SJCVC and Bloom for any interest  
16 they hold in SHAC is the payment of the very debt they seek to enjoin. See Exhibit KK,  
17 Operating Agreement of SHAC.

#### 18 4. The One Action Rule Does Not Apply

19 Once again, the Plaintiffs are attempting to mislead the Court by erroneously stating that  
20 NRS 40.430 applies in this matter. The one-action rule "does not excuse the underlying debt."  
21 *Bonicamp v. Vazquez*, 120 Nev. 377, 382-83, 91 P.3d 584, 587 (2004). Instead, the one-action  
22 rule prohibits a creditor from "first seeking the personal recovery and then attempting, in an  
23 additional suit, to recover against the collateral." *Id.* at 383, 91 P.3d at 587. Thus, when suing a  
24 debtor on a secured debt, a creditor may initially elect to proceed against the debtor or the  
25 security. If the creditor sues the debtor personally on the debt, the debtor may then either assert  
26 the one-action rule, forcing the creditor to proceed against the security first before seeking a  
27 deficiency from the debtor, or decline to assert the one-action rule, accepting a personal  
28 judgment and depriving the creditor of its ability to proceed against the security. NRS



1 40.435(3); *Bonicamp*, 120 Nev. at 383, 91 P.3d at 587 (2004); *Nev. Wholesale Lumber Co.*, 92  
2 Nev. 24 at 30, 544 P.2d 1204 at 1208 (1976); *see also Kever v. Nicholas Beers Co.*, 96 Nev.  
3 509 at 513, 611 P.2d 1079 at 1082 (1980) “The right to waive the security is the debtor’s, not  
4 the creditor’s.”

5 In the instant matter, the “One-Action Rule” was specifically waived by the debtor. The  
6 Deed of Trust ¶6.21(a) states:

7 Trustor and Guarantor each waive all benefits of the one-action  
8 rule under NRS 40.430, which means, without limitation, Trustor  
9 and Guarantor each waive the right to require Lender to (i) proceed  
10 against Borrower, any other guarantor of the Loan, any pledgor of  
11 collateral for any person’s obligations to Lender or any other  
12 person related to the Note and Loan Documents, (ii) proceed  
against or exhaust any other security or collateral Lender may  
hold, or (iii) pursue any other right or remedy for Guarantors’  
benefit.

13 Exhibit H, page 5148SH 000379.

14 Further, the Forbearance Agreement ¶25 gives the benefit of cumulative remedies.

15 The rights and remedies of CBCI under this Forbearance  
16 Agreement and the Amended Note and Modified Deed of Trust are  
17 cumulative and not exclusive of any rights or remedies that CBCI  
18 would otherwise have, and may be pursued at any time and from  
19 time to time and in such order as CBCI shall determine in its sole  
discretion.

20 Exhibit O, page 5148SH 000023.

21 In this case Plaintiffs have failed to plead facts sufficient to support their cause of action.  
22 The mere recitation of a principal of law does not make a claim. The Plaintiffs cannot and have  
23 not established facts or law to support the claim that somehow the One-Action rule bars  
24 recovery under the defaulted Documents. This is a well-documented transaction that Plaintiff  
25 steps into years after it was initiated. There are multiple remedies contracted for and the waiver  
26 is consistent with the obligations of the transaction. Plaintiff seeks to excuse the underlying  
27 debt; precisely what is prohibited by *Bonicamp, Id.*

1           **C.       Plaintiffs have not suffered any harm caused by Defendants**

2           In this matter it is the Defendants/Counterclaimants that are suffering harm. Plaintiffs'  
3       executed the Forbearance Agreement and the Amended Forbearance Agreement and agreed to  
4       be bound by the Documents. The transfer of title to SHAC was consented to only after Plaintiff  
5       negotiated and consented to the promises contained in the Forbearance Agreements. Plaintiffs  
6       accepted the benefit of each agreement and Defendants, or its successors paid over \$1.3 million  
7       in advance payments for the benefit of Plaintiffs. Plaintiffs have created the defaults and failed  
8       to quiet title as required by the Forbearance Agreements and the Operating Agreement of  
9       SHAC. See Exhibit O specifically 5148SH 000085 and Exhibit KK specifically 5148SH  
10      000548.

11          The balance due from Plaintiffs is approximately \$5,578,459.15 (\$2,935,001.14 for  
12      principal, pre-forbearance protection payments of \$1,326,744.55, interest and late charges of  
13      \$1,315,105.24 and interest accrued at the rate of 20% in the amount of \$1,608.22 per day from  
14      April 1, 2020, Exhibit V). Plaintiff has made no attempt to pay any of the debt. Money due does  
15      not constitute irreparable harm. Defendants are harmed by the liens encumbering the property  
16      that Plaintiffs contracted to remove. Defendants are harmed by the HOA lien that encumbers the  
17      Property that Plaintiffs contracted to pay. Plaintiff has not demonstrated irreparable harm  
18      caused by Defendants/Counterclaimants.

19           **D.       Public Policy mandates that Plaintiffs' request for a preliminary injunction**  
20      **be denied.**

21          Plaintiffs' motion fails at every turn. By filing the instant motion, Plaintiffs are  
22      effectively asking this Court to assist in their illegal activities. Plaintiffs have failed to provide  
23      this Court with competent evidence to demonstrate that they are likely to prevail or that they  
24      will suffer irreparable harm should the motion not be granted. Moreover, public policy  
25      mandates that Plaintiffs should pay for their obligations contracted for. Once again Plaintiffs  
26      accept the benefit of the documents without paying for their obligations under the Documents.

27      ///

1           **E.      If the court were somehow inclined to issue a Preliminary injunction, the**  
2 **bond must be substantial.**

3           “NRCP 65(c) provides, in part, that ‘(n)o restraining order or preliminary injunction  
4 shall issue except upon the giving of security by the applicant, . . .’” *Strickland v. Griz Corp.*, 92  
5 Nev. 322, 323, 549 P.2d 1406, 1407 (1976) (citing NRCP 65). Nevada courts have long  
6 considered the potential “inconvenience and loss to the opposing party,” when determining the  
7 proper amount of a bond to secure a preliminary injunction. *Rhodes Mining Co. v. Belleville*  
8 *Placer Mining Co.*, 106 P. 561, 563 (1910). In this case, Plaintiff acknowledge before the  
9 execution of the Forbearance Agreements that there was a deficiency in collateral. See Exhibit  
10 N. To now come before this Court and seek no bond is both violative of NRCP 65(c) and the  
11 case law. Accordingly, Defendants would respectfully request the Court Order a \$5.78 million  
12 to \$8.2 million bond from Plaintiffs.

13  
14       **V.      Conclusion**

15           The Plaintiff has now sought this Injunctive Relief for the third time. The facts have not  
16 changed, and nothing learned through discovery can rescue the Plaintiffs. The debt is now due.  
17 Each claim by the Plaintiff is unsupported by the written agreements. Plaintiffs representative  
18 Mr. Bloom on the one hand wants this honorable Court to rely upon his legal expertise, while on  
19 the other hand he cannot remember who is attorney was. We now know from Mr. Blooms own  
20 writings that Mr. Gutierrez was his counsel throughout the process. We now know through  
21 Blooms own testimony that he simply chooses to ignore his debt not only to CBC Partners I,  
22 LLC/5148 Spanish Heights, LLC, but to the Antos parties as well. We now know that Bloom  
23 and his counsel have been less than candid with this Court.

24           Plaintiffs did not pay the January – March 2020 payments to City National and Northern  
25 Trust as Mr. Bloom testified. Plaintiffs did not timely pay City National and Northern Trust as  
26 required by this Court. Mr. Bloom has misrepresented the ownership of SJC Ventures, LLC.  
27 Mr. Bloom cannot remember the name of his lawyer in an \$8,000,000.00 transaction. Most  
28 telling of all is the deposition of Mr. Bloom, which shows a complete disregard for the truth as

1 well as the deposition process. What is clear is a pattern of false statements, material omissions,  
2 and fraudulent actions perpetrated by Mr. Bloom and the entities he controls.

3 The claims of the Plaintiffs are not proven. The statutory requirements for Injunctive  
4 Relief have not been met by Plaintiffs. The Forbearance Agreement and Amended Forbearance  
5 Agreement are clear and unambiguous, the debt is due. If this Court chooses to entertain the  
6 request for injunction relief a significant bond must be set to protect Defendants.

7 DATED this 24<sup>th</sup> day of December, 2020

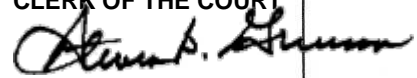
8 MUSHKIN & COPPEDGE

9  
10 /s/Michael R. Mushkin  
11 MICHAEL R. MUSHKIN, ESQ.  
12 Nevada Bar No. 2421  
13 L. JOE COPPEDGE, ESQ.  
14 Nevada Bar No. 4954  
15 6070 South Eastern Ave Ste 270  
16 Las Vegas, NV 89119

17 **CERTIFICATE OF SERVICE**

18 I hereby certify that the foregoing **Defendants/Counterclaimants' Opposition To**  
19 **Plaintiffs' Renewed Application for Temporary Restraining Order and Motion for**  
20 **Preliminary Injunction on an Order Shortening Time** was submitted electronically for filing  
21 and/or service with the Eighth Judicial District Court on this 24<sup>th</sup> day of December, 2020.  
22 Electronic service of the foregoing document shall be upon all parties listed on the Odyssey  
23 eFileNV service contact list:

24  
25 /s/K.L. Foley  
26 An Employee of  
27 MUSHKIN & COPPEDGE  
28



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Counterclaimants*

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

SPANISH HEIGHTS ACQUISITION  
COMPANY, LLC, a Nevada Limited  
Liability Company; SJC VENTURES  
HOLDING COMPANY, LLC, d/b/a SJC  
VENTURES, LLC, a Delaware Limited  
Liability Company,

Plaintiffs,

v.

CBC PARTNERS I, LLC, a foreign Limited  
Liability Company; CBC PARTNERS, LLC,  
a foreign Limited Liability Company; 5148  
SPANISH HEIGHTS, LLC, a Nevada  
Limited Liability Company; KENNETH  
ANTOS AND SHEILA NEUMANN-  
ANTOS, as Trustees of the Kenneth & Sheila  
Antos Living Trust and the Kenneth M. Antos  
& Sheila M. Neumann-Antos Trust; DACIA,  
LLC, a foreign Limited Liability Company;  
DOES I through X; and ROE  
CORPORATIONS I through X, inclusive,

Defendants.

AND RELATED MATTERS

Case No. A-20-813439-B

Dept. No.: 11

Hearing Date: November 9, 2020

Hearing Time: 9:00 am

**DECLARATION OF ALAN HALLBERG  
IN SUPPORT OF  
DEFENDANTS/COUNTERCLAIMANTS'  
OPPOSITION TO PLAINTIFFS'  
RENEWED APPLICATION FOR  
TEMPORARY RESTRAINING ORDER  
AND MOTION FOR PRELIMINARY  
INJUNCTION ON ORDER  
SHORTENING TIME**

1                                   **DECLARATION OF ALAN HALLBERG**

2           ALAN HALLBERG, under penalty of perjury, states as follows:

3           I have personal knowledge of the facts stated herein, except for those facts stated to be  
4 based upon information and belief. If called to do so, I would truthfully and competently testify  
5 to the facts stated herein, except those facts stated to be based upon information and relief.

6           1.       I am the Chief Credit Officer of CBC Partners I, LLC ("CBCI") and the person  
7 responsible for the preparation of the transaction documents at issue in this matter.

8           2.       I have reviewed the Opposition to Plaintiffs' Renewed Motion Application for  
9 Temporary Restraining Order and Motion for Preliminary Injunction and the contents are true  
10 and correct.

11          3.       I was present for Mr. Blooms Court testimony at the May 14, 2020 Evidentiary  
12 Hearing and I have read the transcripts of Mr. Blooms depositions; both are materially incorrect.

13          4.       Spanish Heights Acquisition Company, LLC and SJC Ventures, LLC are in default  
14 of the Forbearance Agreement and the Amended Forbearance Agreement.

15          5.       The transaction documents are accurate and contain no "legacy language" as  
16 testified to by Mr. Bloom.

17          6.       In 2014, Mr. Antos sold part of the security for his guarantee of the Secured  
18 Promissory Note.

19          7.       In 2014, CBCI and the Antos' agreed to replacement collateral of the Deed of  
20 Trust on 5148 Spanish Heights Drive.

21          8.       At the time of my deposition, I explained this to counsel for Plaintiffs.

22       I declare under penalty of perjury that the foregoing is true and correct.

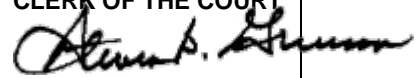
23       DATED this 24<sup>th</sup> day of December, 2020.

24  
25                                     
26                                   ALAN HALLBERG

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/s/Karen L. Foley  
An Employee of  
MUSHKIN & COPPEDGE





Michael R. Mushkin, Esq.  
Nevada Bar No. 2421  
L. Joe Coppedge, Esq.  
Nevada Bar No. 4954  
MUSHKIN & COPPEDGE  
6070 South Eastern Ave Ste 270  
Las Vegas, NV 89119  
Telephone: 702-454-3333  
Facsimile: 702-386-4979  
Michael@mccnvlaw.com  
jcoppedge@mccnvlaw.com  
*Attorneys for Defendant and  
Counterclaimants*

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

SPANISH HEIGHTS ACQUISITION  
COMPANY, LLC, a Nevada Limited  
Liability Company; SJC VENTURES  
HOLDING COMPANY, LLC, d/b/a SJC  
VENTURES, LLC, a Delaware Limited  
Liability Company,

Plaintiffs,

v.

CBC PARTNERS I, LLC, a foreign Limited  
Liability Company; CBC PARTNERS, LLC,  
a foreign Limited Liability Company; 5148  
SPANISH HEIGHTS, LLC, a Nevada  
Limited Liability Company; KENNETH  
ANTOS AND SHEILA NEUMANN-  
ANTOS, as Trustees of the Kenneth & Sheila  
Antos Living Trust and the Kenneth M. Antos  
& Sheila M. Neumann-Antos Trust; DACIA,  
LLC, a foreign Limited Liability Company;  
DOES I through X; and ROE  
CORPORATIONS I through X, inclusive,

Defendants.

AND RELATED MATERSON

Case No. A-20-813439-B

Dept. No.: 11

Hearing Date: January 4, 2021

Hearing Time: 9:00 am

**DECLARATION OF KENNETH M.  
ANTOS IN SUPPORT OF  
DEFENDANTS/COUNTERCLAIMANTS'  
OPPOSITION TO PLAINTIFFS'  
RENEWED APPLICATION FOR  
TEMPORARY RESTRAINING ORDER  
AND MOTION FOR PRELIMINARY  
INJUNCTION ON AN ORDER  
SHORTENING TIME**



1                                   **DECLARATION OF KENNETH M. ANTOS**

2           KENNETH M. ANTOS, under penalty of perjury, states as follows:

3           I have personal knowledge of the facts stated herein, except for those facts stated to be  
4 based upon information and belief. If called to do so, I would truthfully and competently testify  
5 to the facts stated herein, except those facts stated to be based upon information and relief.

6           1.       I am a Trustee and Beneficiary of the Kenneth and Shelia Antos Living Trust dated  
7 April 26, 2007 (“Antos Trust”).

8           2.       I was a managing member of KCI Investments, LLC, a revoked Nevada limited  
9 liability company (“KCI”). KCI was in the business of operating restaurants.

10          3.       On or about April 16, 2007, my wife, Shelia M. Neumann-Antos, and I purchased  
11 real property located in Clark County, Nevada commonly known as 5148 Spanish Heights Drive,  
12 Las Vegas, Nevada 89148 (the “Property”).

13          4.       On or about October 14, 2010 my wife and I transferred title to the Property to the  
14 Antos Trust. See Exhibit A of the Appendix of Exhibits to Defendants/Counterclaimants’  
15 Opposition to Plaintiffs’ Renewed Application for Temporary Restraining Order and Motion for  
16 Preliminary Injunction (“Appendix”)

17          5.       On or about June 22, 2012, KCI entered into a Secured Promissory Note with CBC  
18 Partners I, LLC, a Washington limited liability company (“CBCI”). As Managing Member of  
19 KCI, I signed this Promissory Note. See Exhibit B to Appendix, Secured Promissory Note.

20          6.       The June 22, 2012, Secured Promissory Note (the “Note”) was modified and  
21 amended several times. See Exhibit C to Appendix, First Second, Third, Fifth, Sixth, and Eighth  
22 Modifications to Secured Promissory Note.

23          7.       On November 13, 2013, a Fourth Modification to Secured Promissory Note  
24 (“Fourth Modification”) was entered into. See Exhibit D. to Appendix

25          8.       As the credit provided under the terms of the Note directly and indirectly  
26 benefitted the Antos Trust, and my wife and I as beneficiaries of the Antos Trust, we agreed to  
27 certain conditions to the Fourth Modification.

28          9.       As a condition to the Fourth Modification, I agreed to not have the Property be

1 security for any additional debt that I may incur.

2 10. On or about October 31, 2014, a Seventh Modification to Secured Promissory  
3 Note and Waiver of Defaults (“Seventh Modification”) was entered into. See Exhibit F, to  
4 Appendix, Seventh Modification.

5 11. As the credit provided under the terms of the Note directly and indirectly  
6 benefitted the Antos Trust, and my wife and I as beneficiaries of the Antos Trust, we agreed to  
7 certain conditions to the Seventh Modification.

8 12. As a condition to the Seventh Modification, the Antos Trust provided to CBCI a  
9 Deed of Trust along with a Certificate of Trust Authority. See Paragraph 18(f) of the Seventh  
10 Modification Exhibit F to Appendix and Certificate of Trust Existence and Authority and Exhibit  
11 G to Appendix.

12 13. As a result of the condition precedent to the Seventh Modification and my rights  
13 as Trustee of the Antos Trust to encumber the property, on or about December 29, 2014, a Deed  
14 of Trust, Assignment of Rents, Security Agreement and Fixture Filing (“Deed of Trust”) was  
15 recorded against the Property in the Clark County Recorder’s Office as Instrument No.  
16 201412290002856, for the purpose of securing the Note. See Exhibit H to Appendix.

17 14. On or about April 30, 2015, a Ninth Modification to Secured Promissory Note and  
18 Waiver of Defaults (Ninth Modification) was entered into.

19 15. As the credit provided under the terms of the Note directly and indirectly  
20 benefitted the Antos Trust, and my wife and I as beneficiaries of the Antos Trust, we agreed to  
21 certain conditions to the Ninth Modification.

22 16. As a condition to the Ninth Modification, the Antos Trust provided to CBCI a  
23 Correction to the Deed of Trust. See Paragraph 14(c) of the Ninth Modification Exhibit I to  
24 Appendix.

25 17. As a result of the condition to the Ninth Modification and my rights as Trustee of  
26 the Antos Trust to encumber the property, on July 22, 2015, a Correction to Deed of Trust,  
27 Assignment of Rent, Security Agreement and Fixture Filing was recorded in the Clark County  
28 Recorder’s Office Instrument No 201507220001146.

1           18.     In March of 2016, I as Trustee of the Antos Trust, listed the property for sale  
2 through the Greater Las Vegas Association of Realtors' Multiple Listing Service with Simply  
3 Vegas Real Estate acting as the Broker.

4           19.     On or about December 2, 2016, CBCI and KCI entered into a Forbearance  
5 Agreement. As a part of the December 2, 2016, Forbearance Agreement, the Antos Trust signed  
6 a Consent, Reaffirmation, and General Release of the Trust which specifically states that the  
7 Antos Trust "agrees to join in and be bound... as though the Trust were a Credit Party." See  
8 Forbearance Agreement Exhibit K to Appendix, specifically Bates No 5148SH 000740.

9           20.     On or about December 2, 2016, a Tenth Modification to Secured Promissory Note  
10 (Tenth Modification) was entered into.

11           21.     As the credit provided under the terms of the Note directly and indirectly  
12 benefitted the Antos Trust, and my wife and I as beneficiaries of the Antos Trust, we agreed to  
13 certain conditions to the Tenth Modification.

14           22.     As a condition to the Tenth Modification, the Antos Trust provided to CBCI a First  
15 Amendment to the Deed of Trust. See Paragraph 6(e) of the Tenth Modification Exhibit L to  
16 Appendix.

17           23.     As a result of the condition to the Tenth Modification and my rights as Trustee of  
18 the Antos Trust to encumber the property, on December 19, 2016, the First Modification to Deed  
19 of Trust, Assignment of Rents, Security Agreement and Fixture Filing was recorded in the Clark  
20 County Recorder's Office as Instrument No. 201612190002739. See Exhibit M to Appendix.

21           24.     In July of 2017, my wife and I were approached with a proposal to sell the Property  
22 under a Forbearance Agreement with Mr. Jay Bloom to take possession of the Property. See  
23 Exhibit N to Appendix.

24           25.     As a result of the negotiation with Mr. Bloom and CBCI on or about August 4,  
25 2017, Spanish Heights Acquisition Company, LLC ("SHAC") was formed, with SJCVC Ventures  
26 ("SJCVC"), CBC partners, LLC (CBCP), and Antos Trust as Managing Members.

27           26.     On or about August 15, 2017, a Real Property Lease was entered into by and  
28 between SHAC as Landlord and SJCVC as Tenant.

1           27.     On or about September 27, 2017, my wife and I signed the Forbearance Agreement  
2 and related documents at the office of Maier Gutierrez and Associates.

3           28.     Upon signing the Forbearance Agreement, it was my understanding that SJC  
4 would be responsible for all of the outstanding debts of the Property in exchange for the Antos  
5 Trusts' rights of Possession of the Property. See the Limited Liability Company Agreement of  
6 SHAC, specifically Bates No 5148SH 000053 – 5148SH 000055, Exhibit O to Appendix.

7           29.     On or about August 2019, it became apparent that SJC was not meeting its  
8 obligations under the Forbearance Agreement. As such discussions were had about entering into  
9 an Amendment to the Forbearance Agreement.

10          30.     SJC did not perform under the initial Forbearance Agreement.

11          31.     On April 1, 2020, I received a letter from Michael R. Mushkin indicating that  
12 CBCI was exercising its rights under the Pledge Agreement and requested an Assignment of  
13 Membership Interest of SHAC to CBCI's nominee CBC Partners, LLC. See Exhibit Y of  
14 Appendix.

15          32.     On April 1, 2020, I returned to Michael R. Mushkin the signed Assignment of  
16 Interest, assigning the Antos Trust's membership interest in SHAC to CBC Partners, fulfilling  
17 my obligation under the Pledge Agreement. See Exhibit Z of Appendix.

18          33.     At the time of my deposition, on September 23, 2020, I did not relate the term  
19 consideration to the replacement of collateral, which occurred in 2014, as a result of my sale of  
20 CBCI collateral.

21                 I declare under penalty of perjury that the foregoing is true and correct.

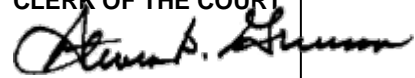
22                 DATED this 24 day of December, 2020.

23  
24                                   
25                                 KENNETH M. ANTOS

1 **CERTIFICATE OF SERVICE**

2 I hereby certify that the foregoing **Declaration of Kenneth M. Antos in Support of**  
3 **Defendants/Counterclaimants' Opposition to Plaintiffs' Renewed Application for**  
4 **Temporary Restraining Order and Motion For Preliminary Injunction On An Order**  
5 **Shortening Time** was submitted electronically for filing and/or service with the Eighth Judicial  
6 District Court on this 24<sup>th</sup> day of December, 2020. Electronic service of the foregoing document  
7 shall be upon all parties listed on the Odyssey eFileNV service contact list:  
8

9 /s/Karen L. Foley  
10 An Employee of  
11 MUSHKIN & COPPEDGE  
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Michael R. Mushkin, Esq.  
Nevada Bar No. 2421  
L. Joe Coppedge, Esq.  
Nevada Bar No. 4954  
MUSHKIN & COPPEDGE  
6070 South Eastern Ave Ste 270  
Las Vegas, NV 89119  
Telephone: 702-454-3333  
Facsimile: 702-386-4979  
Michael@mccnvlaw.com  
jcoppedge@mccnvlaw.com  
*Attorneys for Defendant and  
Counterclaimants*

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

SPANISH HEIGHTS ACQUISITION  
COMPANY, LLC, a Nevada Limited Liability  
Company; SJC VENTURES HOLDING  
COMPANY, LLC, d/b/a SJC VENTURES,  
LLC, a Delaware Limited Liability Company,

Plaintiffs,

v.

CBC PARTNERS I, LLC, a foreign Limited  
Liability Company; CBC PARTNERS, LLC, a  
foreign Limited Liability Company; 5148  
SPANISH HEIGHTS, LLC, a Nevada Limited  
Liability Company; KENNETH ANTOS AND  
SHEILA NEUMANN-ANTOS, as Trustees of  
the Kenneth & Sheila Antos Living Trust and  
the Kenneth M. Antos & Sheila M. Neumann-  
Antos Trust; DACIA, LLC, a foreign Limited  
Liability Company; DOES I through X; and  
ROE CORPORATIONS I through X, inclusive,

Defendants.

AND RELATED MATTERS

Case No. A-20-813439-B

Dept. No.: 11

Hearing Date: January 4, 2021

Hearing Time: 9:00 am

**APPENDIX OF EXHIBITS TO DEFENDANTS/COUNTERCLAIMANTS'  
OPPOSITION TO PLAINTIFFS' RENEWED APPLICATION FOR TEMPORARY  
RESTRAINING ORDER AND MOTION FOR PRELIMINARY INJUNCTION ON  
ORDER SHORTENING TIME**

	Document
A.	Grant, Bargain, Sale Deed
B.	Secured Promissory Note
C.	First Second, Third, Fifth, Sixth, and Eighth Modifications to Secured Promissory Note
D.	Fourth Modification to Secured Promissory Note
E.	Security Agreement with Respect to Interest in Settlement Agreement and Mutual Release
F.	Seventh Modification to Secured Promissory Note and Waiver of Defaults
G.	Certificate of Trust Existence and Authority
H.	Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing
I.	Ninth Modification to Secured Promissory Note and Waiver of Defaults
J.	Debt Purchase Agreement
K.	Forbearance Agreement
L.	Tenth Modification to Secured Promissory Note
M.	First Modification to Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing
N.	Jay Bloom email proposal
O.	Forbearance Agreement
P.	Amendment to Forbearance Agreement and Related Agreements
Q.	Notice of Delinquent Fines and Special Assessment Lien
R.	Notice of Non-Monetary Default
S.	Response to Notice of Non-Monetary Default
T.	Inspection Report for 5148 Spanish Heights Drive
U.	Notice of Default
V.	Email to Danielle Barraza Regarding Typographical Error on Notice of Default Letter

W.	<i>Intentionally omitted</i>
X.	Notice of Default
Y.	Notice of Exercising of Rights Under Pledge Agreement
Z.	Assignment of Company and Membership Interests of Spanish Heights Acquisition Company – Signed by Antos Trust
AA.	Notice to Vacate
BB.	Note Purchase and Sale Agreement
CC.	Order Granting Plaintiffs’ Motion for Preliminary Injunction on a Limited Basis
DD.	Transcript of Proceedings – Hearing Re: Plaintiffs’ Application for Temporary Restraining Order and Motion for Preliminary Injunction
EE.	Recorded Assignment of Interest of Deed of Trust
FF.	Recorded Notice of Breach and Election to Sell Under Deed of Trust
GG.	Deposition Transcript of Jay Bloom Volume 1
HH.	Deposition Transcript of Jay Bloom Volume 2
II.	Notice of Trustee’s Sale
JJ.	Deposition Transcript of Alan Hallberg, NRCP 30(b)(6) witness for CBCI
KK.	Limited Liability Company Agreement of Spanish Heights Acquisition Company, LLC
LL.	Deposition Transcript of Sheila Antos
MM.	Recorded Deed of Sale
NN.	Deposition Transcript of Kenneth Antos



1 **CERTIFICATE OF SERVICE**

2 I hereby certify that the foregoing **Appendix of Exhibits Defendants/Counterclaim-**  
3 **ants' Opposition To Plaintiffs' Renewed Application for Temporary Restraining Order and**  
4 **Motion for Preliminary Injunction on an Order Shortening Time** was submitted  
5 electronically for filing and/or service with the Eighth Judicial District Court on this 24<sup>th</sup> day of  
6 December, 2020. Electronic service of the foregoing document shall be upon all parties listed on  
7 the Odyssey eFileNV service contact list:

8  
9 /s/K.L. Foley  
10 An Employee of  
11 MUSHKIN & COPPEDGE  
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# EXHIBIT “A”

A.P.N.: 163-29-615-007  
R.P.T.T.: \$ EXEMPT #7

Escrow #10-05-0444-KMD

Mail tax bill to and when recorded mail to:  
Kenneth M. Antos and Shelia Antos Living  
Trust dated April 26, 2007  
5148 Spanish Heights Drive  
Las Vegas, NV 89148

Inst #: 201010140002674  
Fee: \$16.00 M/C Fee: \$0.00  
RPTT: \$0.00 Ex: #007  
10/14/2010 11:14:33 AM  
Receipt #: 640399  
Requestor:  
NEVADA TITLE LAS VEGAS  
Recorded By: GILKS Pgs: 4  
DEBBIE CONWAY  
CLARK COUNTY RECORDER

## **GRANT, BARGAIN, SALE DEED**

**THIS INDENTURE WITNESSETH**, That **Kenneth M. Antos and Shelia M. Neumann-Antos**, husband and wife, as joint tenants, for a valuable consideration, the receipt of which is hereby acknowledged, do hereby Grant, Bargain, Sell and Convey to **Kenneth M. Antos and Shelia M. Neumann-Antos**, Trustees of The **Kenneth and Shelia Antos Living Trust dated April 26, 2007**, and any amendments thereto, all that real property situated in the County of Clark, State of Nevada, bounded and described as follows:

**SEE LEGAL DESCRIPTION ATTACHED HERETO  
AND MADE A PART HEREOF AS EXHIBIT "A".**

### **SUBJECT TO:**

1. Taxes for the current fiscal year, not delinquent, including personal property taxes of any former owner, if any;
2. Restrictions, conditions, reservations, rights, rights of way and easements now of record, if any, or any that actually exist on the property.

**TOGETHER WITH** all singular the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining.



IN WITNESS WHEREOF, this instrument has been executed this  
OCTOBER, 2010.

7 day of

Kenneth M. Antos

Kenneth M. Antos

Sheila M. Neumann-Antos

State of NEVADA )  
 ) ss:  
County of Clark )

This instrument was acknowledged before me  
on

10/7/10

by Kenneth M. Antos and Sheila M. Neumann-Antos

Kaitlin Tomashowski  
NOTARY PUBLIC  
My Commission  
Expires:

4/16/12



Kaitlin Tomashowski  
Cert. 68-6665-1  
Exp. 04-16-2012



**EXHIBIT "A"**

**LOT SEVEN (7) IN BLOCK FIVE (5) OF SPANISH HILLS ESTATES UNIT 5A, AS  
SHOWN BY MAP THEREOF ON FILE IN BOOK 107, OF PLATS, PAGE 58. IN  
THE OFFICE OF THE COUNTY RECORDER OF CLARK COUNTY, NEVADA.**






**I. Assessor Parcel Number(s)**

- FOR RECORDER'S OPTIONAL USE  
ONLY**

Book: \_\_\_\_\_ Page: \_\_\_\_\_

Date of Recording: \_\_\_\_\_

Notes:

- \$  .....
- \$  .....
- \$  .....

4. **If Exemption Claimed:**

- a. **Transfer Tax Exemption, per NRS 375.090, Section:** #7
- b. **Explain Reason for Exemption:** Transfer without consideration to a trust

- Partial Interest. Percentage being transferred. 100 %

The undersigned declares and acknowledges, under penalty of perjury, pursuant to NRS 375.060 and NRS 375.110, that the information provided is correct to the best of their information and belief, and can be supported by documentation if called upon to substantiate the information provided herein. Furthermore, the parties agree that disallowance of any claimed exemption, or other determination of additional tax due, may result in a penalty of 10% of the tax due plus interest at 1% per month. Pursuant to NRS 375.030, the Buyer and Seller shall be jointly and severally liable for any additional amount owed.

Signature: \_\_\_\_\_ Capacity: GRANTOR/SELLER

Signature: [Signature] Capacity: AGENT

**SELLER (GRANTOR) INFORMATION**  
**(REQUIRED)**

**BUYER (GRANTEE) INFORMATION**  
**(REQUIRED)**

Print Name. Kenneth M. Antos  
Shelia M. Neumann-Antos

Print Name: Kenneth M. Antos and Sheila M  
Neumann-Antos, Trustees of the Kenneth  
and Sheila Antos Living Trust dated April  
26, 2007, and any amendments thereto

Address: 5148 Spanish Heights Drive

Address: 5148 Spanish Heights Drive

City: Las Vegas

City: Las Vegas

State: NV Zip: 89148

State: NV Zip: 89148

**COMPANY/PERSON REQUESTING RECORDING (required if not seller or buyer)**

Print Name: Nevada Title Company Esc #: 10-05-0444-KMD

Address: 2500 N Buffalo Drive, Suite 150

City: Las Vegas State: NV Zip: 89128

(AS A PUBLIC RECORD THIS FORM MAY BE RECORDED/MICROFILMED)



# EXHIBIT “B”

## SECURED PROMISSORY NOTE

\$300,000.00

Bellevue, Washington  
June 22, 2012

For value received, KCI Investments, LLC, a Nevada limited liability company ("Borrower") promises to pay to the order of CBC Partners I, LLC, a Washington limited liability company, or its assigns ("Lender") the sum of the aggregate unpaid principal amount of the amount advanced to Borrower under this Secured Promissory Note plus interest thereon accruing from and after the date of the advance. Lender will lend to Borrower up to the maximum amount of \$300,000.00, to be lent through a single advance (the "Advance") (such borrowing, in the aggregate, the "Loan"). The principal of, and interest on, the Loan shall be payable in lawful currency of the United States of America by wire transfer in immediately available funds to the account of Lender, as provided in writing to Borrower by Lender. All payments shall be applied first to fees, costs and charges relating to this Secured Promissory Note (including, without limitation, any costs of collection), then to accrued and unpaid interest, and thereafter to principal.

### 1. Certain Definitions.

#### 1.1 As used in this Agreement:

"Advance" has the meaning specified in the first paragraph of this Secured Promissory Note.

"Ancillary Documents" means all instruments, agreements or other documents to be executed by Borrower or others including without limitation the Security Agreement and any other instruments, agreements, or documents in fact executed in connection with this Secured Promissory Note.

"Business Day" means a day which is not a Saturday, Sunday, or day on which banks in Seattle, Washington are generally closed for business.

"Default Rate" means an interest rate five percent (5%) per annum higher than the Note Rate.

"Event of Default" has the meaning set forth in Section 7 of this Secured Promissory Note.

"Liabilities" means all monetary and other obligations of Borrower hereunder, whether or not then due and payable, under the Note and under the Ancillary Documents.

"Loan" has the meaning specified in the first paragraph of this Secured Promissory Note.

"Maturity Date" means the date that is 1 month following the date first above written.



"Note Rate" has the meaning specified in Section 2.2.1 of this Secured Promissory Note.

"Prime Rate" means the base rate on corporate loans posted by at least 75% of the nation's 30 largest banks as quoted by the Wall Street Journal.

1.2 **Miscellaneous Terms.** All terms of an accounting character used in this Secured Promissory Note and not specifically defined have the meanings assigned to such terms by U.S. generally accepted accounting principles.

## 2. **Term Loan**

2.1 **Advance.** Lender must receive a written request for a specific amount and use signed by Borrower in the form attached hereto as Exhibit A (the "Advance Request") within five business days of the execution of this Note. The Advance will not be made for less than \$300,000 unless otherwise agreed to in writing by Lender in its sole discretion. The Advance shall not be made on or after the Maturity Date, or after the occurrence of an Event of Default which has not been cured. Borrower agrees that Lender may rely on the Advance Request given by any person Lender reasonably believes is authorized to make such request without the necessity of independent investigation.

2.2 **Interest.** Absent an Event of Default, the amount of the Advance shall accrue interest at the rate equal to thirteen and one-half percent (13.5%) ("Note Rate"). Interest shall be computed for the actual number of days elapsed on the basis of a year consisting of 360 days. Notwithstanding the foregoing, it is intended that the rate of interest hereon shall never exceed the maximum rate, if any, which may be legally charged on the Loan (the "Maximum Rate"), and if the provisions for interest contained in this Secured Promissory Note would result in a rate higher than the Maximum Rate, interest shall be limited to the Maximum Rate and any amounts which may be paid toward interest in excess of the Maximum Rate shall be applied to the reduction of principal. Neither Borrower nor any guarantor or endorser of this Secured Promissory Note shall have any action against Lender for any damages whatsoever arising out of the payment or collection of any such excess interest.

2.3 **Default Interest.** Upon the occurrence of an Event of Default, the unpaid principal amount of the Loan and accrued and unpaid interest thereon shall bear interest at a rate equal to the lesser of the (i) Maximum Amount or (ii) Default Rate. Such interest shall accrue, commencing upon the occurrence of an Event of Default and continue until such Event of Default is cured or waived.

2.4 **Payments.** Borrower shall make monthly payments of interest beginning on the first (1<sup>st</sup>) day of the month following the date of the Advance. Borrower may prepay all or any portion of the Loan, at any time prior to the Maturity Date, without premium or penalty.

2.5 Late Charges. If Lender has not received the full amount of any payment due hereunder by the date it is due, Borrower shall promptly pay a late charge to the Lender in the amount of ten percent (10%) of the overdue amount. Borrower agrees this late charge is to compensate the Lender for damages the Lender will suffer in servicing the Loan including expenses directly attributable to handling delinquent payments. Borrower further agrees that the actual damages suffered by Lender will be extremely difficult and impractical to ascertain and the sum of five percent (5%) of the overdue payment is fair and reasonable.

2.6 Origination Fee and Expenses. Borrower shall pay to Lender an origination fee in the amount of one thousand dollars (\$1,000.00) contemporaneously with Borrower's execution and delivery to Lender of this Secured Promissory Note. Notwithstanding the foregoing, the Parties have agreed that the origination fee will be paid by funds at the time of closing. Borrower's execution of this Secured Promissory Note shall constitute its agreement, regardless of whether the Loan closes and funds, to pay upon demand all reasonable expenses in connection with the Loan, including (without limitation) legal fees for the preparation, negotiation, examination and enforcement of documents (including, without limitation, this Secured Promissory Note and the Ancillary Documents, and all other fees and costs incidental to the closing and making of the Loan). Lender shall not be required to pay any premium, brokerage fee, loan broker fee, commission or similar compensation in connection with this transaction, and Borrower agrees to defend, indemnify, and hold Lender harmless from and against all claims asserted by any person on account of any such fee, commission or compensation, including attorneys' fees paid or incurred by Lender with respect to any such claim.

3. Conditions Precedent. The execution and performance of this Secured Promissory Note by Lender, including the Advance, is subject to the following conditions precedent:

3.1 Documents. Execution by Borrower and delivery to Lender of this Secured Promissory Note and the Ancillary Documents, in each case, in form and substance satisfactory to Lender.

3.2 Authorization. Delivery to Lender of such consents or resolutions of or for Borrower as Lender deems necessary or desirable in order to evidence the due authorization of this Secured Promissory Note and the Ancillary Documents.

3.3 No Default. No Event of Default shall have occurred and remain uncured and no event which would constitute an Event of Default upon the giving of notice and/or the expiration of any cure period shall have occurred and remain uncured.

3.4 Representations and Warranties. The representations and warranties in Section 4 of this Secured Promissory Note shall be true and correct as of the date of this note and of the Advance.

3.5 Advance Request. The Advance shall have been requested by Borrower pursuant to the Advance Request and approved by Lender.

3.6 Guaranties. Lender shall have obtained all guaranties of the Loan it has requested from third parties.

3.7 Financial Condition. There shall have been no material adverse change, as determined by Lender, in the financial condition or business of Borrower (or any guarantor hereunder), nor any material decline, as determined by Lender, in the market value of any collateral required hereunder or a substantial or material portion of the assets of Borrower (or any such guarantor).

4. Representations and Warranties. To induce Lender to enter into this Secured Promissory Note, Borrower hereby represents, warrants, and covenants from the date of this note and until final payment in full and performance of all obligations hereunder and except as specifically set forth in the disclosure schedule attached to this note ("Disclosure Schedule") as follows:

4.1 Organization, Good Standing and Qualification. Borrower is a limited liability company duly organized, validly existing and in good standing under the laws of the State of Nevada and has all requisite corporate power and authority to carry on its business. Borrower is duly qualified to transact business and is in good standing in each jurisdiction in which the failure so to qualify would have a material adverse effect on its business, properties, operations, prospects or condition (financial or otherwise).

4.2 Authorization of Agreement, Etc. The execution, delivery and performance by Borrower of this Secured Promissory Note and the Ancillary Documents have been duly authorized by all requisite corporate action by Borrower in accordance with applicable law. This Secured Promissory Note and the Ancillary Documents are valid and binding obligations of Borrower, enforceable against Borrower in accordance with their terms, except as limited by applicable bankruptcy, insolvency, reorganization, moratorium, or other laws of general application effecting enforcements of creditors' rights or general principles of equity.

4.3 No Conflicts. The execution, performance, issuance, and delivery of this Secured Promissory Note and the Ancillary Documents, and compliance with the provisions hereof and thereof by Borrower, will not (a) to the knowledge of Borrower, violate any provision of any law, statute, rule or regulation applicable to Borrower or any ruling, writ, injunction, order, judgment or decree of any court, arbitrator, administrative agency or other governmental body applicable to Borrower or any of its properties or assets or (b) conflict with or result in any material breach of any of the terms, conditions or provisions of, or constitute (with notice or lapse of time or both) a material default (or give rise to any right of termination, cancellation or acceleration) under, or result in the creation of, any encumbrance upon any of the material assets of Borrower under, the Articles of Incorporation or Bylaws of Borrower (as they may be amended to date) or any agreement, obligation, indenture or other or instrument to which Borrower is a party. As used herein, "encumbrance" shall mean any liens, charges, encumbrances, equities, claims, options, proxies, pledges, security interests, licenses or other similar rights of any nature.

4.4 Compliance with Other Instruments. Borrower is not in violation of any term of its Certificate of Formation, as amended, including any certificate of designation filed therewith, and/or the Borrower's Operating Agreement. The Borrower is not, in any material respect, in violation of any term of any mortgage, indenture, contract, agreement, instrument, judgment, obligation, decree, order, statute, rule or regulation to which it is subject. To the best of Borrower's knowledge, no event has occurred which, with the passage of time or the giving of notice, or both, would constitute a breach or violation, in any material respect, under any applicable judgments, orders, writs, decrees, federal, state and/or local laws, rules or regulations which would have a material adverse affect on the condition, financial or otherwise, or operations of Borrower (as it is currently conducted and as it is proposed to be conducted) or on any material assets owned, controlled, licensed, possessed, and/or used by Borrower. To the best of its knowledge, Borrower has avoided every condition, and has not performed any act, the occurrence of which would result in Borrower's loss of any right granted under any license, distribution agreement or other agreement.

4.5 Approvals. No permit, authorization, consent or approval of or by, or any notification of or filing with, any person (governmental or private) is required in connection with the execution, performance, issuance, sale and/or delivery of this Secured Promissory Note or any Ancillary Document, and consummation by Borrower of the transactions contemplated hereby and thereby.

4.6 Litigation. There is no action, suit, proceeding or investigation pending or, to the knowledge of Borrower, currently threatened against Borrower, its properties, assets or business. Borrower is not a party or subject to the provisions of any order, writ, injunction, judgment or decree of any court or government agency or instrumentality. There is no action, suit, proceeding or investigation by Borrower currently pending or which Borrower intends to initiate.

4.7 No Liens. Except for liens created by this Secured Promissory Note or the Ancillary Documents and except as set forth in this Section 4.7 of the Disclosure Schedule, none of Borrower's material assets are subject to any existing lien, pledge, security interest or other encumbrance of any kind, direct or indirect, contingent or otherwise.

4.8 Full Disclosure. Neither this Secured Promissory Note nor any Ancillary Document, nor any written report, certificate, instrument or other information furnished to Lender in connection with the transactions contemplated under and/or in connection with this Agreement contains any material misstatement, or is misleading in any material respect.

4.9 No Other Security Interests or Other Encumbrances. Except as set forth in this Section 4.9 of the Disclosure Schedule, there are no existing security interests, pledges, liens or other encumbrances of any kind, direct or indirect, contingent or otherwise (including without limitation any licensing or partnering arrangements or agreements), in or relating to any of Borrower's assets.



4.10 Tax Returns. All tax returns and reports of Borrower required by law to be filed have been duly filed and all taxes, assessments, and other governmental charges upon Borrower and upon Borrower's assets or income, which are due and payable, have been fully paid and shall continue to be paid.

4.11 Financial Statements and Other Information. All financial statements delivered to Lender by Borrower are accurate, complete in all material respects, and prepared in accordance with U.S. generally accepted accounting principles consistently applied, and accurately represent the financial condition of Borrower and reflect accurately Borrower's assets and results of operation of Borrower's business as of the dates thereof. No material adverse change has occurred in Borrower's financial condition since the financial statement for the most recent period provided to Lender, and Borrower has incurred no additional liabilities since such date except for routine payables that occur in the normal course of Borrower's business. All other documents and information delivered to Lender by Borrower are accurate in all material respects.

**5. Affirmative Covenants. Borrower promises and agrees to:**

5.1 Office. Maintain its principal office in the State of Nevada. If Borrower moves its office location outside of the state of Nevada, or moves material activities outside the U.S., Borrower will provide written notice to Lender not less than thirty (30) days prior to such move.

5.2 Additional Documents. Execute promptly, upon Lender's request, all additional documents and instruments deemed by Lender necessary or desirable to perfect, continue or realize upon the security interests having been granted to Lender under the Security Agreement.

5.3 Compliance With Law. Comply with all statutes, laws and governmental rules, regulations, and orders applicable to Borrower's businesses and properties.

5.4 Notice of Material Change. Promptly (but in no event more than five (5) Business Days after the occurrence of each such event or matter) notify Lender of the violation by Borrower of any term, promise, covenant, or agreement of Borrower to or with Lender, including without limitation any Event of Default (as that term is defined herein) any material change in the property, business, or affairs of Borrower, any change in the location of Borrower's place of business, or change of Borrower's form, state of formation, or name, and any other event or matter that may have a material adverse effect on the debts, liabilities, or obligations of Borrower to Lender, or on the collateral covered by the Security Agreement.

5.5 Use of Proceeds. Use the proceeds from the Loan solely to pay for general corporate purposes and working capital requirements arising out of the ordinary course of business.

5.6 Information. Submit to Lender such financial statements, information, budgets, and reports regarding the financial status and business plans of Borrower as Lender may request from time to time. Without limiting the generality of the foregoing, Borrower will deliver (a) company-prepared monthly financial statements to Lender, within 30 days of the end of each month-end, (b) company-prepared quarterly financial statements to Lender, within 30 days of the end of each

calendar quarter, (c) yearly financial statements to Lender, within 90 days of the end of each fiscal year, all prepared in accordance with generally accepted accounting principles consistently applied, (d) copies of Borrower's tax returns when filed, (e) materials prepared for, and provided to, Borrower's Board of Directors, including without limitation budgets and forecasts, with such materials being provided to Lender in advance or contemporaneously with the Board of Directors, and (f) other notices, including without limitation, audit and litigation reports. Each financial statement required hereunder will include income statements, cash flow statements and a balance sheet. Contemporaneously with each monthly, quarterly and annual financial statement of Borrower required by this Section 5.5.6, Borrower shall deliver a certificate of the chief executive officer or chief financial officer of Borrower certifying that said financial statements are accurate and that there exists no Event of Default nor any condition, act or event which with the giving of notice or the passage of time or both would constitute an Event of Default.

5.7 Access/Accounting Records. So long as any principal and/or interest under this Secured Promissory Note shall remain outstanding, Borrower shall maintain adequate books and records in accordance with generally accepted accounting principles consistently applied, and permit Lender and its agents or representatives to visit and inspect Borrower's properties, to examine its books of account and records and to discuss Borrower's affairs, finances and accounts with its officers, all at such times during normal business hours as reasonably may be requested by Lender.

5.8 Punctual Payments. Punctually pay all principal, interest, fees or other liabilities due under this Secured Promissory Note or the Ancillary Documents at the times and place and in the manner specified therein.

6. **Negative Covenants.** Borrower will not, directly or indirectly, unless approved in writing by Lender in advance:

6.1 Business. Cease or otherwise materially change business operations, dissolve, or liquidate.

6.2 Organizational Changes. Consolidate or merge with any other entity, change organizational form or jurisdiction or sell, transfer, lease or otherwise dispose of all or substantially all of Borrower's assets to any other person or entity (or take or permit to be taken any other action that would have substantially the same effect as any of the foregoing), make any substantive change in the nature of Borrower's business as conducted as of the date hereof or acquire all or substantially all of the assets of any other entity.

6.3 Misrepresentations. Furnish any document to Lender that contains any untrue statement of material fact or that omits to state a material fact necessary to make it not misleading in light of the circumstances under which it was furnished.

6.4 Limitation on Debt. Incur, create, assume or permit to exist any debt other than the Loan and trade debt incurred in the ordinary course of business, without the prior written consent of Lender and the execution of an inter-creditor agreement, in form provided by Lender, between Lender, Borrower, and the lender of such additional debt.

6.5 Liens. Grant to any person or entity, or permit to exist, a security interest, lien, license, or other encumbrance of any kind, direct or indirect, contingent or otherwise, in, to or upon any assets of Borrower.

6.6 Distributions and Redemptions. Declare or pay any dividends or make any distributions of cash, property or securities of Borrower with respect to any of its equity securities or, directly or indirectly, redeem, purchase, or otherwise acquire for any consideration any of its equity securities.

6.7 Use of Funds. Use any of the proceeds of any credit extended hereunder except for the purposes stated in Section 5.5 herein.

6.8 Guaranties. Guarantee or become liable in any way as a surety, endorser (other than as endorser of negotiable instruments for deposit or collection in the ordinary course of business) or otherwise for, nor pledge or hypothecate any assets of Borrower as security for, any liabilities or obligations of any person or entity, except any of the foregoing in favor of Lender.

6.9 Contracts. Enter into, or materially amend or terminate, any contract the termination of which may have a material adverse effect on the condition, financial or otherwise, or operations of Borrower, or Borrower's ability to comply with its obligations to Lender.

6.10 Employment/Severance. Enter into, or materially amend, any employment contract or agreement to pay severance.

6.11 Sale/Transfer of Assets. Sell, transfer or dispose of any assets of Borrower, other than in the ordinary course of Borrower's business.

## **7. Default and Remedies.**

7.1 Default. Time being of the essence, any of the following events shall constitute an "Event of Default":

7.1.1 If a default occurs in the payment of any principal of, interest on, or other obligation with respect to, this Secured Promissory Note, whether at the due date thereof or upon acceleration thereof,

7.1.2 if any representation or warranty of Borrower made herein shall have been false or misleading in any material respect, or shall have contained any material omission, as of the date hereof;



7.1.3 If a default occurs in the due observance or performance of any covenant or agreement on the part of Borrower (other than payment) to be observed or performed pursuant to the terms of this Secured Promissory Note and such default remains uncured for three (3) Business Days after written notice thereof from Holder;

7.1.4 If Borrower or any guarantor of the obligations hereunder shall (i) discontinue its business, (ii) apply for or consent to the appointment of a receiver, trustee, custodian or liquidator of Borrower or any of its property, (iii) make a general assignment for the benefit of creditors, or (v) file a voluntary petition in bankruptcy, or a petition or an answer seeking reorganization or an arrangement with creditors, or take advantage of any bankruptcy, reorganization, insolvency, readjustment of debt, dissolution or liquidation laws or statutes, or file an answer admitting the material allegations of a petition filed against it in any proceeding under any such law;

7.1.5 If there shall be filed against Borrower or any guarantor of the obligations hereunder an involuntary petition seeking reorganization of Borrower or the appointment of a receiver, trustee, custodian or liquidator of Borrower or a substantial part of its assets, or an involuntary petition under any bankruptcy, reorganization or insolvency law of any jurisdiction, whether now or hereafter in effect (any of the foregoing petitions being hereinafter referred to as an "Involuntary Petition") and such Involuntary Petition shall not have been dismissed within ninety (90) days after it was filed;

7.1.6 If final judgment(s) for the payment of money in excess of an aggregate of \$100,000 (excluding any portion thereof that an Insurance company of nationally recognized standing and creditworthiness has agreed to pay) shall be rendered against Borrower or any guarantor of the obligations hereunder and the same shall remain undischarged for a period of thirty (30) days;

7.1.7 If there occurs any event that may have a material adverse effect on the condition, financial or otherwise, or operations of Borrower (as they are currently conducted and as they are proposed to be conducted) or any guarantor of the obligations hereunder, or on any material assets developed, owned, controlled, licensed, possessed, or used by Borrower or any such guarantor.

7.1.8 the death or incapacity of Borrower or any guarantor of the obligations hereunder, if an individual. The dissolution or liquidation of Borrower or any such guarantor if a corporation, partnership, joint venture or other type of entity; or Borrower or any guarantor of the obligations hereunder, or any of Borrower or guarantor's directors, shareholders or members, shall take action seeking to effect the dissolution or liquidation of such Borrower or guarantor.

7.2 Acceleration. Upon each and every such Event of Default and at any time thereafter during the continuance of such Event of Default : (i) any and all indebtedness of Borrower to Lender under this Secured Promissory Note or otherwise shall at Lender's option



and without notice become immediately due and payable, both as to principal and interest (including any deferred interest and any accrued and unpaid interest and any Default Interest) without presentment, demand, protest, notice of dishonor, notice of acceleration or notice of intent to accelerate, all of which are hereby expressly waived by Borrower; and (ii) Lender may exercise all the rights of a creditor under applicable state and/or federal law, provided, however, that upon the occurrence of any Event of Default described in Sections 7.1.4 or 7.1.5, any and all indebtedness of Borrower to Lender under this Secured Promissory Note shall automatically and immediately become due and payable, both as to principal and interest (including any deferred interest and any accrued and unpaid interest and any Default Interest), without notice or demand of any kind.

7.3 Remedies on Default, Etc. In case any one or more Events of Default shall occur and be continuing, and acceleration of this Secured Promissory Note or any other indebtedness of Borrower to Lender shall have occurred, Lender may, *inter alia*, proceed to protect and enforce its rights by an action at law, suit in equity and/or other appropriate proceeding, whether for the specific performance of any agreement contained in this Secured Promissory Note, or for an injunction against a violation of any of the terms hereof or thereof or in furtherance of the exercise of any power granted hereby or thereby or by law. No right conferred upon Lender by this Secured Promissory Note shall be exclusive of any other right referred to herein or therein or now or hereafter available at law, in equity, by statute or otherwise, and may be exercised by Lender at any time by Lender and from time to time after the occurrence of an Event of Default.

## 8 Defenses.

8.1 No Offsets. The obligations of Borrower under this Secured Promissory Note shall not be subject to reduction, limitation, impairment, termination, defense, set-off, counterclaim or recoupment for any reason.

8.2 Usury Limitations. It is the intention of the parties hereto to comply with all applicable usury laws; accordingly, it is agreed that notwithstanding any provisions to the contrary in this Secured Promissory Note or any other agreements or instruments between them, in no event shall such agreements or instruments require the payment or permit the collection of interest (which term, for purposes hereof, shall include any amount which, under applicable law, is deemed to be interest, whether or not such amount is characterized by the parties as interest) in excess of the maximum amount permitted by such laws. If any excess of interest is unintentionally contracted for, charged or received under the Secured Promissory Note or under the terms of any other agreement or instrument between the parties, the effective rate of interest shall be automatically reduced to the maximum lawful rate of interest allowed under the applicable usury laws as now or hereafter construed by the courts having jurisdiction thereof.

9. Attorneys' and Collection Fees. Should the indebtedness evidenced by this Secured Promissory Note or any part hereof be collected at law or in equity or in bankruptcy,

receivership or other court proceedings, Borrower agrees to pay, in addition to principal and interest due and payable hereon, all costs of collection, including, without limitation, reasonable attorneys' fees and expenses, incurred by Lender in collecting or enforcing this Secured Promissory Note.

**10. Waivers; Confession of Judgment; Consent to Jurisdiction.**

**10.1 Waivers by Borrower.** Borrower hereby waives presentment, demand for payment, notice of dishonor, notice of protest and all other notices or demands in connection with the delivery, acceptance, performance or default of this Secured Promissory Note.

**10.2 Actions of Lender not a Waiver.** No delay, failure or discontinuance by Lender in exercising any power or right hereunder shall operate as a waiver of any power or right, nor shall any single or partial exercise of any power or right preclude other or further exercise thereof, or the exercise of any other power or right hereunder or otherwise; and no waiver, permit, consent, approval or modification of any kind of the terms hereof shall be valid unless set forth in writing by Lender and then only to the extent set forth therein.

**10.3 Consent to Jurisdiction.** Borrower hereby irrevocably submits to the jurisdiction of any state or federal court sitting in the State of Washington over any suit, action, or proceeding arising out of or relating to this Secured Promissory Note or any other agreements or instruments with respect to Lender. Borrower hereby irrevocably waives, to the fullest extent permitted by law, any objection that Lender may now or hereafter have to the laying of venue of any such suit, action, or proceeding brought in any such court and any claim that any such suit, action, or proceeding brought in any such court has been brought in an inconvenient forum. Final judgment in any such suit, action, or proceeding brought in any such court shall be conclusive and binding upon Borrower and may be enforced in any court in which Borrower is subject to jurisdiction by a suit upon such judgment, provided that service of process is effected upon Borrower as provided in this Secured Promissory Note or as otherwise permitted by applicable law.

**10.4 Waiver of Jury Trial.** BORROWER WAIVES ITS RIGHT TO A JURY TRIAL OF ANY CLAIM OR CAUSE OF ACTION ARISING OUT OF THIS SECURED PROMISSORY NOTE OR ANY DEALINGS BETWEEN BORROWER AND LENDER RELATING TO THE SUBJECT MATTER OF THIS SECURED PROMISSORY NOTE. THE SCOPE OF THIS WAIVER IS INTENDED TO BE ALL-ENCOMPASSING OF ANY AND ALL DISPUTES THAT MAY BE FILED IN ANY COURT AND THAT RELATE TO THE SUBJECT MATTER OF THIS NOTE, INCLUDING, WITHOUT LIMITATION, CONTRACT CLAIMS, TORT CLAIMS, AND ALL OTHER COMMON LAW AND STATUTORY CLAIMS. THIS WAIVER IS IRREVOCABLE, MEANING THAT IT MAY NOT BE MODIFIED EITHER ORALLY OR IN WRITING, AND THIS WAIVER SHALL APPLY TO ANY SUBSEQUENT AMENDMENTS, SUPPLEMENTS OR MODIFICATIONS TO THIS AGREEMENT OR TO ANY OTHER DOCUMENT OR AGREEMENT RELATING TO THE LOAN.

**10.5 Service of Process.** Borrower hereby consents to process being served in any suit, action, or proceeding instituted in connection with this Secured Promissory Note by delivery of a copy thereof by certified mail, postage prepaid, return receipt requested, to Borrower, and/or by delivery of a copy thereof to a registered agent of Borrower. Refusal to accept delivery, and/or avoidance of delivery, shall be deemed to constitute delivery. Borrower irrevocably agrees that service in accordance with this Section 10.5 shall be deemed in every respect effective service of process upon Borrower in any such suit, action or proceeding, and shall, to the fullest extent permitted by law, be taken and held to be valid personal service upon Borrower. Nothing in this Section 10.5 shall affect the right of Lender to serve process in any manner otherwise permitted by law or limit the right of Lender otherwise to bring proceedings against Borrower in the courts of any jurisdiction or jurisdictions.

**11. Security Interest.** To secure Borrower's obligations under this Secured Promissory Note:

**11.1** Borrower has granted and pledged to Lender a first priority senior security interest in Borrower's right, title and interest in, to and under all of Borrower's tangible and intangible property pursuant to a security agreement ("KCI Security Agreement") of even date herewith; and

**11.2** Guarantor Kenneth M. Antos ("Antos") has granted and pledged to Lender a first priority senior security interest in Antos's right, title and interest in, to and under all accounts, payment intangibles, general intangibles and rights to payment arising from that certain Strategic Alliance Agreement, as amended, modified or supplemented from time to time ("Alliance Agreement") by and among Twin Towers Trading Site Management, LLC, David L. Beacklean and Antos, dated as of August \_\_, 2003, pursuant to a security agreement ("Antos Security Agreement") of even date herewith.

**11.3** The KCI Security Agreement and Antos Security Agreement shall be referred to collectively herein as the "Security Agreement."

**12. Indemnification.**

**12.1 Indemnification Agreement.**

**12.1.1** In addition to all rights and remedies available to Lender at law or in equity, Borrower shall indemnify Lender and each subsequent holder of this Secured Promissory Note, and their respective affiliates, equity holders, officers, directors, employees, agents, representatives, successors and assigns (collectively, the "Indemnified Persons") and save and hold each of them harmless against and pay on behalf of or reimburse such party as and when incurred for any loss, liability, demand, claim, action, cause of action, cost, damage, deficiency, tax, penalty, fine or expense (other than any demand, claim, action or cause of action instituted by Borrower), including interest, penalties, reasonable attorneys' fees and expenses, and all amounts paid in investigation, defense or settlement of any of the foregoing (collectively, "Losses") which any such party may suffer, sustain or become subject to, as a result of, in connection with, relating or incidental to or by virtue of:

(i) any material misrepresentation in, or material omission from, or breach of any of the representations, warranties, statements, schedules and/or exhibits hereto, certificates or other instruments or documents furnished to Lender by Borrower in connection with this Secured Promissory Note; or

(ii) any material nonfulfillment or material breach of any covenant or agreement on the part of Borrower under this Secured Promissory Note.

12.1.2 Notwithstanding the foregoing, Borrower shall not be liable for any portion of Losses resulting from the gross negligence or willful misconduct of Lender or a subsequent holder of this Secured Promissory Note.

12.1.3 Within twenty (20) days after receipt of notice of commencement of any action or the assertion of any claim by a third party, Lender shall give Borrower written notice thereof together with a copy of such claim, process or other legal pleading of such claim. Borrower shall have the right to assist in the defense thereof by representation of its own choosing.

12.2 Survival. All indemnification rights hereunder shall survive the execution and delivery of this Secured Promissory Note and the consummation of the transactions contemplated hereby (i) for a period of three years with respect to representations and warranties made by Borrower, and (ii) until fully performed with respect to covenants and agreements made by Maker, regardless of any investigation, inquiry or examination made for or on behalf of, or any knowledge of Lender and/or any of the Indemnified Persons or the acceptance by Lender of any certificate or opinion.

12.3 Payment. Any indemnification of Lender or any other Indemnified Person by Borrower pursuant to this Section 12 shall be effected by wire transfer of immediately available funds from Borrower to an account designated by Lender or such other Indemnified Person within fifteen (15) days after the determination thereof.

### **13. Miscellaneous.**

13.1 Notices. All notices, demands and requests of any kind to be delivered to any party in connection with this Secured Promissory Note shall be in writing and shall be deemed to be effective upon delivery if (i) personally delivered, (ii) sent by confirmed facsimile with a copy sent by nationally recognized overnight courier, (iii) sent by nationally recognized overnight courier, or (iv) sent by registered or certified mail, return receipt requested and postage prepaid, addressed as follows:



if to Borrower: KCI Investments, LLC  
4033 S. Dean Martin Drive  
Las Vegas, NV  
Fax: ()  
Attn: Ken Antos

if to Lender: CBC Partners I, LLC  
305 108<sup>th</sup> Ave NE, Suite 101  
Bellevue, WA 98004  
Fax: (425) 688-7003  
Attention: Alan Hallberg

or to such other address as the party to whom notice is to be given may have furnished to the other parties hereto in writing in accordance with the provisions of this Section.

13.2 Parties in Interest. This Secured Promissory Note shall bind and inure to the benefit of Lender, Borrower and their respective successors and permitted assigns. Borrower shall not transfer or assign this Secured Promissory Note without the prior written consent of Lender. Lender may transfer and assign this Secured Promissory Note, including participation in all or any part of the Loan without the prior consent of Borrower.

13.3 Governing Law. This Secured Promissory Note has been executed and delivered to Lender in the State of Washington. Borrower agrees that the law of the State of Washington (exclusive of principles of conflicts of law) shall be applicable for the purpose of construing this Secured Promissory Note and the Security Agreement, determining the validity hereof and enforcing the same. The parties hereto consent to the jurisdiction and venue of the state and federal courts sitting in King County, Washington in any action or judicial proceeding brought to enforce, or construe or interpret this Secured Promissory Note or the Security Agreement.

13.4 Entire Agreement. This Secured Promissory Note contains the entire understanding of the parties with respect to the subject matter hereof and supersedes all prior agreements and understandings among the parties with respect thereto

13.5 Captions. Any captions applied to the sections of this Secured Promissory Note are for convenience only and shall not control or affect the meaning or construction of any of the provisions of this Secured Promissory Note.

13.6 Amendments. No provision of this Secured Promissory Note may be amended or waived without the express written consent of both Borrower and Lender, provided, however, that Lender may waive any provision hereof that inures to the benefit of Lender without the prior written consent of Borrower.

13.7 Nature of Obligation. This Secured Promissory Note is being made for business and investment purposes, and not for household or other purposes

13.8 Survival. All covenants, representations and warranties made by Borrower in this Secured Promissory Note shall survive the execution and delivery of this Agreement and the making of the Loan.

13.9 Invalidity. If any term, condition or provision of this Secured Promissory Note or the Security Agreement shall be held invalid for any reason, such offending term, condition or provision shall be stricken therefrom, and the remainder shall not be affected.

13.10 Derivative Rights. Any obligation of Lender to make disbursements under this Secured Promissory Note is imposed solely and exclusively for the benefit of Borrower and no other person, firm or entity shall, under any circumstances, be deemed to be a beneficiary of such condition, nor shall it have any derivative claim or action against Lender.

13.11 Time. Time is of the essence in each and every provision of this Secured Promissory Note or any Ancillary Document.

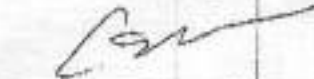
13.12 Counterparts; Facsimiles. This Secured Promissory Note may be executed in one or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument. For purposes of this Agreement, facsimile signatures shall be deemed to be original signatures. In addition, if any of the parties sign facsimile copies of this Agreement, such copies shall be deemed originals.

13.13 Statutory Notice. **ORAL AGREEMENTS OR ORAL COMMITMENTS TO LOAN MONEY, EXTEND CREDIT OR FORBEAR FROM ENFORCING REPAYMENT OF A DEBT ARE NOT ENFORCEABLE UNDER WASHINGTON LAW.**

IN WITNESS WHEREOF, this Secured Promissory Note has been executed by the parties as of the date first written above.

**BORROWER:**

KCI INVESTMENTS, LLC, a Nevada limited liability company



By: Ken Antos  
Its Managing Member

Address: 4033 S. Dean Martin Drive  
Las Vegas, NV 89103

**LENDER:**

CBC PARTNERS I, LLC,  
a Washington limited liability company



By: John Otter  
Its Authorized Manager Representative

Address: 305 108<sup>th</sup> Ave NE  
Suite 101  
Bellevue, WA 98004

Facsimile: (425) 688-7003

**EXHIBIT A**  
**FORM OF REQUEST FOR ADVANCE**

Date: \_\_\_\_\_

Borrower: \_\_\_\_\_

Lender: CBC Partners I, LLC

Secured Promissory Note Date: \_\_\_\_\_

Amount of this advance request: \$ \_\_\_\_\_

Effective Date: \_\_\_\_/\_\_\_\_/\_\_\_\_

Borrower represents and warrants to Lender as follows:

Borrower is not in default under the terms of the Loan Agreement of the Ancillary Documents, each of the representations and warranties contained in the Loan Agreement is true and correct in all material respects as of the date hereof, and Borrower is in compliance in all material respects with all affirmative and negative covenants contained in the Loan Agreement.

DATED this \_\_\_\_ day of \_\_\_\_\_, 201\_\_.

By: \_\_\_\_\_

Its: \_\_\_\_\_



**EXHIBIT B**  
**DISCLOSURE SCHEDULE**

# EXHIBIT “C”

## FIRST MODIFICATION TO SECURED PROMISSORY NOTE

THIS FIRST MODIFICATION TO SECURED PROMISSORY NOTE (this "Modification"), effective as of July 19, 2012, is entered into by and between KCI Investments, LLC, a Nevada limited liability company ("Borrower"), and CBC PARTNERS I, LLC, a Washington limited liability company, or its assigns ("Lender").

### RECITALS

WHEREAS, Borrower is currently indebted to Lender pursuant to the terms and conditions of that certain Secured Promissory Note between Borrower and Lender dated as of June 22, 2012, as amended from time to time ("Note").

WHEREAS, Lender and Borrower have agreed to certain changes in the terms and conditions set forth in the Note and have agreed to amend the Note to reflect said changes.

NOW, THEREFORE, for valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree that the Note shall be amended as follows:

1. Amended definition of "Maturity Date". The definition of "Maturity Date" as set forth in Section 1.1 of the Note, is deleted in its entirety and replaced with the following:

"Maturity Date" means the date that is twelve (12) months following the date first above written.

2. Increased Principal Amount. The maximum principal amount of the Note is hereby amended to be Two Million Dollars (\$2,000,000.00).

3. Amended Section 2.1. Section 2.1 of the Note is deleted in its entirety and replaced with the following:

2.1 Advance. On June 25, 2012, \$300,000 of the principal balance of this Secured Promissory Note was advanced to Borrower. On or before July 20, 2012, Borrower may request an additional advance in an amount not to exceed \$1,700,000. Such request shall be in writing, specify Borrower's intended use for the advance and be signed by Borrower in the form attached hereto as Exhibit A (the "Advance Request"). The Advance shall not be made on or after the Maturity Date, or after the occurrence of an Event of Default which has not been cured. Borrower agrees that Lender may rely on the Advance Request given by any person Lender reasonably believes is authorized to make such request without the necessity of independent investigation.

4. No Other Changes. Except as explicitly amended by this Modification, all of the terms and conditions of the Note shall remain in full force and effect and shall apply to any Advance or Letter of Credit thereunder.

5. Representations and Warranties. Borrower hereby represents and warrants to Lender as follows:

(a) Borrower has all requisite power and authority to execute this Modification and any other agreements or instruments required hereunder and to perform all of its obligations hereunder, and this Modification and all such other agreements and instruments has been duly executed and delivered by Borrower and constitute the legal, valid and binding obligation of Borrower, enforceable in accordance with its terms.

(b) The execution, delivery and performance by Borrower of this Modification and any other agreements or instruments required hereunder have been duly authorized by all necessary corporate action and do not (i) require any authorization, consent or approval by any governmental department, commission, board, bureau, agency or instrumentality, domestic or foreign, (ii) violate any provision of any law, rule or regulation or of any order, writ, injunction or decree presently in effect, having applicability to Borrower, or the limited liability agreement of Borrower, or (iii) result in a breach of or constitute a default under any indenture or loan or credit agreement or any other agreement, lease or instrument to which Borrower is a party or by which it or its properties may be bound or affected.

(c) All of the representations and warranties contained in Section 4 of the Note are correct on and as of the date hereof as though made on and as of such date, except to the extent that such representations and warranties relate solely to an earlier date.

(d) The execution and delivery of Warrant Agreement in form and substance satisfactory to Lender, in its sole discretion.

6. Origination Fee and Expenses. Borrower shall pay to Lender a fully earned and nonrefundable origination fee in the amount of sixty thousand dollars (\$60,000.00) (the "Origination Fee") contemporaneously with Borrower's execution and delivery to Lender of this Modification. Notwithstanding the foregoing, the Parties have agreed that the origination fee will be paid by funds at the time of closing. Borrower's execution of this Modification shall constitute its agreement, regardless of whether the Loan closes and funds, to pay upon demand all reasonable expenses in connection with the Loan, including (without limitation) legal fees for the preparation, negotiation, examination and enforcement of documents (including, without limitation, this Modification and any Ancillary Documents, and all other fees and costs incidental to the closing and making of the Loan). Lender shall not be required to pay any premium, brokerage fee, loan broker fee, commission or similar compensation in connection with this transaction, and Borrower agrees to defend, indemnify, and hold Lender harmless from and against all claims asserted by any person on account of any such fee, commission or compensation, including attorneys' fees paid or incurred by Lender with respect to any such claim.

7. Conditions Precedent. The execution and performance of this Modification by Lender, including the increased principal amount, is subject to the following conditions precedent:

(a) Execution by Borrower and delivery to Lender of this Modification and the Warrant Agreement, in each case, in form and substance satisfactory to Lender.

(b) Execution by each of the Guarantors of the Agreement and Acknowledgement of Guarantors attached hereto.

(c) Payment in full and in good funds of the Origination Fee.

(d) The representations and warranties in Section 5 of this Modification shall be true and correct as of the date of this Modification and any additional Advance.

(e) There shall have been no material adverse change, as determined by Lender, in the financial condition or business of Borrower (or any guarantor hereunder), nor any material decline, as determined by Lender, in the market value of any collateral required hereunder or a substantial or material portion of the assets of Borrower (or any such guarantor).

8. References. All references in the Note to "this Secured Promissory Note" shall be deemed to refer to the Note as amended hereby; and any and all references in the Loan Documents to the Note shall be deemed to refer to the Note as amended hereby.

9. No Waiver. The execution of this Modification and the acceptance of all other agreements and instruments related hereto shall not be deemed to be a waiver of any Default or Event of Default under the Note or a waiver of any breach, default or event of default under any Loan Document.

10. Miscellaneous. This Modification and each of the Agreement and Acknowledgement of Guarantors may be executed in any number of counterparts, each of which when so executed and delivered shall be deemed an original and all of which counterparts, taken together, shall constitute one and the same instrument.

11. Statutory Notice. **ORAL AGREEMENTS OR ORAL COMMITMENTS TO LOAN MONEY, EXTEND CREDIT OR FORBEAR FROM ENFORCING REPAYMENT OF A DEBT ARE NOT ENFORCEABLE UNDER WASHINGTON LAW.**

IN WITNESS WHEREOF, the parties hereto have caused this Modification to be duly executed as of the date first above written.


**BORROWER:** KCI INVESTMENTS, LLC, a Nevada limited liability company



By: Ken Antos  
Its: Managing Member

Address: 4033 S. Dean Martin Drive  
Las Vegas, NV 89103

**LENDER:** CBC PARTNERS I, LLC,  
a Washington limited liability company

  
By: John Otter

Its: Authorized Manager Representative

Address: 305 108<sup>th</sup> Ave NE  
Suite 101  
Bellevue, WA 98004  
Facsimile: (425) 688-7003

## SECOND MODIFICATION TO SECURED PROMISSORY NOTE

THIS SECOND MODIFICATION TO SECURED PROMISSORY NOTE (this "Modification"), effective as of October 22, 2012, is entered into by and between KCI Investments, LLC, a Nevada limited liability company ("Borrower"), and CBC PARTNERS I, LLC, a Washington limited liability company, or its assigns ("Lender").

### RECITALS

WHEREAS, Borrower is currently indebted to Lender pursuant to the terms and conditions of that certain Secured Promissory Note between Borrower and Lender dated as of June 22, 2012, as modified pursuant to that First Modification to Secured Promissory Note dated as of July 19, 2012, and as further amended from time to time (as modified, the "Note").

WHEREAS, Lender and Borrower have agreed to certain changes in the terms and conditions set forth in the Note and have agreed to amend the Note to reflect said changes.

NOW, THEREFORE, for valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree that the Note shall be amended as follows:

1. Increased Principal Amount. The maximum principal amount of the Note is hereby amended to be Three Million Dollars (\$3,000,000.00).

2. Amended Section 2.1. Section 2.1 of the Note is deleted in its entirety and replaced with the following:

2.1 Advance. On June 25, 2012, \$300,000 of the principal balance of this Secured Promissory Note was advanced to Borrower. On July 19, 2012, an additional \$1,700,000 of the principal balance of this Secured Promissory Note was advanced to Borrower. Additional advances in an amount not to exceed \$1,000,000 shall be made as follows:

(a) On or before October 24, 2012, Borrower may request an additional advance in an amount not to exceed \$900,000; and

(b) At Borrower's request, Lender may, at its sole discretion, issue an additional advance in an amount not to exceed \$100,000, subject to availability of funds.

Requests for additional advances shall be in writing, specify Borrower's intended use for each requested advance and be signed by Borrower in the form attached hereto as Exhibit A (the "Advance Request"). Advances shall not be made on or after the Maturity Date, or after the occurrence of a default or Event of Default which has not been cured or waived by Lender, any such waiver to be granted at Lender's sole discretion. Borrower agrees that Lender may rely on any Advance Request given by any person Lender reasonably believes is authorized to make such request without the necessity of independent investigation. Notwithstanding anything to the contrary contained herein, the aggregate principal amount



of all advances made hereunder shall not exceed Three Million Dollars (\$3,000,000.00) at any time.

3. No Other Changes. Except as explicitly amended by this Modification, all of the terms and conditions of the Note shall remain in full force and effect and shall apply to any Advance or Letter of Credit thereunder.

4. Representations and Warranties. Borrower hereby represents and warrants to Lender as follows:

(a) Borrower has all requisite power and authority to execute this Modification and any other agreements or instruments required hereunder and to perform all of its obligations hereunder, and this Modification and all such other agreements and instruments has been duly executed and delivered by Borrower and constitute the legal, valid and binding obligation of Borrower, enforceable in accordance with its terms.

(b) The execution, delivery and performance by Borrower of this Modification and any other agreements or instruments required hereunder have been duly authorized by all necessary corporate action and do not (i) require any authorization, consent or approval by any governmental department, commission, board, bureau, agency or instrumentality, domestic or foreign, (ii) violate any provision of any law, rule or regulation or of any order, writ, injunction or decree presently in effect, having applicability to Borrower, or the limited liability agreement of Borrower, or (iii) result in a breach of or constitute a default under any indenture or loan or credit agreement or any other agreement, lease or instrument to which Borrower is a party or by which it or its properties may be bound or affected.

(c) All of the representations and warranties contained in Section 4 of the Note are correct on and as of the date hereof as though made on and as of such date, except to the extent that such representations and warranties relate solely to an earlier date.

5. Origination Fee and Expenses. Borrower shall pay to Lender a fully earned and nonrefundable origination and amendment fee in the amount of thirty thousand dollars (\$30,000.00) (the "Origination Fee") contemporaneously with Borrower's execution and delivery to Lender of this Modification. Notwithstanding the foregoing, the Parties have agreed that the Origination Fee will be paid by funds at the time of closing. Borrower's execution of this Modification shall constitute its agreement, regardless of whether the conditions precedent set forth in Section 6 below are satisfied, to pay upon demand all reasonable expenses in connection with this Modification and the Loan, including (without limitation) legal fees for the preparation, negotiation, examination and enforcement of documents (including, without limitation, this Modification and any Ancillary Documents executed or delivered in connection herewith, and all other fees and costs incidental to the closing of this Modification and the making of the Loan). Lender shall not be required to pay any premium, brokerage fee, loan broker fee, commission or similar compensation in connection with this transaction, and Borrower agrees to defend, indemnify, and hold Lender harmless from and against all claims asserted by any person on account of any such fee, commission or compensation, including attorneys' fees paid or incurred by Lender with respect to any such claim.



6. Conditions Precedent. The execution and performance of this Modification by Lender, including the increased principal amount, is subject to the following conditions precedent:

(a) Execution by Borrower and delivery to Lender of this Modification, in form and substance satisfactory to Lender.

(b) Execution by Borrower and delivery to Lender of a Warrant Agreement, for approximately 1.5% of the ownership of the Borrower, in form and substance satisfactory to Lender.

(c) Execution by each of the Guarantors of the Agreement and Acknowledgement of Guarantors attached hereto.

(d) Payment in full and in good funds of the Origination Fee.

(e) The representations and warranties in Section 5 of this Modification shall be true and correct as of the date of this Modification and any additional Advance.

(f) There shall have been no material adverse change, as determined by Lender, in the financial condition or business of Borrower (or any guarantor hereunder), nor any material decline, as determined by Lender, in the market value of any collateral required hereunder or a substantial or material portion of the assets of Borrower (or any such guarantor).

7. References. All references in the Note to "this Secured Promissory Note" shall be deemed to refer to the Note as amended hereby; and any and all references in the Loan Documents to the Note shall be deemed to refer to the Note as amended hereby.

8. No Waiver. The execution of this Modification and the acceptance of all other agreements and instruments related hereto shall not be deemed to be a waiver of any Default or Event of Default under the Note or a waiver of any breach, default or event of default under any Loan Document.

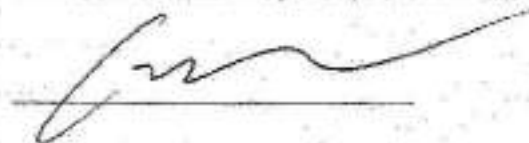
9. Miscellaneous. This Modification and each of the Agreement and Acknowledgement of Guarantors may be executed in any number of counterparts, each of which when so executed and delivered shall be deemed an original and all of which counterparts, taken together, shall constitute one and the same instrument.

11. Statutory Notice. **ORAL AGREEMENTS OR ORAL COMMITMENTS TO LOAN MONEY, EXTEND CREDIT OR FORBEAR FROM ENFORCING REPAYMENT OF A DEBT ARE NOT ENFORCEABLE UNDER WASHINGTON LAW.**

IN WITNESS WHEREOF, the parties hereto have caused this Modification to be duly executed as of the date first above written.

**BORROWER:**

KCI INVESTMENTS, LLC, a Nevada limited liability company




By: Ken Antos  
Its: Managing Member

Address: 4033 S. Dean Martin Drive  
Las Vegas, NV 89103

**LENDER:**

CBC PARTNERS I, LLC,  
a Washington limited liability company



By: John Otter  
Its: Authorized Manager Representative

Address: 305 108<sup>th</sup> Ave NE  
Suite 101  
Bellevue, WA 98004  
Facsimile: (425) 688-7003

### THIRD MODIFICATION TO SECURED PROMISSORY NOTE

THIS THIRD MODIFICATION TO SECURED PROMISSORY NOTE (this "Modification"), effective as of July 19, 2013, is entered into by and between KCI Investments, LLC, a Nevada limited liability company ("Borrower"), and CBC PARTNERS I, LLC, a Washington limited liability company, or its assigns ("Lender").

#### RECITALS

WHEREAS, Borrower is currently indebted to Lender pursuant to the terms and conditions of that certain Secured Promissory Note between Borrower and Lender dated as of June 22, 2012, as modified pursuant to that First Modification to Secured Promissory Note dated as of July 19, 2012, and that Second Modification to Security Promissory Note dated as of October 22, 2012, and as further amended from time to time (as modified, the "Note"),

WHEREAS, Lender and Borrower have agreed to certain changes in the terms and conditions set forth in the Note and have agreed to amend the Note to reflect said changes,

NOW, THEREFORE, for valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree that the Note shall be amended as follows:

1. Amended definition of "Maturity Date". The definition of "Maturity Date" as set forth in Section 1.1 of the Note, is deleted in its entirety and replaced with the following:

"Maturity Date" means October 19, 2013.

2. No Other Changes. Except as explicitly amended by this Modification, all of the terms and conditions of the Note shall remain in full force and effect and shall apply to any Advance or Letter of Credit thereunder.

3. Representations and Warranties. Borrower hereby represents and warrants to Lender as follows:

(a) Borrower has all requisite power and authority to execute this Modification and any other agreements or instruments required hereunder and to perform all of its obligations hereunder, and this Modification and all such other agreements and instruments has been duly executed and delivered by Borrower and constitute the legal, valid and binding obligation of Borrower, enforceable in accordance with its terms.

(b) The execution, delivery and performance by Borrower of this Modification and any other agreements or instruments required hereunder have been duly authorized by all necessary corporate action and do not (i) require any authorization, consent or approval by any governmental department, commission, board, bureau, agency or instrumentality, domestic or foreign, (ii) violate any provision of any law, rule or regulation or of any order, writ, injunction or decree presently in effect, having applicability to Borrower, or the limited liability agreement of Borrower, or (iii) result in a breach of or constitute a default under any indenture or loan or credit agreement or any other agreement, lease or instrument to which Borrower is a party or by which it or its properties may be bound or affected.

(c) All of the representations and warranties contained in Section 4 of the Note are correct on and as of the date hereof as though made on and as of such date, except to the extent that such representations and warranties relate solely to an earlier date.

4. Amendment Fee and Expenses. Borrower shall owe to Lender a fully earned and nonrefundable amendment fee in the amount of twenty-two thousand five hundred dollars (\$22,500.00) (the "Amendment Fee") contemporaneously with Borrower's execution and delivery to Lender of this Modification. Borrower's execution of this Modification shall constitute its agreement, regardless of whether the conditions precedent set forth in Section 5 below are satisfied, to pay upon demand the Amendment Fee and all reasonable fees and expenses of Lender incurred in connection with this Modification and the Loan, including (without limitation) attorneys' fees and expenses for the preparation, negotiation, examination and enforcement of documents (including, without limitation, this Modification and any Ancillary Documents executed or delivered in connection herewith, and all other fees and costs incidental to the closing of this Modification and the making of the Loan). Lender shall not be required to pay any premium, brokerage fee, loan broker fee, commission or similar compensation in connection with this transaction, and Borrower agrees to defend, indemnify, and hold Lender harmless from and against all claims asserted by any person on account of any such fee, commission or compensation, including attorneys' fees paid or incurred by Lender with respect to any such claim.

5. Conditions Precedent. The execution and performance of this Modification by Lender is subject to the following conditions precedent:

(a) Execution by Borrower and delivery to Lender of this Modification, in form and substance satisfactory to Lender.

(b) Execution by each of the Guarantors of the Agreement and Acknowledgement of Guarantors attached hereto.

(c) Payment in full and in good funds of the Amendment Fee.

(d) The representations and warranties in Section 3 of this Modification shall be true and correct as of the date of this Modification and any additional Advance.

(e) There shall have been no material adverse change, as determined by Lender, in the financial condition or business of Borrower (or any guarantor hereunder), nor any material decline, as determined by Lender, in the market value of any collateral required hereunder or a substantial or material portion of the assets of Borrower (or any such guarantor).

6. References. All references in the Note to "this Secured Promissory Note" shall be deemed to refer to the Note as amended hereby, and any and all references in the Loan Documents to the Note shall be deemed to refer to the Note as amended hereby. Capitalized terms used herein and not defined herein shall have the meanings assigned thereto in the Note.

7. No Waiver. The execution of this Modification and the acceptance of all other agreements and instruments related hereto shall not be deemed to be a waiver of any Default or Event of Default under the Note or a waiver of any breach, default or event of default under any Loan Document.

8. Miscellaneous. This Modification and each of the Agreement and Acknowledgement of Guarantors may be executed in any number of counterparts, each of which when so executed and delivered shall be deemed an original and all of which counterparts, taken together, shall constitute one and the same instrument.

9. Statutory Notice. **ORAL AGREEMENTS OR ORAL COMMITMENTS TO LOAN MONEY, EXTEND CREDIT OR FORBEAR FROM ENFORCING REPAYMENT OF A DEBT ARE NOT ENFORCEABLE UNDER WASHINGTON LAW.**

IN WITNESS WHEREOF, the parties hereto have caused this Modification to be duly executed as of the date first above written.

**BORROWER:** KCI INVESTMENTS, LLC, a Nevada limited liability company



By: Ken Antos  
Its: Managing Member

Address: 4033 S. Dean Martin Drive  
Las Vegas, NV 89103

**LENDER:** CBC PARTNERS I, LLC,  
a Washington limited liability company



By: John Otter  
Its: Authorized Manager Representative

Address: 305 108<sup>th</sup> Ave NE  
Suite 101  
Bellevue, WA 98004  
Facsimile: (425) 688-7003



## FIFTH MODIFICATION TO SECURED PROMISSORY NOTE

THIS FIFTH MODIFICATION TO SECURED PROMISSORY NOTE (this "Modification"), effective as of January 19, 2014, is entered into by and between KCI INVESTMENTS, LLC, a Nevada limited liability company ("Borrower"), and CBC PARTNERS I, LLC, a Washington limited liability company, or its assigns ("Lender").

### RECITALS

WHEREAS, Borrower is currently indebted to Lender pursuant to the terms and conditions of that certain Secured Promissory Note between Borrower and Lender dated as of June 22, 2012, as modified pursuant to that First Modification to Secured Promissory Note dated as of July 19, 2012, that Second Modification to Secured Promissory Note dated as of October 22, 2012, that Third Modification to Secured Promissory Note dated as of July 19, 2013, and that Fourth Modification to Secured Promissory Note dated as of November 19, 2013, and as further amended from time to time (as modified, the "Note").

WHEREAS, Borrower has notified Lender that it is in the process of completing a reverse merger into a public shell corporation (the "Reverse Merger") and has requested Lender's consent to the Reverse Merger.

WHEREAS, Borrower has requested that Lender modify the Note in certain respects, including to extend the Maturity Date, and Lender has agreed, subject to the terms and condition set forth herein.

NOW, THEREFORE, for valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree that the Note shall be amended as follows:

1. Amended definition of "Maturity Date". The definition of "Maturity Date", as set forth in Section 1.1 of the Note, is deleted in its entirety and replaced with the following:

"Maturity Date" means April 19, 2014.

2. Consent to Reverse Merger. Lender hereby consents to the Reverse Merger, provided, that (a) Borrower shall cause the entity into which it proposes to merge (the "Public Shell") to become a borrower and pledgor under the terms of the Note and the Ancillary Documents prior to consummating the Reverse Merger, in each case, on terms and conditions, and subject to documentation satisfactory to Lender in its sole and absolute discretion, (b) Borrower shall cause the Public Shell to assume all warrants issued on or prior to the date hereof by Borrower to Lender (collectively, the "Warrants"), on terms and conditions satisfactory to Lender in its sole and absolute discretion, and (c) within fourteen (14) days after the date hereof, Borrower shall grant to Lender registration rights with respect to the shares to be acquired by Lender upon its exercise of the Warrants, such grant to be made pursuant to a registration rights agreement in form and substance satisfactory to Lender in its sole and absolute discretion.

3. No Other Changes. Except as explicitly amended by this Modification, all of the terms and conditions of the Note shall remain in full force and effect and shall apply to any Advance or Letter of Credit thereunder.

4. Representations and Warranties. Borrower hereby represents and warrants to Lender as follows:

(a) Borrower has all requisite power and authority to execute this Modification and any other agreements or instruments required hereunder and to perform all of its obligations hereunder, and this Modification and all such other agreements and instruments has been duly executed and delivered by Borrower and constitute the legal, valid and binding obligation of Borrower, enforceable in accordance with its terms.

(b) The execution, delivery and performance by Borrower of this Modification and any other agreements or instruments required hereunder have been duly authorized by all necessary corporate action and do not (i) require any authorization, consent or approval by any governmental department, commission, board, bureau, agency or instrumentality, domestic or foreign, (ii) violate any provision of any law, rule or regulation or of any order, writ, injunction or decree presently in effect, having applicability to Borrower, or the limited liability agreement of Borrower, or (iii) result in a breach of or constitute a default under any indenture or loan or credit agreement or any other agreement, lease or instrument to which Borrower is a party or by which it or its properties may be bound or affected.

(c) All of the representations and warranties contained in Section 4 of the Note are correct on and as of the date hereof as though made on and as of such date, except to the extent that such representations and warranties relate solely to an earlier date.

5. No Waiver. The execution of this Modification and the acceptance of all other agreements and instruments related hereto shall not be deemed to be a waiver of any Default or Event of Default under the Note or a waiver of any breach, default or event of default under any Loan Document.

6. Amendment Fee and Expenses. Borrower shall owe to Lender a fully earned and nonrefundable amendment fee in the amount of forty thousand five hundred dollars (\$40,500.00) (the "Amendment Fee") contemporaneously with Borrower's execution and delivery to Lender of this Modification. Borrower's execution of this Modification shall constitute its agreement, regardless of whether the conditions precedent set forth in Section 7 below are satisfied, to pay upon demand the Amendment Fee and all reasonable fees and expenses of Lender incurred in connection with this Modification and the Loan, including (without limitation) attorneys' fees and expenses for the preparation, negotiation, examination and enforcement of documents (including, without limitation, this Modification and any Ancillary Documents executed or delivered in connection herewith, and all other fees and costs incidental to the closing of this Modification and the making of the Loan). Lender shall not be required to pay any premium, brokerage fee, loan broker fee, commission or similar compensation in connection with this transaction, and Borrower agrees to defend, indemnify, and hold Lender harmless from and against all claims asserted by any person on account of any such fee, commission or compensation, including attorneys' fees paid or incurred by Lender with respect to any such claim.

7. Conditions Precedent. The execution and performance of this Modification by Lender is subject to the following conditions precedent:

(a) Execution by Borrower and delivery to Lender of this Modification, in form and substance satisfactory to Lender.

(b) Execution by each of the Guarantors of the Agreement and Acknowledgement of Guarantors attached hereto.

(c) Payment in full and in good funds of the Amendment Fee.

(d) The representations and warranties in Section 4 of this Modification shall be true and correct as of the date of this Modification and any additional Advance.

(e) There shall have been no material adverse change, as determined by Lender, in the financial condition or business of Borrower (or any guarantor hereunder), nor any material decline, as determined by Lender, in the market value of any collateral required hereunder or a substantial or material portion of the assets of Borrower (or any such guarantor).

8. Principal Payments. In addition to the monthly payments of interest required under Section 2.4 of the Note, Borrower shall pay to Lender on February 17, 2014 and March 31, 2014, a principal payment under the Note of \$150,000, each.

9. References. All references in the Note to "this Secured Promissory Note" shall be deemed to refer to the Note as amended hereby, and any and all references in the Loan Documents to the Note shall be deemed to refer to the Note as amended hereby. Capitalized terms used herein and not defined herein shall have the meanings assigned thereto in the Note.

10. Miscellaneous. This Modification and each of the Agreement and Acknowledgement of Guarantors may be executed in any number of counterparts, each of which when so executed and delivered shall be deemed an original and all of which counterparts, taken together, shall constitute one and the same instrument. Electronic delivery of an original signature shall constitute an original signature.

11. Statutory Notice. **ORAL AGREEMENTS OR ORAL COMMITMENTS TO LOAN MONEY, EXTEND CREDIT OR FORBEAR FROM ENFORCING REPAYMENT OF A DEBT ARE NOT ENFORCEABLE UNDER WASHINGTON LAW.**

*Intentionally blank*



IN WITNESS WHEREOF, the parties hereto have caused this Modification to be duly executed as of the date first above written.

**BORROWER:** KCI INVESTMENTS, LLC, a Nevada limited liability company

  
By: Ken Antos  
Its: Managing Member

Address: 4033 S. Dean Martin Drive  
Las Vegas, NV 89103

**LENDER:** CBC PARTNERS I, LLC,  
a Washington limited liability company

  
By: John Otter  
Its: Authorized Manager Representative

Address: 305 108<sup>th</sup> Ave NE  
Suite 101  
Bellevue, WA 98004  
Facsimile: (425) 688-7003

## ACKNOWLEDGMENT AND AGREEMENT OF GUARANTORS

Each of the undersigned guarantors of the indebtedness of KCI Investments, LLC, a Nevada limited liability company (the "Borrower") to CBC Partners I, LLC ("Lender"), a Washington limited liability company, or its assigns, pursuant to his/her respective Guaranty dated June 22, 2012, (the "Guaranty"), hereby (i) acknowledges receipt of the Fifth Modification to Secured Promissory Note; (ii) consents to the terms and execution thereof; (iii) reaffirms all obligations to Lender pursuant to the terms of the Guaranty; and (iv) acknowledges that Lender may amend, restate, extend, renew or otherwise modify the Note and any indebtedness or agreement of the Borrower, or enter into any agreement or extend additional or other credit accommodations, without notifying or obtaining the consent of the undersigned and without impairing the liability of the undersigned under the Guaranty for all of the Borrower's present and future indebtedness to Lender.

Dated effective as of the 19th day of January, 2014.

GUARANTORS:



Kenneth Antos



Shelia Antos

## SIXTH MODIFICATION TO SECURED PROMISSORY NOTE AND WAIVER OF DEFAULTS

THIS SIXTH MODIFICATION TO SECURED PROMISSORY NOTE AND WAIVER OF DEFAULTS (this "Modification"), effective as of April 19, 2014, is entered into by and between KCI INVESTMENTS, LLC, a Nevada limited liability company ("Borrower"), and CBC PARTNERS I, LLC, a Washington limited liability company, or its assigns ("Lender").

### RECITALS

WHEREAS, Borrower is currently indebted to Lender pursuant to the terms and conditions of that certain Secured Promissory Note between Borrower and Lender dated as of June 22, 2012, as modified pursuant to that First Modification to Secured Promissory Note dated as of July 19, 2012, that Second Modification to Secured Promissory Note dated as of October 22, 2012, that Third Modification to Secured Promissory Note dated as of July 19, 2013, that Fourth Modification to Secured Promissory Note dated as of November 19, 2013, and that Fifth Modification to Secured Promissory Note dated as of January 19, 2014 (the "Fifth Modification"), and as further amended from time to time (the "Note").

WHEREAS, Borrower is currently in default under the terms of the Note as a result of its failure to make the principal payments due on February 17, 2014, and March 31, 2014, as set forth in Section 8 of the Fifth Modification (collectively, the "Existing Defaults").

WHEREAS, Borrower has asked that Lender extend the maturity of the Note and waive the Existing Defaults and Lender has agreed to such requests, subject to the terms and conditions set forth in this Modification.

NOW, THEREFORE, for valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree that the Note shall be amended as follows:

1. Amended definition of "Maturity Date". The definition of "Maturity Date", as set forth in Section 1.1 of the Note, is deleted in its entirety and replaced with the following:

"Maturity Date" means October 31, 2014.

2. Amended Section 7.1.3. Section 7.1.3 of the Note is deleted in its entirety and replaced with the following:

7.1.3 if a default occurs in the due observance or performance of any covenant or agreement on the part of Borrower (other than payment) to be observed or performed pursuant to the terms of this Secured Promissory Note, the Ancillary Documents, the Antos Settlement Agreement (as defined below) and such default remains uncured for three (3) Business Days after written notice thereof from Lender;

3. Waiver. Lender waives its default rights with respect to the Existing Defaults. This waiver applies only to the Existing Defaults and, except as to the Existing Defaults, the execution of this Modification and the acceptance of all other agreements and instruments related

hereto shall not be deemed to be a waiver of any default or Event of Default under the Note or a waiver of any breach, default or event of default under any Loan Document. Except as expressly set forth herein, all terms and conditions of the Note remain in full force and effect without waiver or modification. Borrower represents and warrants that as of the date hereof, there are no claims or offsets against or defenses or counterclaims to Borrower's obligations under the Note or any other Loan Document.

4. No Other Changes. Except as explicitly amended by this Modification, all of the terms and conditions of the Note shall remain in full force and effect and shall apply to any Advance or Letter of Credit thereunder.

5. Representations and Warranties. Borrower hereby represents and warrants to Lender as follows:

(a) Borrower has all requisite power and authority to execute this Modification and any other agreements or instruments required hereunder and to perform all of its obligations hereunder, and this Modification and all such other agreements and instruments has been duly executed and delivered by Borrower and constitute the legal, valid and binding obligation of Borrower, enforceable in accordance with its terms.

(b) The execution, delivery and performance by Borrower of this Modification and any other agreements or instruments required hereunder have been duly authorized by all necessary corporate action and do not (i) require any authorization, consent or approval by any governmental department, commission, board, bureau, agency or instrumentality, domestic or foreign, (ii) violate any provision of any law, rule or regulation or of any order, writ, injunction or decree presently in effect, having applicability to Borrower, or the limited liability agreement of Borrower, or (iii) result in a breach of or constitute a default under any indenture or loan or credit agreement or any other agreement, lease or instrument to which Borrower is a party or by which it or its properties may be bound or affected.

(c) All of the representations and warranties contained in Section 4 of the Note are correct on and as of the date hereof as though made on and as of such date, except to the extent that such representations and warranties relate solely to an earlier date.

6. No Waiver. The execution of this Modification and the acceptance of all other agreements and instruments related hereto shall not be deemed to be a waiver of any default or Event of Default under the Note or a waiver of any breach, default or event of default under any Loan Document, except as expressly stated herein.

7. Amendment Fee and Expenses. Borrower shall owe to Lender a fully earned and nonrefundable amendment fee in the amount of Sixty-three Thousand Dollars (\$63,000.00) (the "Amendment Fee") contemporaneously with Borrower's execution and delivery to Lender of this Modification. Borrower's execution of this Modification shall constitute its agreement, regardless of whether the conditions precedent set forth in Section 8 below are satisfied, to pay upon demand the Amendment Fee and all reasonable fees and expenses of Lender incurred in connection with this Modification and the Loan, including (without limitation) attorneys' fees and expenses for the preparation, negotiation, examination and enforcement of documents



(including, without limitation, this Modification and any Ancillary Documents executed or delivered in connection herewith, and all other fees and costs incidental to the closing of this Modification and the making of the Loan). Lender shall not be required to pay any premium, brokerage fee, loan broker fee, commission or similar compensation in connection with this transaction, and Borrower agrees to defend, indemnify, and hold Lender harmless from and against all claims asserted by any person on account of any such fee, commission or compensation, including attorneys' fees paid or incurred by Lender with respect to any such claim.

8. Conditions Precedent. The execution and performance of this Modification by Lender is subject to the following conditions precedent:

(a) Execution by Borrower and delivery to Lender of this Modification, in form and substance satisfactory to Lender.

(b) Execution by Borrower and delivery to Lender of two Warrant Agreements for seven hundred eighty-one thousand three hundred seventy-four and three hundredths (781,374.03) additional membership units of Borrower and for one million five hundred thousand (1,500,000) additional membership units of Borrower, in each case, in form and substance satisfactory to Lender.

(c) Execution by Borrower and delivery to Lender of resolutions of Borrower to enter into both Warrant Agreements referenced in clause (b), in each case, in form and substance satisfactory to Lender.

(d) Execution by each of the Guarantors of the Agreement and Acknowledgement of Guarantors attached hereto.

(e) Payment in full and in good funds of the Amendment Fee.

(f) The representations and warranties in Section 4 of the Note shall be true and correct as of the date of this Modification and any additional Advance.

(g) There shall have been no material adverse change, as determined by Lender, in the financial condition or business of Borrower (or any guarantor hereunder), nor any material decline, as determined by Lender, in the market value of any collateral required hereunder or a substantial or material portion of the assets of Borrower (or any such guarantor).

9. Principal Payment. In addition to the monthly payments of interest required under Section 2.4 of the Note, Borrower shall pay to Lender a principal payment under the Note of Three Hundred Thousand Dollars (\$300,000) within five (5) calendar days of Borrower's receipt of One Million Dollars (\$1,000,000) or more, in the aggregate, in capital contributions, received on or after the date of this Modification, but in any event, by no later than June 30, 2014.

10. References. All references in the Note to "this Secured Promissory Note" shall be deemed to refer to the Note as amended hereby, and any and all references in the Loan

Documents to the Note shall be deemed to refer to the Note as amended hereby. Capitalized terms used herein and not defined herein shall have the meanings assigned thereto in the Note.

11. Miscellaneous. This Modification and each of the Agreement and Acknowledgement of Guarantors may be executed in any number of counterparts, each of which when so executed and delivered shall be deemed an original and all of which counterparts, taken together, shall constitute one and the same instrument. Electronic delivery of an original signature shall constitute an original signature.

12. Statutory Notice. **ORAL AGREEMENTS OR ORAL COMMITMENTS TO LOAN MONEY, EXTEND CREDIT OR FORBEAR FROM ENFORCING REPAYMENT OF A DEBT ARE NOT ENFORCEABLE UNDER WASHINGTON LAW.**

*Intentionally blank*

IN WITNESS WHEREOF, the parties hereto have caused this Modification to be duly executed as of the date first above written.

**BORROWER:**

KCLINVESTMENTS, LLC,  
a Nevada limited liability company



By: Ken Antos  
Its: Managing Member

Address: 4033 S. Dean Martin Drive  
Las Vegas, NV 89103

**LENDER:**

CBC PARTNERS I, LLC,  
a Washington limited liability company



By: John Otter  
Its: Authorized Manager Representative

Address: 305 108<sup>th</sup> Ave NE  
Suite 101  
Bellevue, WA 98004  
Facsimile: (425) 688-7003

## ACKNOWLEDGMENT AND AGREEMENT OF GUARANTORS

Each of the undersigned guarantors of the indebtedness of KCI Investments, LLC, a Nevada limited liability company (the "Borrower") to CBC Partners I, LLC ("Lender"), a Washington limited liability company, or its assigns, pursuant to his/her respective Guaranty dated June 22, 2012, (the "Guaranty"), hereby (i) acknowledges receipt of the Sixth Modification to Secured Promissory Note; (ii) consents to the terms and execution thereof; (iii) reaffirms all obligations to Lender pursuant to the terms of the Guaranty; and (iv) acknowledges that Lender may amend, restate, extend, renew or otherwise modify the Note and any indebtedness or agreement of the Borrower, or enter into any agreement or extend additional or other credit accommodations, without notifying or obtaining the consent of the undersigned and without impairing the liability of the undersigned under the Guaranty for all of the Borrower's present and future indebtedness to Lender.

Dated effective as of the 19th day of April, 2014.

GUARANTORS:



Kenneth Antos



Shelia Antos



## EIGHTH MODIFICATION TO SECURED PROMISSORY NOTE AND WAIVER OF DEFAULTS

THIS EIGHTH MODIFICATION TO SECURED PROMISSORY NOTE AND WAIVER OF DEFAULTS (this "Modification"), effective as of January 23, 2015, is entered into by and among KCI INVESTMENTS, LLC, a Nevada limited liability company ("KCI"), PREFERRED RESTAURANT BRANDS, INC., a Florida corporation ("PRB" and, together with KCI, each a "Borrower" and collectively, "Borrowers") and CBC PARTNERS I, LLC, a Washington limited liability company, or its assigns ("Lender").

### RECITALS

WHEREAS, Borrowers are currently indebted to Lender pursuant to the terms and conditions of that certain Secured Promissory Note by and among Borrowers and Lender dated as of June 22, 2012, as modified pursuant to that certain First Modification to Secured Promissory Note dated as of July 19, 2012, that certain Second Modification to Secured Promissory Note dated as of October 22, 2012, that certain Third Modification to Secured Promissory Note dated as of July 19, 2013, that certain Fourth Modification to Secured Promissory Note dated as of November 19, 2013, that certain Fifth Modification to Secured Promissory Note dated as of January 19, 2014, that certain Sixth Modification to Secured Promissory Note dated as of April 19, 2014, and that certain Seventh Modification to Secured Promissory Note dated as of October 31, 2014 (the "Seventh Modification") and as further amended from time to time (the "Note");

WHEREAS, Borrowers are currently in default under the terms of the Note as a result of (i) transferring assets outside the ordinary course of business to various subsidiaries of KCI in violation of Section 6.11 of the Note; (ii) failing to provide the certified resolutions and warrants of KCI Holding 1, LLC ("Holdings") in violation of Section 19 of the Seventh Modification, and (iii) failing to deliver a fully executed springing blocked account agreement by and among Kenneth M. Antos ("Antos"), Lender and JPMorgan Chase & Co. or its affiliate in violation of Section 21 of the Seventh Modification (the "Existing Defaults");

WHEREAS, PRB desires to obtain secured funding from TCA Global Credit Master Fund, LP ("TCA") pursuant to those certain Securities Purchase Agreement and Secured Redeemable Debenture, each dated December 31, 2014, which (absent written approval by Lender) would violate Sections 6.4 and 6.5 of the Note; and

WHEREAS, Borrowers have asked that Lender waive the Existing Defaults and approve the indebtedness and liens in favor of TCA, and Lender has agreed to such requests, subject to the terms and conditions set forth in this Modification;

NOW, THEREFORE, for valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree that the Note shall be amended as follows:

1. Waiver. Lender waives its default rights with respect to the Existing Defaults. This waiver applies only to the Existing Defaults and, except as to the Existing Defaults, the

execution of this Modification and the acceptance of all other agreements and instruments related hereto shall not be deemed to be a waiver of any default or Event of Default under the Note or a waiver of any breach, default or event of default under any Loan Document. Except as expressly set forth herein, all terms and conditions of the Note remain in full force and effect without waiver or modification. Each Borrower represents and warrants that as of the date hereof, there are no claims or offsets against or defenses or counterclaims to such Borrower's obligations under the Note or any Ancillary Document.

2. Consent to Exceptions to Negative Covenants. Lender approves, as an exception to Sections 6.4 and 6.5 of the Note, the indebtedness of PRB to TCA in the amount of \$2,000,000 and security interests in the assets of the Borrowers to secure that amount, subject to the terms and conditions herein, including execution of an Intercreditor Agreement in form and substance satisfactory to Lender in its discretion.

3. No Other Changes. Except as explicitly amended by this Modification, all of the terms and conditions of the Note shall remain in full force and effect and shall apply to any Advance or Letter of Credit thereunder.

4. Representations and Warranties. Each Borrower hereby represents and warrants to Lender as follows:

(a) Such Borrower has all requisite power and authority to execute this Modification and any other agreements or instruments required hereunder and to perform all of its obligations hereunder, and this Modification and all such other agreements and instruments has been duly executed and delivered by such Borrower and constitute the legal, valid and binding obligation of such Borrower, enforceable in accordance with its terms.

(b) The execution, delivery and performance by such Borrower of this Modification and any other agreements or instruments required hereunder have been duly authorized by all necessary corporate action and do not (i) require any authorization, consent or approval by any governmental department, commission, board, bureau, agency or instrumentality, domestic or foreign, (ii) violate any provision of any law, rule or regulation or of any order, writ, injunction or decree presently in effect, having applicability to such Borrower, or the governing documents of such Borrower, or (iii) result in a breach of or constitute a default under any indenture or loan or credit agreement or any other agreement, lease or instrument to which such Borrower is a party or by which it or its properties may be bound or affected.

(c) All of the representations and warranties contained in Section 4 of the Note are correct on and as of the date hereof as though made on and as of such date, except to the extent that such representations and warranties relate solely to an earlier date.

(d) As of the date of this Modification, there exists no Event of Default as defined in the Note, nor any condition, act or event which with the giving of notice or the passage of time or both would constitute any such Event of Default, other than the Existing Defaults.

5. No Waiver. The execution of this Modification and the acceptance of all other agreements and instruments related hereto shall not be deemed to be a waiver of any default or

Event of Default under the Note or a waiver of any breach, default or event of default under any Loan Document, except as expressly stated herein.

6. Conditions Precedent. The execution and performance of this Modification by Lender is subject to the following conditions precedent:

(a) Execution by each Borrower and delivery to Lender of this Modification, in form and substance satisfactory to Lender.

(b) Execution by Borrowers and delivery to Lender of a Pledge Agreement, in form and substance satisfactory to Lender.

(c) Execution by PRB and delivery to Lender of a Warrant Agreement for five hundred thousand (500,000) shares of PRB, in form and substance satisfactory to Lender.

(d) Execution by KCI Restaurant I LLC, KCI Restaurant II LLC, PRB I LLC, and any other subsidiaries of Borrowers (collectively, the "Subsidiaries") and delivery to Lender of a Security Agreement, in form and substance satisfactory to Lender.

(e) Execution by the Subsidiaries and delivery to Lender of a Guaranty, in form and substance satisfactory to Lender.

(f) Delivery to Lender of satisfactory evidence of corporate authority of Borrowers and the Subsidiaries to take the action and execute the documents required by this Modification, including by PRB for the Warrant Agreement referenced in clause (c), in each case, in form and substance satisfactory to Lender.

(g) Execution by each of the Guarantors of the Agreement and Acknowledgement of Guarantors attached hereto.

(h) Delivery to Lender of a fully executed Intercreditor Agreement by and among Lender, Borrowers, and TCA, in form and substance satisfactory to Lender.

(i) Payment in full and in good funds of all fees and expenses of Lender incurred in connection with this Modification, including (without limitation) attorneys' fees and expenses for the preparation, negotiation, examination and enforcement of documents (including, without limitation, this Modification and any Ancillary Documents executed or delivered in connection herewith, and all other fees and costs incidental to the closing of this Modification and the making of the Loan) for which Lender has made demand.

(j) The representations and warranties in Section 4 of the Note shall be true and correct as of the date of this Modification.

(k) Since September 30, 2014, there shall have been no material adverse change, as determined by Lender, in the financial condition or business of either Borrower (or any guarantor hereunder), nor any material decline, as determined by Lender, in the market value

of any collateral required hereunder or a substantial or material portion of the assets of either Borrower (or any such guarantor).

7. Holdings Resolutions and Warrant.

(a) Within thirty (30) days of the date hereof (which date may be extended in Lender's sole discretion), Borrowers shall deliver to Lender evidence satisfactory to Lender in its discretion of the ratification of the conversion of 5,858,225 membership units of KCI into an equal number of membership units of Holdings and the issuance of 5,858,225 membership units of Holdings to Lender.

(b) Borrowers shall take all actions necessary, in good faith, to cause Holdings to issue membership units in Holdings to Lender, within thirty (30) days of the date hereof (which date may be extended in Lender's sole discretion), based upon the exercise of those certain Warrants to Purchase Membership Units issued by KCI dated July 19, 2012, October 22, 2012, and November 19, 2013, for an aggregate of 5,858,225 membership units in Holdings.

(c) Within thirty (30) days of the date hereof (which date may be extended in Lender's sole discretion), Borrowers shall deliver to Lender evidence satisfactory to Lender in its discretion of the assignment and assumption by Holdings reflecting the exchange of those certain Warrants to Purchase Membership Units issued by KCI dated April 19, 2014, for an aggregate of 1,818,574 membership units of KCI, for warrants issued by Holdings to Lender for an aggregate of 1,818,574 membership units of Holdings.

8. Account Ownership. Within fifteen (15) days of the date hereof (which date may be extended in Lender's sole discretion), Borrower shall cause Kenneth M. Antos ("Antos") to change the ownership of account number 8712783477, routing number 322271627 (the "Account") with JPMorgan Chase & Co. or its affiliate ("Chase") (which is the Account in which Antos deposits or receives payments under that certain Settlement Agreement and Mutual Release, as amended by and among Twin Towers Trading Site Management, LLC, Jeffrey Brandon, Eric Scholer, David L. Beacklean, SMG Group, Inc., and Antos, dated as of September 1, 2012 (the "Settlement Agreement")) to provide for Lender as sole owner and signatory thereunder (the "Ownership Change"), including executing and delivering to Lender or Chase any documents or instruments necessary to effect such change. Lender agrees that, following the Ownership Change, upon receipt of notice from Antos to Lender of the receipt of any payment into the Account pursuant to the Settlement Agreement, provided that no Event of Default has occurred and is continuing at such time, Lender shall promptly and in any event within five (5) days transfer such funds to Antos pursuant to wire instructions provided by Antos from time to time. Antos hereby grants and transfers to Lender a security interest in and lien on the Account and all funds now or hereafter deposited into the Account.

9. References. All references in the Note to "this Secured Promissory Note" shall be deemed to refer to the Note as amended hereby, and any and all references in the Ancillary Documents to the Note shall be deemed to refer to the Note as amended hereby. All references in the Note and all Modifications to Note to the "Loan Documents" shall be deemed to refer to the "Ancillary Documents," as such may be amended or modified. Capitalized terms used herein

and not defined herein shall have the meanings assigned thereto in the Note. Failure by any Borrower or Guarantor to strictly comply with the terms of this Modification shall constitute an Event of Default under the Note.

10. Miscellaneous. This Modification and each of the Agreement and Acknowledgement of Guarantors may be executed in any number of counterparts, each of which when so executed and delivered shall be deemed an original and all of which counterparts, taken together, shall constitute one and the same instrument. Electronic delivery of an original signature shall constitute an original signature.

11. Ratification. KCI agrees that any and all actions taken previously hereto by Antos as "Managing Member" or "Manager" on behalf of KCI in connection with the transactions contemplated by the Note and the Ancillary Documents, including execution of any such documents, be, and they hereby are, authorized, ratified, and confirmed in all respects, regardless of the title used.

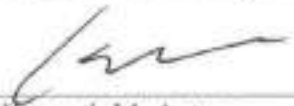
12. Statutory Notice. **ORAL AGREEMENTS OR ORAL COMMITMENTS TO LOAN MONEY, EXTEND CREDIT OR FORBEAR FROM ENFORCING REPAYMENT OF A DEBT ARE NOT ENFORCEABLE UNDER WASHINGTON LAW.**

*Intentionally blank*

IN WITNESS WHEREOF, the parties hereto have caused this Modification to be duly executed as of the date first above written.


**BORROWERS:**

KCI INVESTMENTS, LLC,  
a Nevada limited liability company

  
By: Kenneth M. Antos  
Its: Manager

Address: 4033 S. Dean Martin Drive  
Las Vegas, NV 89103

PREFERRED RESTAURANT BRANDS, INC.,  
a Florida corporation

  
By: Kenneth M. Antos  
Its: President

Address: 4033 S. Dean Martin Drive  
Las Vegas, NV 89103

**LENDER:**

CBC PARTNERS I, LLC,  
a Washington limited liability company

  
By: John Otter  
Its: Authorized Manager Representative

Address: 777 108<sup>th</sup> Ave NE  
Suite 1895  
Bellevue, WA 98004  
Facsimile: (425) 688-7003

# EXHIBIT “D”



**KCI INVESTMENTS**

# **FAX COVER SHEET**

<b>Send to:</b> CBC Partners	<b>From:</b> Ken Antos
<b>Attention:</b> Alan	<b>Date</b> 11/27/2013
<b>Office Location:</b>	<b>Office Location:</b>
<b>Fax</b> 425-642-3312	<b>Phone Number:</b> 702.248.3792

- ☐ Urgent
- ☐ Reply ASAP
- ☐ Please comment
- ☐ Please review
- ☐ For your information

**Total pages, including cover:** 8

**Comments:**

Attached Fourth Modification and Signature Affidavit  
plus Acknowledgment of Guarantors  
Ken



#### FOURTH MODIFICATION TO SECURED PROMISSORY NOTE

THIS FOURTH MODIFICATION TO SECURED PROMISSORY NOTE (this "Modification"), effective as of November 19, 2013, is entered into by and between KCI Investments, LLC, a Nevada limited liability company ("Borrower"), and CBC PARTNERS 1, LLC, a Washington limited liability company, or its assigns ("Lender").

#### RECITALS

WHEREAS, Borrower is currently indebted to Lender pursuant to the terms and conditions of that certain Secured Promissory Note between Borrower and Lender dated as of June 22, 2012, as modified pursuant to that First Modification to Secured Promissory Note dated as of July 19, 2012, that Second Modification to Security Promissory Note dated as of October 22, 2012, and that Third Modification to Security Promissory Note dated as of July 19, 2013, and as further amended from time to time (as modified, the "Note").

WHEREAS, Borrower is in default under the Note as a result of (i) Borrower's failure to satisfy the Note upon the Maturity Date and (ii) the termination of the Alliance Agreement (as defined in the Amos Security Agreement) (collectively, the "Existing Defaults").

WHEREAS, Borrower has requested Lender to waive the Existing Defaults and Lender and Borrower have agreed to certain changes in the terms and conditions set forth in the Note and have agreed to amend the Note to reflect said changes.

NOW, THEREFORE, for valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree that the Note shall be amended as follows:

1. Amended Section 1.1.

(a) The following definition of "Fourth Modification" is added as a new defined term to Section 1.1:

"Fourth Modification" means that certain Fourth Modification to Secured Promissory Note by and between Borrower and Lender dated as of November \_\_, 2013.

(b) The definition of "Maturity Date" as set forth in Section 1.1 of the Note, is deleted in its entirety and replaced with the following:

"Maturity Date" means January 19, 2014.

2. Amended definition of "Note Rate". The definition of "Note Rate" as set forth in Section 2.2 of the Note is amended to be fifteen percent (15%).

3. Amended Section 2.4. Section 2.4 of the Note is deleted in its entirety and replaced with the following:

2.4 Payments. Borrower shall make (a) payments of principal in the amount of \$150,000 each on November 29, 2013, and December 31, 2013, and (b) monthly

payments of interest beginning on the first (1st) day of each month. On or before the Maturity Date, Borrower must pay to Lender all outstanding principal, accrued interest, and fees and costs owing under the Note. Borrower may prepay all or any portion of the Loan, at any time prior to the Maturity Date, without premium or penalty.

4. Amended Section 6. The following is added to Section 6 as a new Section 6.12:

6.12 Antos Debt. Permit guarantor Kenneth M. Antos ("Antos") to incur, create, assume or permit to exist any debt secured by the real property located at 5148 Spanish Heights Drive, Las Vegas, Nevada 89148, other than the first and second position deeds of trust or mortgages, in favor of \_\_\_\_\_ and \_\_\_\_\_, respectively, which exist as of the date of the Fourth Modification.

5. Amended Section 7.1.3. Section 7.1.3 of the Note is deleted in its entirety and replaced with the following:

7.1.3 if a default occurs in the due observance or performance of any covenant or agreement on the part of Borrower (other than payment) to be observed or performed pursuant to the terms of this Secured Promissory Note, the Ancillary Documents, the Antos Settlement Agreement (as defined below) and such default remains uncured for three (3) Business Days after written notice thereof from Holder;

6. Amended Section 11.2. Section 11.2 of the Note is deleted in its entirety and replaced with the following:

11.2 Antos has granted and pledged to Lender a first priority senior security interest in Antos's right, title and interest in, to and under all accounts, payment intangibles, general intangibles and rights to payment now or hereafter arising under that certain Settlement Agreement and Mutual Release, as amended, modified or supplemented from time to time, by and among Twin Towers Trading Site Management, LLC, Jeffrey Brandon, Eric Scholer, David L. Beacklean, SMG Group, Inc., and Antos, dated as of September 1, 2012 ("Antos Settlement Agreement"), pursuant to a security agreement ("Antos Security Agreement") dated as of November \_\_, 2013, as amended.

7. No Other Changes. Except as explicitly amended by this Modification, all of the terms and conditions of the Note shall remain in full force and effect and shall apply to any Advance or Letter of Credit thereunder.

8. Representations and Warranties. Borrower hereby represents and warrants to Lender as follows:

(a) Borrower has all requisite power and authority to execute this Modification and any other agreements or instruments required hereunder and to perform all of its obligations hereunder, and this Modification and all such other agreements and instruments has been duly executed and delivered by Borrower and constitute the legal, valid and binding obligation of Borrower, enforceable in accordance with its terms.

(b) The execution, delivery and performance by Borrower of this Modification and any other agreements or instruments required hereunder have been duly authorized by all necessary corporate action and do not (i) require any authorization, consent or approval by any governmental department, commission, board, bureau, agency or instrumentality, domestic or foreign, (ii) violate any provision of any law, rule or regulation or of any order, writ, injunction or decree presently in effect, having applicability to Borrower, or the limited liability agreement of Borrower, or (iii) result in a breach of or constitute a default under any indenture or loan or credit agreement or any other agreement, lease or instrument to which Borrower is a party or by which it or its properties may be bound or affected.

(c) All of the representations and warranties contained in Section 4 of the Note are correct on and as of the date hereof as though made on and as of such date, except to the extent that such representations and warranties relate solely to an earlier date.

9. Amendment Fee and Expenses. Borrower shall owe to Lender a fully earned and nonrefundable amendment fee in the amount of forty-five thousand dollars (\$45,000.00) (the "Amendment Fee") contemporaneously with Borrower's execution and delivery to Lender of this Modification. Borrower's execution of this Modification shall constitute its agreement, regardless of whether the conditions precedent set forth in Section 10 below are satisfied, to pay upon demand the Amendment Fee and all reasonable fees and expenses of Lender incurred in connection with this Modification and the Loan, including (without limitation) attorneys' fees and expenses for the preparation, negotiation, examination and enforcement of documents (including, without limitation, this Modification and any Ancillary Documents executed or delivered in connection herewith, and all other fees and costs incidental to the closing of this Modification and the making of the Loan). Lender shall not be required to pay any premium, brokerage fee, loan broker fee, commission or similar compensation in connection with this transaction, and Borrower agrees to defend, indemnify, and hold Lender harmless from and against all claims asserted by any person on account of any such fee, commission or compensation, including attorneys' fees paid or incurred by Lender with respect to any such claim.

10. Conditions Precedent. The execution and performance of this Modification by Lender is subject to the following conditions precedent:

(a) Execution by Borrower and delivery to Lender of this Modification, in form and substance satisfactory to Lender.

(b) Execution by Borrower and delivery to Lender of a Warrant Agreement for three million additional membership units of Borrower, in form and substance satisfactory to Lender.

(c) Execution by Antos and delivery to Lender of the Antos Security Agreement, in form and substance satisfactory to Lender.

(d) Execution by Borrower and delivery to Lender of resolutions of Borrower to enter into a Warrant Agreement, in form and substance satisfactory to Lender.

(e) Execution by Antos and delivery to Lender of a Name Affidavit, in form and substance satisfactory to Lender.

(f) Execution by each of the Guarantors of the Agreement and Acknowledgement of Guarantors attached hereto.

(g) Payment in full and in good funds of the Amendment Fee.

(h) The representations and warranties in Section 3 of this Modification shall be true and correct as of the date of this Modification and any additional Advance.

(i) There shall have been no material adverse change, as determined by Lender, in the financial condition or business of Borrower (or any guarantor hereunder), nor any material decline, as determined by Lender, in the market value of any collateral required hereunder or a substantial or material portion of the assets of Borrower (or any such guarantor).

11. References. All references in the Note to "this Secured Promissory Note" shall be deemed to refer to the Note as amended hereby, and any and all references in the Loan Documents to the Note shall be deemed to refer to the Note as amended hereby. Capitalized terms used herein and not defined herein shall have the meanings assigned thereto in the Note.

12. No Waiver. The execution of this Modification and the acceptance of all other agreements and instruments related hereto shall not be deemed to be a waiver of any Default or Event of Default under the Note (other than the Existing Defaults) or a waiver of any breach, default or event of default under any Loan Document.

13. Waiver of Existing Defaults. Lender hereby waives its default rights with respect to the Existing Defaults. This waiver applies only to the Existing Defaults. It is not a waiver for any subsequent breach of the same provisions of the Note, nor is it a waiver of any breach of any other provision of the Note.

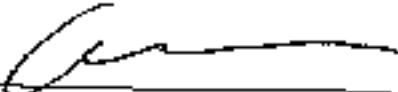
14. Miscellaneous. This Modification and each of the Agreement and Acknowledgement of Guarantors may be executed in any number of counterparts, each of which when so executed and delivered shall be deemed an original and all of which counterparts, taken together, shall constitute one and the same instrument.

15. Statutory Notice. ORAL AGREEMENTS OR ORAL COMMITMENTS TO LOAN MONEY, EXTEND CREDIT OR FORBEAR FROM ENFORCING REPAYMENT OF A DEBT ARE NOT ENFORCEABLE UNDER WASHINGTON LAW.

*Intentionally blank*

IN WITNESS WHEREOF, the parties hereto have caused this Modification to be duly executed as of the date first above written.

**BORROWER:** KCI INVESTMENTS, LLC, a Nevada limited liability company

  
By: Ken Antos  
Its: Managing Member

Address: 4033 S. Dean Martin Drive  
Las Vegas, NV 89103

**LENDER:** CBC PARTNERS I, LLC,  
a Washington limited liability company

  
By: John Otter  
Its: Authorized Manager Representative

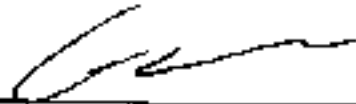
Address: 305 108<sup>th</sup> Ave NE  
Suite 101  
Bellevue, WA 98004  
Facsimile: (425) 688-7003

## ACKNOWLEDGMENT AND AGREEMENT OF GUARANTORS

Each of the undersigned guarantors of the indebtedness of KCI Investments, LLC, a Nevada limited liability company (the "Borrower") to CBC Partners I, LLC ("Lender"), a Washington limited liability company, or its assigns, pursuant to his/her respective Guaranty dated June 22, 2012, (the "Guaranty"), hereby (i) acknowledges receipt of the Fourth Modification to Secured Promissory Note; (ii) consents to the terms and execution thereof; (iii) reaffirms all obligations to Lender pursuant to the terms of the Guaranty; and (iv) acknowledges that Lender may amend, restate, extend, renew or otherwise modify the Note and any indebtedness or agreement of the Borrower, or enter into any agreement or extend additional or other credit accommodations, without notifying or obtaining the consent of the undersigned and without impairing the liability of the undersigned under the Guaranty for all of the Borrower's present and future indebtedness to Lender.

Dated as of the \_\_\_\_ day of November, 2013.

GUARANTORS:

  
\_\_\_\_\_  
Kenneth Antos

  
\_\_\_\_\_  
Shelia Antos

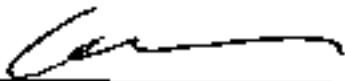
NAME AFFIDAVIT

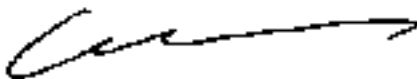
DATE: November \_\_, 2013

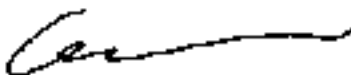
The undersigned hereby certifies to CBC Partners I, LLC ("Lender") that:

(a) Ken Antos, Kenneth Antos, and Kenneth M. Antos are one and the same person;  
and

(b) all documents entered into by the undersigned with, or signed by the undersigned for the benefit of, Bank and its successors and assigns, under either of said names represent obligations of, and are binding upon, the undersigned.

  
\_\_\_\_\_  
Ken Antos

  
\_\_\_\_\_  
Kenneth Antos

  
\_\_\_\_\_  
Kenneth M. Antos

# EXHIBIT “E”



**SECURITY AGREEMENT WITH RESPECT TO  
INTEREST IN SETTLEMENT AGREEMENT AND MUTUAL RELEASE**

This SECURITY AGREEMENT WITH RESPECT TO INTEREST IN SETTLEMENT AGREEMENT AND MUTUAL RELEASE ("Agreement") is made as of the 1<sup>st</sup> day of November, 2013, by Kenneth M. Antos ("Antos"), in favor of CBC PARTNERS I, LLC, a Washington limited liability company ("Secured Party").

**RECITALS**

A. KCI Investments, LLC, a Nevada limited liability company ("Borrower") has executed that certain Secured Promissory Note in favor of Secured Party, in the original principal amount of \$300,000.00, as amended, modified or supplemented from time to time ("Note"), dated as of June 22, 2012.

B. Antos is party to that certain Settlement Agreement and Mutual Release, as amended ("Settlement Agreement") by and among Twin Towers Trading Site Management, LLC, Jeffrey Brandon, Eric Scholer, David L. Seacklean, SMG Group, Inc., and Antos, dated as of September 1, 2012.

C. Contemporaneous herewith, Secured Party and Borrower have executed that certain Fourth Modification to Secured Promissory Note ("Fourth Modification") and the amendments contained therein to Borrower's obligations are reasonably expected to benefit Antos, directly or indirectly, and is in the furtherance of Antos' personal and business interests.

D. As a condition to making the amendments evidenced by the Fourth Modification, Secured Party requires the grant to Secured Party by Antos of a lien on and security interest in, all of Antos' right, title and interest in the Settlement Agreement, and Antos is willing to grant such a lien and security interest, in each case subject to the terms and conditions of this Agreement.

**AGREEMENT**

NOW, THEREFORE, for and in consideration of mutual covenants herein, and for other good and valuable consideration the sufficiency and receipt of which are hereby acknowledged, Antos agrees as follows:

1. **Definitions.** As used in this Agreement:

(a) "Collateral" means all accounts, payment intangibles, general intangibles, instrument, contract rights, and rights to payment arising from the Settlement Agreement, in whatever form, now existing or at any time hereafter arising, and all proceeds, products, rents or profits therefrom.

(b) **"Default"** means any event referred to in section 4 of this Agreement.

(c) **"Loan Documents"** means, collectively, this Agreement, the Guaranty, and the Note, each executed of even date herewith, and all other agreements, instruments and documents now or hereafter executed and/or delivered by Borrower or Antos to the Secured Party, in order to evidence or secure the Secured Obligations, as each may be amended, modified or supplemented from time to time.

(d) **"Guaranty"** means that certain Guaranty, dated as of June 22, 2012, made by Kenneth Antos and Sheila Antos, married persons, guarantying payment of the Secured Obligations.

(e) **"Note"** has the meaning set forth in the recitals to this Agreement.

(f) **"Secured Obligations"** means the payment and performance of: (a) all present and future indebtedness of Borrower to Secured Party; and (b) all obligations of Borrower and Antos under this Agreement, the Guaranty and the other Loan Documents. The word "indebtedness" is used herein in its most comprehensive sense and includes any and all advances, debts, obligations and liabilities of Borrower, or any of them, heretofore, now or hereafter made incurred or created, whether voluntary or involuntary and however arising, whether due or not due, absolute or contingent, liquidated or unliquidated, determined or undetermined, including under any swap, derivative, foreign exchange, hedge, deposit, treasury management or other similar transaction or arrangement, and whether Borrower may be liable individually or jointly with others, or whether recovery upon such indebtedness may be or hereafter becomes unenforceable.

The foregoing definitions shall be equally applicable to both the singular and plural forms of the defined terms. Terms used in this Agreement and not defined herein or in the Note shall have the meanings given such terms in the Uniform Commercial Code, as enacted in the State of Washington.

2. **Grant of Security Interest.** For good and valuable consideration, and as security for the prompt and unconditional payment and performance of the Secured Obligations, Antos hereby grants to the Secured Party a security interest in all of Antos' right, title and interest in and to the Collateral, whether now existing or hereafter acquired.

3. **Representations, Warranties and Covenants.** Antos represents, warrants and covenants to the Secured Party as follows:

3.1 **Absence of Liens and Interests.** Antos is the sole owner of the Collateral and Antos has not conveyed or otherwise encumbered the Collateral in favor of any other party.

3.2 Settlement Agreement. Antos delivered a true and correct copy of the Settlement Agreement, dated as of the dates described in the recitals hereto, to Secured Party and such Settlement Agreement has not been rescinded, terminated, or further amended. Not later than five (5) days after receipt thereof, Antos shall deliver to Lender any notices received pursuant to the Settlement Agreement.

3.3 Sale, Encumbrance or Disposition. Without the prior written consent of the Secured Party, Antos will not (a) allow the sale or encumbrance of any portion of the Collateral and (b) incur, create, assume or permit to exist any debt secured by the real property located at 5148 Spanish Heights Drive, Las Vegas, Nevada 89148, other than the first and second position deeds of trust or mortgages, in favor of \_\_\_\_\_ and \_\_\_\_\_, respectively, which exist as of the date hereof.

3.4 Amendment. Without the prior written consent of the Secured Party, Antos will not consent to any amendment(s) to the Settlement Agreement.

3.5 Expenditures by Secured Party. Antos will reimburse the Secured Party upon demand for any expenditures by the Secured Party for the maintenance, protection and preservation of the Collateral or the Secured Party's interest in the Collateral, and for the collection, repossession, holding, preparation and sale or other disposition of or realization upon the Collateral. In no event shall the Secured Party have any obligation to make such expenditures nor any liability to Antos, or any other person, for failing to make them.

3.6 Trust. If a Default has occurred and is continuing, any distributions, cash, payments, transfers or other amounts received or receivable by Antos under the Settlement Agreement shall be paid directly to, and shall be retained by, Secured Party and may be applied by Secured Party to the Secured Obligations in such order of application as Secured Party deems fit, in its sole discretion. Should Antos receive any such amounts during the continuation of a Default, such amounts shall be held in trust for the benefit of the Secured Party.

4. Defaults. Each of the following shall constitute an event of default ("Default") under this Agreement:

(a) Any default (subject to any cure period provided under the terms of any Loan Document) or event of default on any of the Secured Obligations; or

(b) Breach of any representation or warranty contained in this Agreement; or

(c) Any failure to comply fully and timely with any provision of this Agreement, the Guaranty, or any other Loan Document to which Antos is a party; or

(d) Any levy, attachment or execution on, or seizure of, any of the Collateral; or

(e) Any Loan Document ceases to be in full force and effect or any lien with respect to any material portion of the Collateral intended to be secured thereby ceases to be, or is not, valid, perfected and prior to all other liens or is terminated, revoked, declared void, as a result of any act of the Borrower, Antos, any other guarantor of the Secured Obligations, or any third party; or

(f) Dissolution, termination of existence, insolvency or bankruptcy of Antos, or the appointment of a receiver to take possession of the Collateral; or

(g) Termination of the Settlement Agreement.

5. Rights and Remedies of Secured Party.

5.1 General. In addition to the rights and remedies granted to the Secured Party in this Agreement, the Secured Party shall at all times have the rights and remedies granted in the Secured Obligations and the rights and remedies of a secured party under the Uniform Commercial Code as enacted in the State of Washington and under all other applicable laws. Antos hereby acknowledges and agrees that the Secured Party is not required to exercise all rights and remedies available to it equally with respect to all the Collateral and that the Secured Party may select less than all the Collateral with respect to which its rights and remedies may be exercise, as determined by the Secured Party in its sole discretion.

5.2 Remedies. After the occurrence, and during the continuance, of a Default, the Secured Party may take any one or more of the following actions in its sole discretion:

(a) Declare all or any part of the Secured Obligations due and payable, without presentment, demand, protest or other notice of any kind, all of which are expressly waived.

(b) Require Antos to establish a separate blocked account under the control of Secured Party (the "Blocked Account") into which all Collateral shall be deposited. Withdrawals from the Blocked Account shall be allowed only with the consent of Secured Party, which consent Secured Party may withhold in its sole discretion. Antos acknowledges that the maintenance of the Blocked Account will exist solely for the Secured Party's convenience and Antos will have no right, title or interest in the Blocked Account or in the amounts at any time appearing to the credit thereof.

(c) Require Antos, upon receipt of checks, drafts, cash and other remittances in payment or as proceeds of, or on account of, the Collateral, to deposit the same in the Blocked Account, or otherwise directed by Secured Party.

the perfection, preservation, protection and enforcement of its rights and remedies under this Agreement and its security interest in the Collateral, whether incurred before or after judgment, with or without suit, on appeal, in bankruptcy or other insolvency proceedings, in post-judgment collection proceedings, or otherwise, Antos shall pay all such fees, costs and expenses incurred by the Secured Party in any bankruptcy case regardless of whether they are incurred in connection with issues of state law, bankruptcy law or otherwise, whether or not otherwise allowable in bankruptcy.

8.8 Expenditures. All expenditures, fees, costs and other amounts for which Antos is required to reimburse the Secured Party under this Agreement shall be payable upon demand.

8.9 Governing Law. This Security Agreement shall be governed by, and construed in accordance with the laws of the state of Washington without giving effect to their principles or provisions regarding conflicts of laws or choice of law.

8.10 Counterparts. This Agreement may be executed in any number of counterparts and by each party on a separate counterpart, each of which when so executed and delivered shall be deemed an original and all of which taken together shall constitute but one and the same instrument. Signatures on this Agreement exchanged or delivered by fax transmission and/or by scanned PDF email attachments shall have the same binding effect as original signatures personally delivered to the other parties.

IN WITNESS WHEREOF Antos has duly executed and delivered this Agreement as of the date first written above.

By: 

Kenneth M. Antos, individually

I, SHEILA ANTOS, hereby consent to, and join in, this Agreement to the extent it encumbers, binds or pledges any interest my marital community may now have or hereafter acquire in the Collateral granted pursuant to this Agreement.

By: 

Sheila Antos

NAME AFFIDAVIT

DATE: November 19, 2013

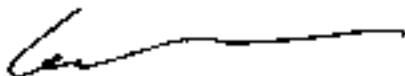
The undersigned hereby certifies to CBC Partners I, LLC ("Lender") that:

(a) Ken Antos, Kenneth Antos, and Kenneth M. Antos are one and the same person;  
and

(b) all documents entered into by the undersigned with, or signed by the undersigned for the benefit of, Bank and its successors and assigns, under either of said names represent obligations of, and are binding upon, the undersigned.



Ken Antos



Kenneth Antos



Kenneth M. Antos