

LEASE AGREEMENT

This LEASE AGREEMENT (“Lease”) is entered into to be effective as of the 1st day of January, 2014 (“Effective Date”), by and between the COUNTY OF WINNEBAGO, an Illinois body politic (“Tenant”), and CHURCH & CHESTNUT DEVELOPMENT, LLC, a Delaware limited liability company (“Landlord”).

R E C I T A L S

WHEREAS, Landlord is the owner of that certain real property commonly known as 310 South Church and 320 and 324 Chestnut Street, in Rockford, Illinois, which property is legally described in the attached Exhibit A (collectively referred to herein as the “Property”); and

WHEREAS, the Property is comprised of a parking lot and related improvements and does not house any buildings; and

WHEREAS, Landlord and Tenant previously entered into a Contract for Purchase and Sale dated September 27, 2013 in which Landlord agreed to sell and Tenant agreed to purchase the Property (“Sale Contract”); and

WHEREAS, the parties now desire to terminate the Sale Contract and instead enter into this Lease Agreement under which Landlord agrees to lease to Tenant and Tenant agreed to lease from Landlord, the Property on the terms and conditions set forth herein; and

WHEREAS, prior to the date of this Lease and as part of the Sale Contract, Tenant requested that Landlord prepare the Property for its intended use as a parking lot;

WHEREAS, the Property originally was designed to contain 72 parking stalls but, at the request of the Tenant, changes were made (for the electronic gates) that reduced the number of parking stalls to 68; and

WHEREAS, the parties agree that the Rent, as defined herein, was based on 70 parking stalls; and;

WHEREAS, Landlord now desires to lease to Tenant, and Tenant desires to Lease from Landlord, the Property under the terms and conditions of this Lease.

NOW THEREFORE, in consideration of the above recitals which are incorporated into the agreements of this Lease as though restated below, the promises herein contained, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Tenant and Landlord agree as follows:

1. Lease. Landlord hereby leases to Tenant, and Tenant hereby leases from Landlord, the Property located in Rockford, Illinois, on those terms and conditions set forth herein.
2. Term. The Term of this Lease shall be for Fifteen (15) years commencing on the Effective Date and ending December 31, 2028 (“Lease Term”).

3. Rent. Tenant shall pay Landlord a Base Parking Fee and a Base Sublease Fee each month, as set forth in this Paragraph 3. The Base Parking Fee and the Base Sublease Fee are collectively referred to herein as "Rent".
 - a. Base Parking Fee. The Base Parking Fee for the first five (5) years of the Lease Term shall equal Four Thousand Two Hundred Dollars (\$4,200) per month. Beginning on the first day of the sixth year of the Lease Term and continuing annually thereafter, the Base Parking Fee shall increase by three percent (3%) of the prior year's Base Parking Fee.
 - b. Base Sublease Fee. The Base Sublease Fee for the first five (5) years of the Lease Term shall equal Two Thousand Five Hundred Dollars (\$2,500) per month. Beginning on the first day of the sixth year of the Lease Term and continuing annually thereafter, the Base Sublease Fee shall increase by three percent (3%) of the prior year's Base Sublease Fee.

Tenant agrees to pay to Landlord the Rent, without notice or demand, in advance, on or before the 1st day of each and every successive calendar month during the Lease Term, commencing on the Effective Date; except that the first month's rent (in addition to the Additional Capital Improvement Advance) shall be paid to Landlord upon the execution of this Lease. Tenant agrees to arrange for the automatic deposit of its Rent payments into an account to be designated by Landlord. Rent for any period which is for less than one (1) month shall be a prorated portion of the monthly installment therein based upon a thirty (30) day month. All Rent shall be paid to Landlord, without deduction or offset, in lawful money of the United States of America and at such place as Landlord may from time to time designate in writing. All Rent shall be due without regard to whether a sublease exists between Tenant and a third party.

4. Use. Tenant shall use the Property in conformity of the law and the terms of this agreement. The property may not be altered or constructed upon without Landlord's consent, which consent will not be unreasonably withheld.
5. Maintenance and Repair. Tenant, at its sole cost and expense, shall keep the Property and any and all improvements constructed thereon, in good condition and repair, normal wear and tear excepted and shall further keep the Property in a safe condition free from hazards. Tenant's maintenance requirements include but are not limited to, snow and ice removal, annual sealing, pavement maintenance landscaping, sweeping, striping and associated utilities, lighting and lighting improvements.
6. Signage. Tenant may, at its option, provide signage for the Property at the sole cost and expense of Tenant.
7. Liability Insurance. Tenant shall, at Tenant's expense, obtain and keep in force during the Lease Term a policy of commercial general liability insurance (sometimes known as comprehensive public liability insurance) insuring Landlord and Tenant (and, if requested by Landlord, Landlord's lender and property manager) against any liability for bodily injury, property damage (including loss of use of property) and personal injury arising out

of the ownership, use, occupancy or maintenance of the Property and all areas appurtenant thereto. Such insurance policy shall be in the amount of not less than \$1,000,000 per occurrence. Tenant may provide this insurance under a blanket policy, provided that said insurance shall have a Landlord's protective liability endorsement attached thereto. If Tenant shall fail to procure and maintain said insurance, Landlord may, but shall not be required to, procure and maintain same, at the expense of Tenant. Insurance required hereunder shall be in companies rated A:XII or better as set forth in the most current "Best's Key Rating Guide." Tenant shall deliver to Landlord, prior to right of entry, copies of policies of liability insurance required herein or certificates evidencing the existence and amounts of such insurance with loss payable clauses satisfactory to Landlord. No policy shall be cancelable or subject to reduction of coverage. All such policies shall be written as primary policies not contributing with and not in excess of coverage that Landlord may carry.

8. Property Taxes. Landlord shall pay all real estate taxes and/or special assessments levied against the Property.
9. Right of First Refusal.
 - a. Tenant shall have the right of first refusal on any contemplated sale of all or any part of the Property by Landlord to a third party in an arm's length transaction for fair market value ("Bona Fide Sale"). Landlord shall provide Tenant with a copy of any Bona Fide Sale offer which Landlord has accepted or intends to accept and Purchaser shall have forty-five (45) days after receipt thereof to elect, at its option, to purchase the Property upon the same terms and conditions as set forth in the Bona Fide Sale offer. If Tenant rejects the offer or fails to act within forty-five (45) days, of its receipt of the offer, Landlord may close the transaction with the proposed third party purchaser upon the terms of the submitted offer and assign its rights, title and interest in this Lease to said purchaser.
 - b. Landlord agrees that in the event that the Property is sold or transferred to any third party, including a Permitted Party, as hereinafter defined, the sales agreement or other transfer instrument between Landlord and the third party shall contain language indicating that the sale will be subject to the terms and conditions of this Lease and that Tenant's rights to the Property as set forth in this Lease shall be preserved for any remaining Lease Term, except that Tenant's right of first refusal under this Paragraph 9 shall be extinguished following any Bona Fide Sale.
10. Termination of Sale Contract. Upon execution of this Lease by both parties, the Sale Contract shall be terminated. The parties agree and acknowledge that Tenant previously deposited One Hundred and Twenty Five Thousand Dollars (\$125,000) with Landlord as earnest money under the Sale Contract ("Earnest Money"). The Earnest Money shall be refundable in accordance with the provision of Paragraph 12 herein.
11. Additional Capital Improvement Advance. Tenant agrees to pay to Landlord Seventy Five Thousand Dollars (\$75,000) upon execution of this Lease ("Additional Capital

Improvement Advance”). This Additional Capital Improvement Advance shall be refundable in accordance with the provision of Paragraph 12 herein.

12. Earnest Money and Additional Capital Improvement Advance. The Earnest Money and the Additional Capital Improvement Advance shall be refunded to Tenant as follows:
 - a. In the event Tenant exercises its right to purchase the Property in accordance with Paragraph 9(a) herein, the Earnest Money and the Additional Capital Improvement Advance shall both be credited toward the purchase price; or
 - b. In the event Tenant opts not to exercise its right to purchase the Property in accordance with Paragraph 9(a) herein and the Property is sold to a third party purchase during the Lease Term, the Earnest Money and the Additional Capital Improvement Advance shall be refunded to Tenant within thirty (30) days of the date the purchase transaction is closed; or
 - c. In the event the Property is not sold during the Lease Term, Landlord shall refund the Earnest Money and the Additional Capital Improvement Advance to Tenant within thirty (30) days of the date this Lease expires.
13. Liens. Tenant shall keep the Property and the property in which the Property are situated free from any liens arising out of any work performed, materials furnished or obligations incurred by or on behalf of Tenant.
14. Tenant's Default. The occurrence of any one of the following events shall constitute an event of default on the part of Tenant upon ten (10) days, unless a different timeframe is specifically otherwise provided for below, written notice of such event being given by Landlord (“Default”):
 - a. The failure of Tenant to pay any installment or payment of Rent when due, which failure continues for a period of ten (10) days after written notice thereof from Landlord to Tenant (which notice may be given in the form of a Landlord's Statutory 5-Day Notice used in Illinois forcible entry and detainer proceedings), provided that no such written notice is required from Landlord if Landlord has already provided written notice on two separate occasions in the same calendar year; or
 - b. A general assignment by Tenant or any guarantor of Tenant's obligations hereunder for the benefit of creditors; or
 - c. An assignment or attempted assignment of this Lease by Tenant contrary to the provisions of this Lease; or
 - d. Any insurance required to be maintained by Tenant pursuant to this Lease shall be canceled or terminated or shall expire or be reduced or materially changed, except as permitted in this Lease; or

- e. Any failure by Tenant to discharge any lien or encumbrance placed on the Property or any part of the Property which does not arise from Landlord's actions; or
- f. The failure in the performance or observance of any other of Tenant's covenants, agreements or obligations in this Lease which failure continues for thirty (30) days after written notice thereof has been sent from Landlord to Tenant (unless the default involves a hazardous condition, which shall be cured forthwith upon Landlord's demand), provided, however, that, if Tenant has exercised reasonable diligence to cure such failure and such failure cannot be cured within such thirty (30) day period despite reasonable diligence, Tenant shall not be in default under this subparagraph so long as Tenant thereafter diligently and continuously prosecutes the cure to completion and actually completes such cure within sixty (60) days after the giving of the aforesaid written notice.

15. Landlord's Remedies. Upon the occurrence of any Default, Landlord may, with or without notice or demand of any kind to Tenant or any other person, have any one or more of the following described remedies in addition to all other rights and remedies provided at law or in equity or otherwise or elsewhere herein:

- a. Terminate this Lease by giving to Tenant written notice of Landlord's election to do so, in which event the Term and all right, title and interest of Tenant hereunder shall end on the date stated in such notice; or
- b. Terminate the right of Tenant to possession of the Property without terminating this Lease, by giving written notice to Tenant that Tenant's right of possession shall end on the date stated in such notice, whereupon the right of Tenant to possession of the Property or any part thereof shall cease on the date stated in such notice.

In addition to the above remedies, Landlord may, at its sole option, enforce the provisions of this Lease and enforce and protect the rights of Landlord hereunder by a suit or suits in equity or at law for the specific performance of any covenant or agreement contained herein; and for the enforcement of any other appropriate legal or equitable remedy, including without limitation: (i) injunctive relief, (ii) recovery of all monies due or to become due from Tenant under any of the provisions of this Lease, and (iii) any other damage incurred by Landlord by reason of Tenant's default under this Lease. If Landlord exercises any of the remedies provided for in paragraphs (a) or (b) above, Tenant shall surrender possession of and vacate the Property and immediately deliver possession thereof to Landlord in the condition required by this Lease, and Landlord may re-enter and take complete and peaceful possession of the Property.

16. Tenant Indemnity. Tenant shall indemnify and hold harmless Landlord against and from any and all claims arising from Tenant's use of the Property or from the conduct of its business or from any activity, work, or other things done, permitted or suffered by Tenant

in or about the Property, and shall further indemnify and hold harmless Landlord against and from any and all claims arising from any breach or default in the performance of any obligation on Tenant's part to be performed under the terms of this Lease, or arising from any act or negligence of Tenant, or any officer, agent, employee, guest, or invitee of Tenant, and from all costs, attorney's fees, and liabilities incurred in or about the defense of any such claim or any action or proceeding brought thereon. If any action or proceeding be brought against Landlord by reason of such claim, Tenant upon notice from Landlord shall defend the same at Tenant's expense by counsel reasonably satisfactory to Landlord. Tenant shall give prompt notice to Landlord in case of casualty or accidents in the Property.

17. Landlord Warranties. Landlord represents and warrants that it is the owner of the Property and has full authority to enter into this Lease.

18. Compliance with the Law. Tenant shall not permit anything to be done in or about the Property, which will in any way conflict with any law, statute, ordinance or governmental rule or regulation now in force or which may hereafter be enacted or promulgated. Tenant shall, at its sole cost and expense, promptly comply with all laws, statutes, ordinances and governmental rules, regulations, requirements now in force or which may hereafter be in force and with the requirements of any board of fire underwriters or other similar bodies now or hereafter constituted relating to or affecting the condition or use of the Property.

19. Assignment by Tenant. Tenant shall not either voluntarily, or by operation of law, assign, transfer, mortgage, pledge, hypothecate or encumber this Lease or any interest therein, or any part thereof, or any right or privilege appurtenant thereto, or allow any other person (the employees, agents, servants and invitees of Tenant excepted) to occupy or use the Property, or any portion thereof, without first obtaining the written consent of Landlord. Any such assignment without such consent shall be void, and shall, at the option of Landlord, constitute a default under the terms of this Lease. Notwithstanding the foregoing, Tenant may sublease all or a portion of the Property without Landlord's prior consent.

20. Transfers and Assignments by Landlord.

- a. Landlord may transfer all or a portion of its right, title and interest in and to the Property to a Permitted Party, as hereinafter defined, at any time without prior approval of Tenant. In addition, Landlord may assign its right, title and interest in and to this Lease to a Permitted Party, as hereinafter defined, at any time without prior approval of Tenant. A "Permitted Party" shall mean any person or entity that has an interest in Landlord, either directly or indirectly through another entity or multiple entities; or the spouse or family member of a person that has a direct or indirect interest in Landlord. Prior to the transfer of the Property or the assignment of the Lease under this Paragraph 20(a), Landlord must first provide Tenant 30 day's written notice. Tenant will have the opportunity to challenge whether the transferee or assignee is a "Permitted Party" as defined herein by providing written notice to Landlord not less than ten (10) days following

Tenant’s receipt of the notice required in this subsection. If Landlord does not receive written notice from Tenant within this time period, Tenant shall be deemed to have approved the proposed transferee or assignee as a Permitted Party.

- b. Landlord agrees that in the event this Lease is assigned under Paragraph 20(a) above, the assignment instrument between Landlord and the assignee shall contain language indicating that the assignment will be subject to the terms and conditions of this Lease, including Paragraph 9 herein, and that Tenant’s rights to the Property as set forth herein shall be preserved for any remaining Lease Term, as defined in Paragraph 2 herein.
- c. The parties agree that Tenant’s right of first refusal as set forth in Paragraph 9 shall not be triggered by Landlord’s transfer of the Property to a Permitted Party nor the assignment of this Lease to any party.
- d. Landlord may, without the requirement to first notify or obtain consent from Tenant, assign the rents Landlord is entitled to receive from Tenant hereunder as security for any loan.

21. Notices. Any notices to be delivered to a party to this Lease shall be in writing, shall be sent postage prepaid either by (i) certified mail, in which case such notice shall be deemed to be received three (3) days after placing such notice in the mail; or (ii) overnight courier, in which case such notice shall be deemed received on the delivery date as confirmed by the overnight courier. All notices shall be sent to the following addresses:

If to Landlord:	Church & Chestnut, LLC Attn: Paul S. Nicolosi 420 Financial Court, Suite 120 Rockford, Illinois 61107
With Copy to:	Church & Chestnut, LLC 6260 E. Riverside Blvd #356 Loves Park, Illinois 61111-4418
If to Tenant:	County of Winnebago Attn: Dave Kurlinkus 400 West State Street, Suite 804 Rockford, Illinois 61101

22. Effect. This Lease shall be binding and in full force and effect as stated above.

(SIGNATURE PAGE TO FOLLOW)

IN WITNESS WHEREOF, the parties have executed this Lease to be effective as of the date first written above.

LANDLORD:

CHURCH & CHESTNUT, LLC,
A Delaware limited Liability Company

By: 

Its: its authorized agent

TENANT

WINNEBAGO COUNTY, ILLINOIS
An Illinois body politic

By: 

Its: Chairman of the Board

Attest:

WINNEBAGO COUNTY CLERK



EXHIBIT A

Legal Description

Parcel I:

The Easterly Forty-four (44) feet of Lots One (1), Two (2) and Three (3) in Block Sixteen (16) as designated upon the Map of the Original Town (now City) of Rockford, West of Rock River, the Westerly line of said premises being parallel with the Easterly lines of said lots; situated in the County of Winnebago and the State of Illinois.

Parcel II:

Part of Lots One (1), Two (2) and Three (3) in Block Sixteen (16) as designated upon the Map of that part of the Town (now City) of Rockford, West of Rock River, filed for record by John W. Leavitt, the Plat of which is recorded in Book E of Deeds on Page 225 in the Recorder's Office of Winnebago County, Illinois, bounded as follows, to-wit:

Beginning on the Northerly line of said Lot One (1) at a point One Hundred Twelve and Forty-two Hundredths (112.42) feet Easterly from the Northwest corner thereof; thence Southerly, parallel with the Westerly lines of said three Lots, to the Southerly line of said Lot Three (3); thence Westerly, along said Southerly line, Fifty-eight (58) feet; thence Northerly, parallel with the Westerly lines of said three Lots, to the Northerly line of said Lot One (1); thence Easterly, along said Northerly line, Fifty-eight (58) feet to the place of beginning, EXCEPTING THEREFROM Part of Lot One (1) and part of Lot Two (2) in Block Sixteen (16) as designated upon the Map of that part of the Town (now City) of Rockford, West of Rock River, filed for record by John W. Leavitt, the Plat of which is recorded in Book E of Deeds on Page 225 in the Recorder's Office of Winnebago County, bounded as follows, to-wit: Commencing at the Northwesterly corner of said Lot One (1); thence Easterly along the Northerly line of said Lot One (1), a distance of 54.0 feet; thence Southerly parallel with the Westerly line of said Lot One (1) a distance of 34.0 feet to the point of beginning for the following described parcel; thence Easterly parallel with the Northerly line of said Lot One (1), a distance of 0.5 feet; thence Southerly parallel with the Westerly line of said Lot One (1) and continuing Southerly parallel with the Westerly line of said Lot Two (2), a distance of 25.68 feet; thence Westerly parallel with the Northerly line of said Lot One (1), a distance of 0.5 feet; thence Northerly parallel with the Westerly lines of said Lots Two (2) and One (1), a distance of 25.68 feet to the point of beginning; situated in the County of Winnebago and State of Illinois.

**A/K/A: 310 South Church Street, 320 and 324 Chestnut Street
PIN's: 11-22-479-009, 11-22-479-002, and 11-22-479-003**