

EXHIBIT Q

LIMITED GUARANTY OF COMPLETION

THIS LIMITED GUARANTY OF COMPLETION (“*Guaranty*”) is dated as of _____ by _____, a limited partnership (“*Guarantor*”), for the benefit of the **VILLAGE OF WINNETKA**, an Illinois home rule municipal corporation (“*Village*”).

RECITALS:

WHEREAS, the Village and SB One Winnetka, LLC and SB Winnetka, LLC, and _____ (“*Developer*”) are parties to that certain Amended and Restated Development Agreement dated _____, 2018, a true and complete copy of which is attached hereto as **Exhibit A** (“*Development Agreement*”); and

WHEREAS, pursuant to the Redevelopment Agreement, the Village has agreed to convey certain property to the Developer (as defined in the Redevelopment) and to undertake certain other obligations and actions, including the approval of a planned development for the Developer’s proposed redevelopment of certain property in the Village (“*Development*,” as defined and described in the Development Agreement); and

WHEREAS, Developer has agreed to undertake the Development in accordance with the terms and conditions of the Development Agreement (“*Developer’s Obligations*”); and

WHEREAS, Guarantor has a financial interest in Developer, and in consideration of the Village’s performance of its obligations in the Development Agreement, Guarantor has agreed to provide this Guaranty to the Village to secure Developer’s performance of Developer’s Obligations.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which hereby are acknowledged, Guarantor hereby agrees as follows:

1. **Definitions.** Words and phrases not otherwise defined herein shall have the meaning set forth in the RDA.

2. **Performance Guaranty.**

(a) Guarantor hereby, absolutely, unconditionally and irrevocably agrees that Guarantor will cause the Developer’s Obligations to be performed, completed and paid for substantially in the manner and at the applicable times required to be so performed, completed and paid for by Developer under the Development Agreement, to the extent that Developer fails to do so at any and all applicable times.

(b) Within 30 days of receipt of a written demand for performance or payment under this Guaranty by the Village, Guarantor will (1) as applicable, commence, or cause to be commenced, performance of the Developer’s Obligations and to diligently pursue performance thereof to completion and to thereafter cause the Developer’s Obligation to be performed.

3. **Representations and Warranties.** The following shall constitute representations and warranties of Guarantor, and Guarantor hereby acknowledges that the Village is entering into the Development Agreement and performing its obligations thereunder:

(a) Guarantor is not in default and no event has occurred that with the passage of time and/or the giving of notice will constitute a default under any agreement to which Guarantor is a party, the effect of which will impair performance by Guarantor of its obligations under this Guaranty. Neither the execution and delivery of this Guaranty nor compliance with the terms and provisions hereof will violate any applicable law, rule, regulation, judgment, decree or order, or will conflict with or result in any breach of any of the terms, covenants, conditions or provisions of any indenture, mortgage, deed of trust, instrument, document, agreement or contract of any kind that creates, represents, evidences or provides for any lien, charge or encumbrance upon any of the property or assets of Guarantor, or any other indenture, mortgage, deed of trust, instrument, document, agreement or contract of any kind to which Guarantor is a party or to which Guarantor may be subject.

(b) There is not any litigation, arbitration, governmental or administrative proceedings, actions, examinations, claims or demands pending, or to Guarantor's knowledge, threatened that could adversely affect performance by Guarantor of its obligations under this Guaranty.

(c) Neither this Guaranty nor any statement or certification as to facts previously furnished or required herein to be furnished to the Village, its advisors or agents, by Guarantor, contains any material inaccuracy or untruth in any representation, covenant or warranty or omits to state a fact material to this Guaranty.

(d) Guarantor has an ownership interest in Developer, and as such will receive realizable commercial value from the Village's granting the zoning relief necessary for the Development and undertaking its obligations to Developer under the Development Agreement.

4. **Continuing Guaranty.** Guarantor agrees that performance of the Developer's Obligations by Guarantor shall not be subject to any counterclaim, set-off, abatement, deferment or defense based upon any claim that Guarantor may have against the Village (with the exception of any counterclaim, set-off, abatement, deferment or defense based upon any claim that Developer may have against Village), Developer, any other guarantor of Developer's obligations or any other person or entity, and shall remain in full force and effect without regard to, and shall not be released, discharged or affected in any way by, any circumstance or condition (whether or not Guarantor shall have any knowledge thereof), including without limitation:

(a) any failure, omission or delay on the part of the Village, the Developer, the Guarantor, or any other party to conform or comply with any term of the Development Agreement or any failure by any party to give any notice required under the Development Agreement, unless any such failure, omission or delay on the part of the Village constitutes a material breach of the Development Agreement, in which case the said release herein shall be of no force and effect, and Guarantor shall be entitled to pursue any available counterclaim, set-off, abatement, deferment or defense that Guarantor may have against the Village as a result thereof;

(b) any waiver, compromise, release, settlement or extension of time of payment or performance or observance of any of the obligations or agreements contained in the Development Agreement;

(c) any action or inaction by any party under or in respect of the Development Agreement, any failure, lack of diligence, omission or delay on the part of the Village to perfect, enforce, assert or exercise any lien, security interest, right, power or remedy conferred on it in the Development Agreement, or any other action or inaction by any party; provided, however, that in the event such action or inaction or failure, lack of diligence, omission or delay on the part of the Village is material in nature, then this Section 4, including without limitation the release herein, shall be of no force and effect and Guarantor shall be entitled to pursue any available counterclaim, set-off, abatement, deferment or defense that Guarantor may have against the Village as a result thereof;

(d) any voluntary or involuntary bankruptcy, insolvency, reorganization, arrangement, readjustment, assignment for the benefit of creditors, composition, receivership, liquidation, marshalling of assets and liabilities or similar events or proceedings with respect to Retail Developer, Guarantor, or any of their respective property or creditors, or any action taken by any trustee or receiver or by any court in any such proceeding;

(e) any merger or consolidation of Developer or Guarantor into or with any entity, or any sale, lease or transfer of any portion of the Development to any other person or entity; or

(f) any change in the ownership of Developer or Guarantor or any change in the relationship between such parties, or any termination of any such relationship.

5. **Waivers.** Guarantor expressly and unconditionally waives (i) notice of any of the matters referred to in Section 4 above, (ii) all notices which may be required by statute, rule of law or otherwise, now or hereafter in effect, to preserve intact any rights against Guarantor, including, without limitation, any demand, presentment and protest, proof of notice of non-payment under the Development Agreement and notice of any default or any failure on the part of Developer, Guarantor or any other party to perform or comply with any covenant, agreement, term or condition of the Development Agreement, (iii) any right to the enforcement, assertion or exercise against Developer, Guarantor or any other party of any right or remedy conferred under the Development Agreement, (iv) any requirement of diligence on the part of any person or entity, and (v) any requirement to exhaust any remedies or to mitigate the damages resulting from any default under the Development Agreement.

6. **Subordination.** Guarantor agrees that any and all present and future debts and obligations of Developer to Guarantor hereby are subordinated to the claims of the Village and hereby are assigned by Guarantor to the Village as security for Developer's obligations under the Development Agreement and Guarantor's obligations under this Guaranty.

7. **Enforcement Costs.** If: (a) this Guaranty, is placed in the hands of one or more attorneys for collection or is collected through any legal proceeding; (b) one or more attorneys is retained to represent the Village in any bankruptcy, reorganization, receivership or other proceedings affecting creditors' rights and involving a claim under this Guaranty; or (c) one or more attorneys is retained to represent the Village in any other proceedings whatsoever in connection with this Guaranty, then Guarantor shall pay to the

Village upon demand all reasonable fees, costs and expenses incurred by the Village in connection therewith, including, without limitation, reasonable attorney's fees, court costs and filing fees (all of which are referred to herein as "Enforcement Costs"), in addition to all other amounts due hereunder. Any such Enforcement Costs shall also be included as part of and subject to the liability limitation set forth in Section 2(a)(ii) hereof.

8. **Successors and Assigns; Several Liability.** This Guaranty shall be binding on Guarantor and the successors and assigns of Guarantor. It is agreed that the undersigned's liability hereunder is several and independent of any other guarantees or other obligations at any time in effect with respect to Developer's obligations or any part thereof and that Guarantor's liability hereunder may be enforced regardless of the existence, validity, enforcement or non-enforcement of any such other guarantees or other obligations.

9. **No Waiver of Rights.** No delay or failure on the part of the Village to exercise any right, power or privilege under this Guaranty or of the Development Agreement shall operate as a waiver thereof, and no single or partial exercise of any right, power or privilege shall preclude any other or further exercise thereof or the exercise of any other power or right, or be deemed to establish a custom or course of dealing or performance between the parties hereto. The rights and remedies herein provided are cumulative and not exclusive of any rights or remedies provided by law. No notice to or demand on Guarantor in any case shall entitle Guarantor to any other or further notice or demand in the same, similar or other circumstance.

10. **Modification.** The terms of this Guaranty may be waived, discharged, or, other than as set forth in Section 11 hereof, terminated only by an instrument in writing signed by the party against which enforcement of the change, waiver, discharge or termination is sought. No amendment, modification, waiver or other change of any of the terms of this Guaranty shall be effective without the prior written consent of the Village and Guarantor.

11. **Termination.** This Guaranty shall terminate upon Developer's satisfaction of the Developer's Obligations pursuant to the Development Agreement.

12. **Joinder.** Any action to enforce this Guaranty may be brought against Guarantor without any reimbursement or joinder of Developer or any other party in such action.

13. **Severability.** If any provision of this Guaranty is deemed to be invalid by reason of the operation of law, or by reason of the interpretation placed thereon by any administrative agency or any court, Guarantor and the Village shall negotiate an equitable adjustment in the provisions of the same in order to effect, to the maximum extent permitted by law, the purpose of this Guaranty and the validity and enforceability of the remaining provisions, or portions or applications thereof, shall not be affected thereby and shall remain in full force and effect.

14. **Notice.** All notices, communications and waivers under this Guaranty shall be in writing and shall be (i) delivered in person or (ii) mailed, postage prepaid, either by registered or certified mail, return receipt requested, or (iii) by overnight express carrier, addressed in each case as follows:

To the Village: Village of Winnetka
510 Green Bay Road
Winnetka, Illinois 60093
Attention: Village Manager

In each case with a copy to: Holland & Knight LLP
131 South Dearborn, 30th Floor
Chicago, Illinois 60603
Attention: Peter Friedman, Village Attorney

To the Guarantor: _____

With a copy to: _____

or to any other address as to any of the parties hereto, as such party shall designate in a written notice to the other party hereto. All notices sent pursuant to the terms of this Section 14 shall be deemed received (i) if personally delivered, then on the date of delivery, (ii) if sent by overnight, express carrier, then on the next federal banking day immediately following the day sent, or (iii) if sent by registered or certified mail, then on the earlier of the third federal banking day following the day sent or when actually received.

15. **CONSENT TO JURISDICTION.** TO INDUCE THE VILLAGE TO ACCEPT THIS GUARANTY, GUARANTOR IRREVOCABLY AGREES THAT, SUBJECT TO THE VILLAGE'S SOLE AND ABSOLUTE ELECTION, ALL ACTIONS OR PROCEEDINGS IN ANY WAY ARISING OUT OF OR RELATED TO THIS GUARANTY WILL BE LITIGATED IN UNITED STATES DISTRICT COURTS HAVING SITUS IN THE NORTHERN DISTRICT OF ILLINOIS. GUARANTOR HEREBY CONSENTS AND SUBMITS TO THE JURISDICTION OF ANY COURT HAVING SITUS IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF ILLINOIS.

16. **WAIVER OF JURY TRIAL.** GUARANTOR AND THE VILLAGE (BY ACCEPTANCE HEREOF), HAVING BEEN REPRESENTED BY COUNSEL, EACH KNOWINGLY AND VOLUNTARILY WAIVES ANY RIGHT TO A TRIAL BY JURY IN ANY ACTION OR PROCEEDING TO ENFORCE OR DEFEND ANY RIGHTS UNDER THIS GUARANTY OR UNDER ANY AMENDMENT, INSTRUMENT, DOCUMENT OR AGREEMENT DELIVERED OR WHICH MAY IN THE FUTURE BE DELIVERED IN CONNECTION HEREWITH AND AGREES THAT ANY SUCH ACTION OR PROCEEDING WILL BE TRIED BEFORE A COURT AND NOT BEFORE A JURY. GUARANTOR AGREES THAT IT WILL NOT ASSERT ANY CLAIM AGAINST THE VILLAGE ON ANY THEORY OF LIABILITY FOR SPECIAL, INDIRECT, CONSEQUENTIAL, INCIDENTAL OR PUNITIVE DAMAGES EXCEPT FOR CLAIMS ARISING OUT OF THE VILLAGE'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT.

IN WITNESS WHEREOF, Guarantor has executed this Guaranty as of the date first above written.

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