

Lake County Community Economic Development Department  
2293 North Main Street  
Crown Point, Indiana 46307

2002 062928

CM 20024568

**REAL ESTATE MORTGAGE**

Chicago Title Insurance Company

**THIS INDENTURE WITNESSETH**, That the LAKE COUNTY TRUST COMPANY, AS TRUSTEE UNDER TRUST AGREEMENT DATED JUNE 19, 2002, AND KNOWN AS TRUST NO. 5345 as "Borrower" of Lake County, in the State of Indiana, mortgages and warrants to the LAKE COUNTY COMMUNITY ECONOMIC DEVELOPMENT DEPARTMENT, of Lake County, Indiana as "Lender", the following described real estate situate in Lake County, in the State of Indiana, to-wit:

Lots 3 and 4 in Standard Industrial Park, Unit 3, as per plat thereof, recorded in Plat Book 42, page 62, in the Office of the Recorder of Lake County, Indiana.

Commonly known as: 2777 East 83<sup>rd</sup> Place, Hobart, Indiana,

together with all improvements now or hereafter erected on the property, and all easements, appurtenances, and fixtures as part of the property. All replacements and additions shall also be subject to this Mortgage. All of the foregoing is referred to herein as the "property".

Borrower acknowledges that Borrower owes Lender the principal sum of Six Hundred Thousand Dollars (\$600,000.00), as evidenced by a Promissory Note (the "Note") dated July 3, 2002, which provides for a maturity date of July 1, 2012. This Mortgage secures to Lender; a) the repayment of the debt evidenced by the Note with interest and all renewals and extensions and modifications; b) the payment of all other sums advanced under this Mortgage, with interest; c) the performance of Borrower's covenants and agreements under this Mortgage and Note for these purposes.

**COVENANTS OF THE PARTIES ARE AS FOLLOWS:**

**1. WARRANTIES REGARDING REAL ESTATE.** Borrower covenants and warrants to Lender that Borrower is lawfully seized of the real estate liened by this mortgage, that Borrower has the right to mortgage the real estate, that Borrower has good and marketable title to the real estate, and that the real estate is unencumbered except for encumbrances of record. Borrower warrants and will defend the title to the real estate against all claims and demands subject to the encumbrances.

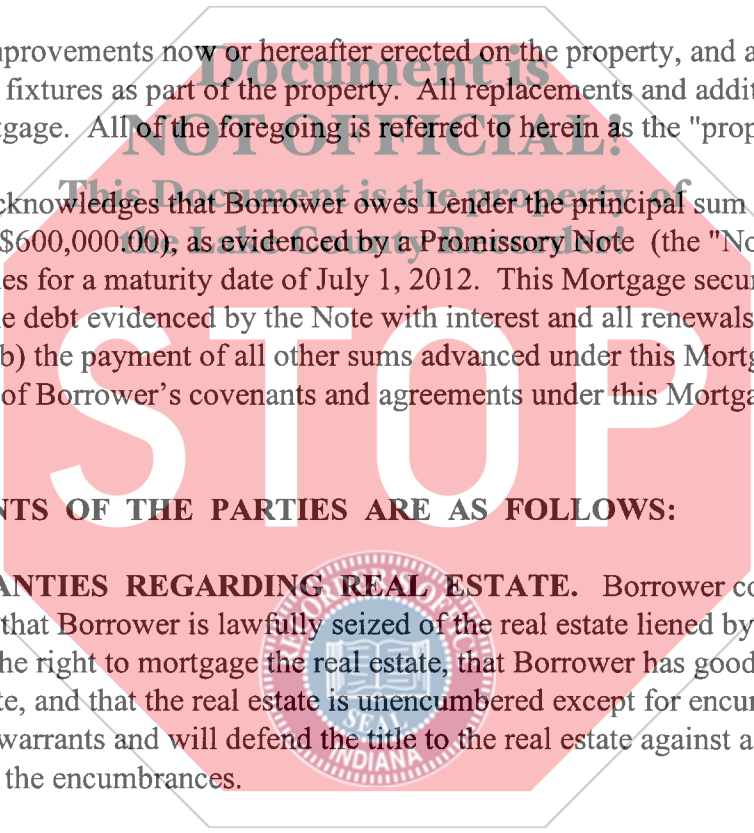
**2. SECURITY INTEREST IN FIXTURES.** Borrower grants Lender a security interest in any fixtures now or later attached to the real estate. Borrower authorizes Lender at Borrower's expense and on Borrower's behalf to execute and file a financing statement or statements in each public office deemed necessary by Lender to perfect its security interest in such fixture.

**3. PAYMENT OF NOTE.** Borrower shall pay, when due, all sums payable under the Note, including (but not limited to) principal, interest, late charges, and prepayment penalty or premiums.

**4. TAXES AND ASSESSMENTS.** Borrower shall timely pay all taxes and assessments which may be levied upon the real estate and property and supply Lender with proof of payment as Lender may from time to time request.

**5. APPLICATION OF SUMS.** Unless applicable law or other provisions of this Mortgage or the Note provide otherwise, all payments received by Lender shall be applied in the following order: first, to costs incurred by Lender as a result of Borrower's default under this

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Mortgage or the Note; second, to late charges; third, to prepayment premium or charge; fourth, to interest; and last, to principal; in each case, when due.

**6. PAYMENT OF PRIOR LIENS.** Taxes, assessments, liens (and any obligations secured by them, and other charges, however called, that pertain to the Property and that may attain priority over, or otherwise adversely affect, this Mortgage or its lien are included within the term "Prior Lien". Borrower shall pay and perform all obligations related to each Prior Lien on time and directly to the person or entity owed payment. If requested by Lender, Borrower shall promptly give Lender receipts or other evidence of Borrower's payment. Borrower shall promptly give Lender all notices as to each Prior Lien Borrower receives.

**7. HAZARD INSURANCE.** Borrower shall keep the Property insured against loss by fire, by hazards included within the term "extended coverage" of policies, and by any other hazards for which Lender reasonably requires insurance. The policy or policies providing insurance shall be in amounts and for periods that Lender reasonably requires, shall include a standard mortgage clause, and shall be issued by insurance carrier(s) chosen by Borrower, but approved by Lender, who shall not unreasonably withhold approval. When Lender requests in writing, Borrower shall give Lender (as Lender may choose) either a certificate of insurance from the carrier, or the policy itself or a true copy of it.

If the Property suffers an insured loss, Borrower shall promptly notify Lender and timely file proof of loss with the carrier. Lender also may file proof of loss.

Unless Lender and Borrower otherwise agree in writing, insurance proceeds shall be applied to restoration or repair of the Property, if restoration or repair is economically feasible, and only if, in the Lender's sole opinion, Lender's security is not lessened. If restoration or repair is not economically feasible, or if Lender's security would be lessened, insurance proceeds shall be applied to the sums secured by this Mortgage, whether or not then due, with any excess paid to Borrower.

If Borrower abandons the Property, or if within 30 days after Lender gives Borrower written notice (mailed to the Property Address) as to the willingness of the insurance carrier to pay or settle a claim, Borrower does not contact Lender about such claim, Lender may collect insurance proceeds payable upon such claim. Lender then may either use such proceeds to restore or repair the Property, or to apply them to the sums secured by this Mortgage, whether or not then due. Lender shall pay Borrower any excess, by check mailed to the Property Address.

Unless Lender and Borrower otherwise agree in writing, application of proceeds to principal shall not extend or postpone the due date of monthly or periodic payments required by this Mortgage or the Note, or change the amount(s) of such payments. If Lender acquires the Property by foreclosure, Lender also shall acquire Borrower's right to insurance policies and their proceeds, but only to the extent of unpaid sums secured by this Mortgage.

**8. PRESERVATION AND MAINTENANCE OF PROPERTY.** Borrower shall not commit waste or permit impairment or deterioration of the Property nor abandon the Property. In the event of damage or loss, Borrower will restore or repair promptly and in good and workmanlike manner all or any part of the Property to the equivalent of its original condition, or such other condition as Lender may approve in writing, whether or not insurance proceeds are available to cover the whole or any part of the costs of such restoration or repair.

In addition, Borrower will keep the Property, including equipment, machinery, and appliances on it, in good repair; and shall replace them when necessary and comply with all laws, ordinances, regulations, and requirement of any governmental body applicable to the Property. Neither Borrower nor any other person shall remove, demolish, or alter any improvements now existing or subsequently erected on the Real Estate, or any fixture, equipment, machinery, or appliance in or on the Real Estate except when incident to the replacement of fixtures, equipment, machinery and appliances with items of like kind.

**9. PROTECTION OF LENDER'S RIGHTS IN PROPERTY.** If Borrower fails to perform the covenants and agreements contained in this Mortgage, or there is a legal proceeding that may significantly affect Lender's rights in the Property (such as a proceeding in bankruptcy, probate, for condemnation, or to enforce laws or regulations), then Lender may do and pay for whatever is necessary to protect the value of the Property and Lender's rights in the Property, including paying items which are Borrower's obligations under this Mortgage or the note. Lender's actions may include paying any sums secured by a Prior Lien, appearing in court, paying reasonable attorneys' fees, paying hazard insurance premiums, and entering on the Property to make repairs or replacements. Although Lender may take action under this section, Lender is not required to do so. Any amounts paid or disbursed by Lender under this section shall become additional debt of Borrower secured by this Mortgage. Unless Borrower and Lender agree to the terms of payment, these amounts shall bear interest from the date of disbursement at the Note rate, and shall be payable, with interest, upon notice from Lender to Borrower requesting payment.

**10. INSPECTION.** Lender or its agent shall have the right to inspect the Property at all reasonable times. Lender shall give Borrower notice at the time of, or prior to, an inspection specifying reasonable cause for the inspection.

**11. CONDEMNATION.** In the event that the Property or any part of it shall be condemned and taken under power of eminent domain, the proceeds of any award or claim for damages shall be assigned by Borrower to Lender, and shall be paid to Lender. Such amount shall be credited on the sums then secured by this Mortgage, and the balance, if any, shall be paid to Borrower.

**12. SUCCESSORS AND ASSIGNS BOUND.** All terms of this Mortgage and the Note shall be jointly and severally binding upon Borrower and upon each and all of Borrower's successors in ownership of the Property, as well as upon all heirs and legal representatives of Borrower.

**13. ENVIRONMENTAL REPRESENTATIONS, WARRANTIES, AND COVENANTS OF BORROWER.** Borrower makes the following representations, warranties, and covenants to Lender:

- a. To the best knowledge of Borrower, Borrower and Borrower's predecessors in title have complied at all times with all applicable federal, state and local environmental laws and regulations.
- b. To the best knowledge of Borrower, there do not currently exist, and Borrower warrants there will not exist during the term of this Mortgage (a) any actual or potential contamination of the soil, subsoil, groundwater, or any other portion of the Property by any hazardous or toxic substance or their constituents, or (b) any underground tanks on the Real Estate as such words and phrases are defined under applicable Environmental Laws.
- c. Borrower covenants to comply at all times during the term of this Mortgage with all Environmental Laws.
- d. To the best knowledge of Borrower, no environmental filings have been made concerning the Property with any governmental agency.
- e. Borrower indemnifies Lender against, and holds Lender harmless from, any claim, action, loss, damage, liability, cost, or expense (including all reasonable attorneys' fees and environmental testing expenses) Lender incurs as a result of Borrower's breach of any representation, warranty, or covenant made in this section 13.



14. **NOTICES.** Any notice or other communication required or allowed under this Mortgage ("Notice") shall be in writing and shall be given to a party at the address stated in the Mortgage, or at such other address as a party may designate in a notice to the other party. Notice shall be deemed given when either:

- a. Personal service of the notice is made on the party, or
- b. Notice is mailed to the party being notified by means of first-class U.S. mail, postage prepaid, or
- c. Notice is sent to the party to be notified by express courier such as Federal Express or such other similar carrier, guaranteeing next day delivery.

Refusal by a party to accept Notice shall not affect the giving of the Notice.

15. **SEVERABILITY.** A conflict of any provision in this Mortgage or in the Note with applicable law shall not affect other provisions which can be given effect without the conflicting provision. To this end, the provisions of this Mortgage and the Note are declared to be severable.

16. **TRANSFER OF THE PROPERTY.** If all or any part of the Property or any interest in it is sold or transferred without Lender's prior written consent, Lender may, at its option, require immediate payment in full of all sums secured by this Mortgage.

17. **EVENT OF DEFAULT; ACCELERATION; REMEDIES; REINSTATEMENT RIGHTS.**

For the purposes of this Mortgage, the term "Event of Default" shall mean any of the following:

- a. The making by Borrower of any false or inaccurate representation in this Mortgage, the Note, or any document related to them;
- b. Borrower's breach of any warranty made in this Mortgage; or
- c. Borrower's failure to observe or comply with any provision or covenant in this Mortgage, the Note, or any document related to them.

Lender shall give Notice to Borrower prior to acceleration following an Event of Default. The Notice shall specify the nature of the default, the action Borrower must take, and the remedies Lender may take. If an Event of Default is not cured on or before the date specified in the Notice, Lender at its option, shall have the following remedies, which are cumulative and are not mutually exclusive:

- a. May require immediate payment in full of all sums secured by this Mortgage;
- b. May foreclose this Mortgage by judicial proceedings;
- c. May collect all costs incurred in pursuing any remedies, including but not limited to, reasonable attorneys' fees, costs of title evidence and survey, and expenses for environmental testing (which testing Lender reasonably believes is necessary to protect Lender's interest in the Property).

If Borrower consists of more than one person, each person who is a party shall be jointly and severally liable for Events of Default. Borrower shall have the right to reinstate this Mortgage after an Event of Default at any time prior to the entry of judgment upon satisfaction of the following requirements:

- a. Borrower pays Lender all sums due and owing pursuant to this Mortgage or the Note, had acceleration not occurred;
- b. Borrower cures any default of any other covenants or agreement related to the Property; and
- c. Borrower pays all costs incurred in enforcing this Mortgage.

18. **BORROWER NOT RELEASED; FORBEARANCE BY LENDER NOT A WAIVER.** Any forbearance by Lender in exercising any right or remedy under this Mortgage or the Note shall not be a waiver, or preclude the exercise, of any right or remedy.

19. **LENDER IN POSSESSION; RECEIVERSHIP.** If Lender accelerates pursuant to section 17, or Borrower abandons the Property, Lender also shall be entitled to take possession of the Property, and to have a receiver appointed to enter upon, take possession of, and manage the Property, and to collect the rents and profits of the Property (including those past due). Any rents collected by Lender or the receiver shall be applied first to payment of the costs of management of the Property and collection of rents including, but not limited to, receiver's fees, premiums on receiver's bond, and reasonable attorney's fees, and then to the sums secured by this Mortgage.

20. **RELEASE.** Upon payment of all sums secured by this Mortgage, Lender shall release this Mortgage without charge to Borrower (except for recording fees, which shall be Borrower's expense).

21. **WAIVER OF VALUATION AND APPRAISEMENT.** Borrower waives all right of valuation and appraisal laws.

22. **AUTHORITY TO SIGN.** The undersigned Trustee warrants that it has as requisite authority to enter into this mortgage on behalf of the Trust.

23. **MISCELLANEOUS.** This Mortgage shall be governed in all respects, whether as to validity, construction, capacity, performance, or otherwise, by the laws of the State of Indiana. Section headings are included solely for convenience, and in no event shall affect or be used in connection with the interpretation of this Mortgage. Time is of the essence in this Mortgage.

BY SIGNING BELOW, Borrower accepts and agrees to the terms and covenants contained in this Mortgage and in any rider(s) executed by Borrower with it, and Borrower acknowledges receipt of a conformed copy of this Mortgage.

Borrower:  
 LAKE COUNTY TRUST COMPANY,  
 as Trustee under Trust Agreement Dated June 19,  
 2002, and Known as Trust No. 5345

By: SEE SIGNATURE PAGE ATTACHED

STATE OF INDIANA     )  
   )SS:  
 COUNTY OF LAKE     )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2002, before me, the undersigned a Notary Public, in and for said County and State, personally appeared \_\_\_\_\_

This Mortgage is executed by LAKE COUNTY TRUST COMPANY, not personally but as Trustee as aforesaid in the exercise of the power and authority conferred upon and vested in it as such Trustee (and said LAKE COUNTY TRUST COMPANY, hereby warrants that it possesses full power and authority to execute this instrument), and it is expressly understood and agreed that nothing herein or in said principal note contained shall be construed as creating any liability on said Lake County Trust Company personally to pay the said principal note or any interest that may accrue thereon, or any indebtedness accruing hereunder, or to perform any covenant, either express or implied herein contained, all such liability, if any, being expressly waived by Mortgagee and by every person now or hereafter claiming any right or security hereunder, and that so far as said Lake County Trust Company personally is concerned, the legal holder or holders of said principal notes and the owner or owners of any indebtedness accruing hereunder shall look solely to the premises hereby mortgaged for the payment thereof, by the enforcement of the lien hereby created, in the manner herein and in said principal notes provided or by action to enforce the personal liability of the guarantor, if any.

Nothing contained herein shall be construed as creating any liability on LAKE COUNTY TRUST COMPANY, personally under the provisions of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) or the Indiana Responsible Property Transfer Law (the Act) as amended from time to time or any other Federal State or local law, rule or regulation. LAKE COUNTY TRUST COMPANY, personally is not a "Transferor" under the Act and makes no representation concerning any possible environmental defects. In making any warranty herein the Trustee is relying solely on information furnished to it by the beneficiaries and not its own knowledge and specifically exculpates itself from any liabilities, responsibilities or damages as a result of including any warranty in this instrument.

IN WITNESS WHEREOF, LAKE COUNTY TRUST COMPANY, not personally but as Trustee as aforesaid, has caused these presents to be signed by its Trust Officer and attested by its Assistant Secretary this 3<sup>rd</sup> day of July, 2002.



LAKE COUNTY TRUST COMPANY, not personally but as Trustee under the provisions of a Trust Agreement dated June 19, 2002, and known as Trust No. 5345.

By: Elaine M. Sievers  
Elaine M. Sievers, Trust Officer

ATTEST:

By: Hesta Payo  
Hesta Payo, Assistant Secretary

STATE OF INDIANA        )  
  ) SS:  
COUNTY OF LAKE        )

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared the within named Officers of the Lake County Trust Company, who acknowledge the execution of the foregoing instrument as the free and voluntary act of said corporation, and as their free and voluntary act, acting for such corporation as Trustee.

Witness my hand and seal this 3<sup>rd</sup> day of July, 2002.

Laura T. Kleven  
Laura T. Kleven, Notary Public

Resident of Lake County, Indiana.

My Commission Expires: 5-08-08

\_\_\_\_\_, and acknowledged the execution of the foregoing Mortgage on behalf of the Borrower.

Witness my hand and official seal.

My Commission Expires:

\_\_\_\_\_

\_\_\_\_\_  
*(Signature of Notary Public)*

\_\_\_\_\_  
*(Printed/Typed Name of Notary Public)*

Resident of \_\_\_\_\_ County, Indiana



THIS INSTRUMENT PREPARED BY: DONALD STEPANOVICH (Attorney No. 709-45)  
Attorney at Law