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Gary, Indiana 46404**

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CHICAGO TITLE INSURANCE COMPANY

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**OPEN-END MORTGAGE, SECURITY AGREEMENT,  
ASSIGNMENT OF RENTS AND LEASES AND FIXTURE FILING**

**This Document is the property of**

This **OPEN-END MORTGAGE, SECURITY AGREEMENT, ASSIGNMENT OF RENTS AND LEASES AND FIXTURE FILING**, dated as of August 24, 2012 (this "Mortgage"), is executed by **CHASE LAND, L.L.C.**, an Indiana limited liability company ("Mortgagor"), to and for the benefit of **AMERICAN CHARTERED BANK**, an Illinois banking corporation ("Mortgagee"), its successors and its assigns.

**RECITALS:**

**WHEREAS**, pursuant to the terms and conditions of that certain Mortgage Note dated as of even date herewith from Mortgagor in favor of Mortgagee, in the original maximum principal amount of Two Million One Hundred Thousand and No/100 Dollars (\$2,100,000.00) (as it may be modified, amended, restated or replaced from time to time, the "Note"), Mortgagee has agreed to make a loan to Mortgagor in the maximum principal amount of Two Million One Hundred Thousand and No/100 Dollars (\$2,100,000.00) (the "Loan"). The Note is due on the maturity date set forth in the Note (the "Maturity Date"), except as such date may be accelerated pursuant to the terms hereof or of the Note or any other Loan Document (as hereinafter defined). The Note, the Assignment (as hereinafter defined), this Mortgage, any other mortgage securing the repayment of the Loan, and all other documents or instruments executed and/or delivered as additional evidence of, or security for repayment of, the Loan including, without limitation, the "Loan Documents" as such term is defined in the Note, whether now or hereafter existing, and all

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renewals, amendments, supplements, restatements, extensions, modifications thereof and thereto, are hereinafter collectively referred to as the “**Loan Documents**”).

**WHEREAS**, a condition precedent to Mortgagee making the Loan, is the execution and delivery by Mortgagor of this Mortgage to Mortgagee, whereby Mortgagor mortgages its interests in the Premises (as hereinafter defined) to Mortgagee, to and for the benefit of Mortgagee.

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

**AGREEMENTS:**

Mortgagor hereby mortgages, grants, assigns, remises, releases, warrants and conveys to Mortgagee, its successors and its assigns, and grants a security interest in, the following described property, rights and interests (referred to collectively herein as the “**Premises**”), all of which property, rights and interests are hereby pledged primarily and on a parity with the Real Estate (as defined below) and not secondarily:

(a) The real estate located in the County of Lake, State of Indiana, and legally described on **Exhibit “A”** attached hereto and made a part hereof (the “**Real Estate**”);

(b) All improvements of every nature whatsoever now or hereafter situated on the Real Estate, and all fixtures and personal property of every nature whatsoever now or hereafter owned by Mortgagor and located on, or used in connection with the Real Estate or the improvements thereon, or in connection with any construction thereon, including all extensions, additions, improvements, betterments, renewals, substitutions and replacements to any of the foregoing and all of the right, title and interest of Mortgagor in and to any such personal property or fixtures together with the benefit of any deposits or payments now or hereafter made on such personal property or fixtures by Mortgagor or on its behalf (the “**Improvements**”);

(c) All easements, rights of way, gores of real estate, streets, ways, alleys, passages, sewer rights, waters, water courses, water rights and powers, and all estates, rights, titles, interests, privileges, liberties, tenements, hereditaments and appurtenances whatsoever, in any way now or hereafter belonging, relating or appertaining to the Real Estate, and the reversions, remainders, rents, issues and profits thereof, and all the estate, right, title, interest, property, possession, claim and demand whatsoever, at law as well as in equity, of Mortgagor of, in and to the same;

(d) All rents, revenues, issues, profits, proceeds, income, royalties, Letter of Credit Rights (as defined in the Uniform Commercial Code of the State of Indiana (the “**Code**”) in effect from time to time), escrows, security deposits, impounds, reserves, tax refunds and other rights to monies from the Premises and/or the businesses and operations conducted by Mortgagor thereon to be applied against the Obligations (as hereinafter defined); provided, however, that Mortgagor, so long as no Event of Default

(as hereinafter defined) has occurred hereunder, may collect rent as it becomes due, but not more than one (1) month in advance thereof;

(e) All interest of Mortgagor in all leases now or hereafter on the Premises, whether written or oral (each, a "Lease", and collectively, the "Leases"), together with all security therefor and all monies payable thereunder, subject, however, to the conditional permission hereinabove given to Mortgagor to collect the rentals under any such Lease;

(f) All fixtures and articles of personal property now or hereafter owned by Mortgagor and forming a part of or used in connection with the Real Estate or the Improvements, including, but without limitation, any and all air conditioners, antennae, appliances, apparatus, awnings, basins, bathtubs, bidets, boilers, bookcases, cabinets, carpets, computer hardware and software used in the operation of the Premises, coolers, cranes, curtains, dehumidifiers, disposals, doors, drapes, dryers, ducts, dynamos, elevators, engines, equipment, escalators, exercise equipment, fans, fittings, floor coverings, furnaces, furnishings, furniture, hardware, heaters, humidifiers, incinerators, lighting, machinery, motors, ovens, pipes, plumbing, pumps, radiators, ranges, recreational facilities, refrigerators, screens, security systems, shades, shelving, sinks, sprinklers, stokers, stoves, toilets, ventilators, wall coverings, washers, windows, window coverings, wiring, and all renewals or replacements thereof or articles in substitution therefor, whether or not the same are or shall be attached to the Real Estate or the Improvements in any manner; it being mutually agreed that all of the aforesaid property owned by Mortgagor and placed on the Real Estate or the Improvements, so far as permitted by law, shall be deemed to be fixtures, a part of the realty, and security for the Obligations; notwithstanding the agreement hereinabove expressed that certain articles of property form a part of the realty covered by this Mortgage and be appropriated to its use and deemed to be realty, to the extent that such agreement and declaration may not be effective and that any of said articles may constitute Goods (as defined in the Code), this instrument shall constitute a security agreement, creating a security interest in such goods, as collateral, in Mortgagee, as a Secured Party, and Mortgagor, as Debtor, all in accordance with the Code;

(g) All of Mortgagor's interests in General Intangibles, including Payment Intangibles and Software (each as defined in the Code) now owned or hereafter acquired and related to the Premises, including, without limitation, all of Mortgagor's right, title and interest in and to: (i) all agreements, licenses, permits and contracts to which Mortgagor is or may become a party and which relate to the Premises; (ii) all obligations and indebtedness owed to Mortgagor thereunder; (iii) all intellectual property related to the Premises; and (iv) all choses in action and causes of action relating to the Premises;

(h) All of Mortgagor's accounts now owned or hereafter created or acquired as relate to the Premises and/or the businesses and operations conducted thereon, including, without limitation, all of the following now owned or hereafter created or acquired by Mortgagor: (i) Accounts (as defined in the Code), contract rights, health care insurance receivables, book debts, notes, drafts, and other obligations or indebtedness owing to Mortgagor arising from the sale, lease or exchange of goods or other property

and/or the performance of services; (ii) Mortgagor's rights in, to and under all purchase orders for goods, services or other property; (iii) Mortgagor's rights to any goods, services or other property represented by any of the foregoing; (iv) monies due or to become due to Mortgagor under all contracts for the sale, lease or exchange of goods or other property and/or the performance of services including the right to payment of any interest or finance charges in respect thereto (whether or not yet earned by performance on the part of Mortgagor); (v) Securities, Investment Property, Financial Assets and Securities Entitlements (each as defined in the Code); (vi) proceeds of any of the foregoing and all collateral security and guaranties of any kind given by any person or entity with respect to any of the foregoing; and (vii) all warranties, guarantees, permits and licenses in favor of Mortgagor with respect to the Premises; and

(i) All proceeds of the foregoing, including, without limitation, all judgments, awards of damages and settlements hereafter made resulting from condemnation proceeds or the taking of the Premises or any portion thereof under the power of eminent domain, any proceeds of any policies of insurance, maintained with respect to the Premises or proceeds of any sale, option or contract to sell the Premises or any portion thereof.

**TO HAVE AND TO HOLD** the Premises, unto Mortgagee, its successors and assigns, forever, for the purposes and upon the uses herein set forth together with all right to possession of the Premises after the occurrence of any Event of Default; Mortgagor hereby **RELEASING AND WAIVING** all rights under and by virtue of the homestead exemption laws of the State of Indiana.

**FOR THE PURPOSE OF SECURING:** (i) the payment of the Loan and all interest, late charges, prepayment premium, if any, exit fee, if any, reimbursement obligations, fees and expenses for letters of credit issued by Mortgagee for the benefit of Mortgagor, if any, and other indebtedness evidenced by or owing, directly or indirectly, under the Note, any of the other Loan Documents, and any application for letters of credit and master letter of credit agreement, together with any extensions, modifications, renewals or refinancings of any of the foregoing; (ii) the performance and observance of the covenants, conditions, agreements, representations, warranties and other liabilities and obligations of Mortgagor or any other obligor to or benefiting Mortgagee which are evidenced or secured by or otherwise provided in the Note, this Mortgage or any of the other Loan Documents; and (iii) the reimbursement to Mortgagee of any and all sums incurred, expended or advanced by Mortgagee pursuant to any term or provision of or constituting additional indebtedness under or secured by this Mortgage, any of the other Loan Documents or any application for letters of credit and master letter of credit agreement, with interest thereon as provided herein or therein; and, to the extent applicable, any application for letters of credit and master letter of credit agreement, together with any extensions, modifications, renewals or refinancings of any of the foregoing (collectively, the "**Obligations**").

**IT IS FURTHER UNDERSTOOD AND AGREED THAT:**

1. **Title.** Mortgagor represents, warrants and covenants that (a) Mortgagor is the holder of the fee simple title to the Premises, free and clear of all liens and encumbrances, except those liens and encumbrances in favor of Mortgagee and as otherwise described on **Exhibit "B"** attached hereto and made a part hereof (the "**Permitted Exceptions**"); and (b) Mortgagor has legal power and authority to mortgage and convey the Premises.

2. **Maintenance, Repair, Restoration, Prior Liens, Parking.** Mortgagor covenants that, so long as any portion of the Obligations remains unpaid, Mortgagor will:

(a) promptly repair, restore or rebuild any Improvements now or hereafter on the Premises which may become damaged or be destroyed to a condition substantially similar to the condition immediately prior to such damage or destruction, whether or not proceeds of insurance are available or sufficient for the purpose;

(b) keep the Premises in good condition and repair, without waste, and free from mechanics', materialmen's or like liens or claims or other liens or claims for lien (subject to Mortgagor's right to contest liens as permitted by the terms of **Section 28** hereof);

(c) pay when due the Obligations in accordance with the terms of the Note and the other Loan Documents, and duly perform and observe all of the terms, covenants and conditions to be observed and performed by Mortgagor under the Note, this Mortgage and the other Loan Documents;

(d) pay when due any indebtedness which may be secured by a permitted lien or charge on the Premises on a parity with, superior to or inferior to the lien hereof, and upon request exhibit satisfactory evidence of the discharge of such lien to Mortgagee (subject to Mortgagor's right to contest liens as permitted by the terms of **Section 28** hereof);

(e) complete within a reasonable time any Improvements now or at any time in the process of erection upon the Premises;

(f) comply with all requirements of law, municipal ordinances or restrictions and covenants of record with respect to the Premises and the use thereof;

(g) obtain and maintain in full force and effect, and abide by and satisfy the material terms and conditions of, all material permits, licenses, registrations and other authorizations with or granted by any governmental authorities that may be required from time to time with respect to the performance of its obligations under this Mortgage;

(h) make no structural material alterations in the Premises or demolish any portion of the Premises without Mortgagee's prior written consent, except as required by law or municipal ordinance;

(i) suffer or permit no change in the use or general nature of the occupancy of the Premises, without Mortgagee's prior written consent;

- (j) pay when due all operating costs of the Premises;
- (k) not initiate or acquiesce in any zoning reclassification with respect to the Premises, without Mortgagee's prior written consent;

(l) provide and thereafter maintain adequate parking areas within the Premises as may be required by law, ordinance or regulation (whichever may be greater), together with any sidewalks, aisles, streets, driveways and sidewalk cuts and sufficient paved areas for ingress, egress and right-of-way to and from the adjacent public thoroughfares necessary or desirable for the use thereof; and

(m) shall comply, and shall cause the Premises at all times to be operated in compliance, with all applicable federal, state, local and municipal environmental, health and safety laws, statutes, ordinances, rules and regulations, including, without limitation, Mortgagor shall (i) ensure, and cause each of its subsidiaries to ensure, that no person who owns all or a portion of the equity interests in Mortgagor, or otherwise controls Mortgagor or any of its subsidiaries is or shall be listed on the Specially Designated Nationals and Blocked Person List or other similar lists maintained by the Office of Foreign Assets Control ("OFAC"), the Department of the Treasury or included in any Executive Orders, (ii) not use or permit the use of the proceeds of the Loan to violate any of the foreign asset control regulations of OFAC or any enabling statute or Executive Order relating thereto, and (iii) comply, and cause each of its subsidiaries to comply, with all applicable Bank Secrecy Act ("BSA") laws and regulations, as amended.

3. **Payment of Taxes and Assessments.** Mortgagor will pay when due and before any penalty attaches, all general and special taxes, assessments, water charges, sewer charges, and other fees, taxes, charges and assessments of every kind and nature whatsoever (all herein generally called "Taxes"), whether or not assessed against Mortgagor, if applicable to the Premises or any interest therein, or the Obligations, or any obligation or agreement secured hereby, subject to Mortgagor's right to contest the same, as provided by the terms of **Section 28** hereof; and Mortgagor will, upon written request, furnish to Mortgagee duplicate receipts therefor within ten (10) days after Mortgagee's request.

4. **Tax Deposits.** Following any Event of Default hereunder, at Mortgagee's request, Mortgagor shall deposit with Mortgagee, on the first day of each month until the Obligations are fully paid, a sum equal to one-twelfth (1/12th) of one hundred percent (100%) of the most recent ascertainable annual Taxes on the Premises. Mortgagor shall also deposit with Mortgagee an amount of money which, together with the aggregate of the monthly deposits to be made pursuant to the preceding sentence as of one month prior to the date on which the next installment of annual Taxes for the current calendar year become due, shall be sufficient to pay in full such installment of annual Taxes, as estimated by Mortgagee. Such deposits are to be held without any allowance of interest and are to be used for the payment of Taxes next due and payable when they become due. So long as no Event of Default shall exist, Mortgagee shall, at its option, pay such Taxes when the same become due and payable (upon submission of appropriate bills therefor from Mortgagor) or shall release sufficient funds to Mortgagor for the payment thereof. If the funds so deposited are insufficient to pay any such Taxes for any year (or

installments thereof, as applicable) when the same shall become due and payable, Mortgagor shall, within ten (10) days after receipt of written demand therefor, deposit additional funds as may be necessary to pay such Taxes in full. If the funds so deposited exceed the amount required to pay such Taxes for any year, the excess shall be applied toward subsequent deposits. Said deposits need not be kept separate and apart from any other funds of Mortgagee. Mortgagee, in making any payment hereby authorized relating to Taxes, may do so according to any bill, statement or estimate procured from the appropriate public office without inquiry into the accuracy of such bill, statement or estimate or into the validity of any tax, assessment, sale, forfeiture, tax lien or title or claim thereof.

5. **Mortgagee's Interest In and Use of Deposits.** Upon an Event of Default, Mortgagee may, at its option, apply any monies at the time on deposit pursuant to **Section 4** hereof to cure an Event of Default or to pay any of the Obligations in such order and manner as Mortgagee may elect. If such deposits are used to cure an Event of Default or pay any of the Obligations, Mortgagor shall immediately, upon demand by Mortgagee, deposit with Mortgagee an amount equal to the amount expended by Mortgagor from the deposits. When the Obligations have been fully paid, any remaining deposits shall be returned to Mortgagor. Such deposits are hereby pledged as additional security for the Obligations and shall not be subject to the direction or control of Mortgagor. Mortgagee shall not be liable for any failure to apply to the payment of Taxes any amount so deposited unless Mortgagor, prior to an Event of Default, shall have requested Mortgagee in writing to make application of such funds to the payment of such amounts, accompanied by the bills for such Taxes. Mortgagee shall not be liable for any act or omission taken in good faith or pursuant to the instruction of any party.

6. **Insurance.**

(a) **Hazard.**

(i) Mortgagor agrees to maintain insurance against loss or damage to the building and all improvements and betterments on the Mortgaged Property ("Loss"), in such amounts and with such limits as Mortgagee may require from time to time. The coverage shall be equivalent or better than the Causes of Loss - Special Form (CP1030) as published by the Insurance Services Office ("ISO") and shall be on a replacement cost, agreed amount basis. Mortgagor must pay promptly, when due, any premium on such insurance. All such insurance policies and renewals thereof shall be written in companies having a Best's rating of A or better. All such policies and renewals thereof (or binders evidencing the same) shall be delivered to Mortgagee at least thirty (30) days before the expiration of the existing policies and shall have attached thereto a standard mortgagee clause entitling Mortgagee to collect any and all proceeds payable under such insurance. The policy shall contain a waiver of subrogation in favor of Mortgagee. If more than one policy is written insuring the Mortgaged Property, this separate policy must also include a standard mortgagee clause and waiver of subrogation in favor of Mortgagee. In the event of a change in ownership or of occupancy of the Mortgaged Property, or any portion thereof, Mortgagor shall give immediate notice thereof to Mortgagee.

(ii) In case of any Loss in excess of One Hundred Thousand and No/100 Dollars (\$100,000.00), Mortgagor shall immediately give Mortgagee and the insurance companies that have insured against such risks, notice of such Loss and Mortgagor is authorized, with Mortgagee's prior written consent, which shall be granted in Mortgagee's reasonable discretion, to settle and adjust any claim under insurance policies which insure against such risks. Notwithstanding the foregoing, in the event of a total casualty or in the event of a Default, or event or condition which with the giving of notice or the passage of time would constitute a Default, shall have occurred hereunder or under any of the other Loan Documents, Mortgagee (or after entry of decree of foreclosure, purchaser at the sale, or the decree creditor, as the case may be) is, subject to the provisions hereof, hereby authorized to either: (1) settle, adjust or compromise any claim under any insurance policies and Mortgagee shall act in its reasonable discretion without the consent of Mortgagor; or (2) allow Mortgagor to settle, adjust or compromise any claims for Loss with the insurance company or companies on the amount to be paid upon the Loss. In all cases Mortgagee is authorized to collect and receipt for any such insurance proceeds and the expenses incurred by Mortgagee in the adjustment and collection of insurance proceeds shall be such additional indebtedness secured hereby and shall be reimbursed to Mortgagee upon demand with interest thereon at the Default Interest Rate (as defined in the Note) or may be deducted by Mortgagee from said insurance proceeds prior to any other application thereof.

The insurance proceeds shall be made available to Mortgagor to repair and restore the Mortgaged Property if, and only if, all of the following conditions are satisfied:

(A) no Default shall have occurred hereunder or under any of the other Loan Documents and is continuing;

(B) the insurance proceeds shall, in Mortgagee's reasonable judgment, be sufficient to complete the repair and restoration of the buildings, structures and other improvements on the Premises to an architectural and economic unit of substantially the same character and the same value as existed immediately prior to such casualty, or, if Mortgagee shall determine, in its reasonable discretion, that the insurance proceeds are insufficient, Mortgagor shall have deposited with Mortgagee the amount of the deficiency in cash within fifteen (15) days after Mortgagee's demand therefor;

(C) after such repair or restoration, the Mortgaged Property shall, in Mortgagee's reasonable judgment, adequately secure the outstanding balance of the Loan;

(D) the insurers do not deny liability to the insureds; and



(E) with respect to any claims for any Loss arising out of a single occurrence which shall in the aggregate exceed One Hundred Thousand Dollars (\$100,000.00), such Loss does not occur during the last three (3) months of the term of the Loan.

In all other cases, the insurance proceeds may, at the option of Mortgagee, be applied in the reduction of the indebtedness secured hereby, whether due or not, in such order as Mortgagee shall determine in its reasonable discretion, or be held by Mortgagee and used to reimburse Mortgagor for the cost of rebuilding or restoring buildings or improvements on the Premises.

Notwithstanding anything herein to the contrary, in case of any Loss after foreclosure proceedings have been instituted, all insurance proceeds shall, at Mortgagee's option, be used to pay the amount due in accordance with any decree of foreclosure that may be entered in any such proceedings, and the balance, if any, shall be paid to the owner of the equity of redemption if said owner shall then be entitled to the same, or as the court may otherwise direct. In case of the foreclosure of this Mortgage, the court in its decree may provide that the mortgagee's clause attached to each of said insurance policies may be cancelled and that the decree creditor may cause a new loss clause to be attached to each of said policies making the loss thereunder payable to said decree creditor. Any foreclosure decree may further provide that in case of any one or more redemptions made under said decree, each successive redepton may cause the preceding loss clause attached to each insurance policy to be cancelled and a new loss clause to be attached thereto, making the loss thereunder payable to such redepton. In the event of foreclosure sale, Mortgagee is hereby authorized, without the consent of Mortgagor, to assign any and all insurance policies to the purchaser at the sale, or to take such other steps as Mortgagee may deem advisable, to cause the interest of such purchaser to be protected by any of the said insurance policies.

Nothing contained in this Mortgage shall create any responsibility or obligation on Mortgagee to collect any amount owing on any insurance policy, to rebuild, repair or replace any damaged or destroyed portion of the Mortgaged Property, or to perform any act hereunder.

(iii) Upon Mortgagor's request, and provided all of the conditions of the second paragraph of **Section 6(a)(ii)** have been satisfied or upon Mortgagee's election, to apply such insurance proceeds toward repairing, restoring, and rebuilding such improvements, such insurance proceeds shall be made available therefor, by Mortgagee, or such other depository designated by Mortgagee, from time to time, to Mortgagor or at Mortgagee's option directly to contractors, subcontractors, material suppliers and other persons entitled to payment in accordance with and subject to such conditions to disbursement as Mortgagee may impose to ensure that the work is fully completed in a good and workmanlike manner and paid for and that no liens or claims arise by reason thereof, provided that Mortgagee is furnished with evidence reasonably satisfactory to Mortgagee of the estimated cost of such repairs, restoration and rebuilding and with architect's and other certificates, waivers of lien, certificates, contractors' sworn statements, and other evidence of the estimated cost thereof and of payments as Mortgagee may require and approve in its reasonable discretion. In addition to the foregoing,

if the estimated cost of the work exceeds ten (10%) percent of the original principal amount of the indebtedness secured hereby, Mortgagor shall also deliver to Mortgagee for its prior approval evidence satisfactory to Mortgagee in its reasonable discretion that the appraised value of the Mortgaged Property after such work will not be less than its appraised value established in the appraisal delivered to Mortgagee on or prior to the date hereof and all plans and specifications for such repairs, restoration and rebuilding as Mortgagee may require and approve in its reasonable discretion. No payment made prior to the final completion of the work shall exceed ninety (90%) percent of the value of the repair, restoration or rebuilding work performed, from time to time, and at all times the undisbursed balance of such proceeds remaining in the custody or control of Mortgagee shall be, in Mortgagee's reasonable discretion, at least sufficient to pay for the cost of completion of the work, free and clear of any liens. Mortgagee may, at any time after the occurrence of a Default hereunder, and in its reasonable discretion, procure and substitute for any and all of the insurance policies so held as aforesaid, such other policies of insurance in such amounts and carried in such companies as Mortgagee may select. Mortgagee may commingle any such funds held by it hereunder and shall not be obligated to pay any interest with respect to any such funds held by or on behalf of Mortgagee.

(b) Liability. Mortgagor shall carry and maintain commercial general liability insurance against bodily injury and property damage written with companies having a Best's rating of A- or better. Coverage shall be written on an occurrence form equivalent or better than the occurrence form (CG0001) as published by the ISO with minimum limits of One Million and No/100 Dollars (\$1,000,000.00) each occurrence and Two Million and No/100 Dollars (\$2,000,000.00) general aggregate. The policy shall name Mortgagee as an additional insured with respect to liability arising out of the Mortgaged Property. Certificates of insurance showing Mortgagee as additional insured, premiums prepaid, shall be deposited with Mortgagee and shall contain provision for thirty (30) days notice to Mortgagee prior to any cancellation or non-renewal except for ten (10) days notice for non-payment of premium.

(c) Builder's Risk. Mortgagor shall obtain or shall cause to be obtained builder's risk insurance on a special perils basis for 100% of the insurable value of all construction work in place or in progress from time to time insuring the Mortgaged Property and materials in storage and while in transit. Insurance shall include Replacement Cost, Agreed Amount coverage.

(d) Flood Area. If the Premises are now or hereafter located in an area which has been identified by the Secretary of Housing and Urban Development as a flood hazard area and in which flood insurance has been made available under the National Flood Insurance Act of 1968 (the "Act"), Mortgagor, at its sole cost and expense shall keep the Premises insured by flood insurance in an amount not less than the maximum limit of coverage available under the Act.

(e) Worker's Compensation. If applicable, evidence of worker's compensation insurance covering all persons working on or about the Mortgaged Property and death, injury and/or property damage occurring on or about the Mortgaged Property or resulting from activity therefrom, with liability insurance limits for death of or injury to persons and/or damage to property of the greater of Three Million and No/100 Dollars (\$3,000,000.00) and the amounts from time to time required by statute.

(f) Other Insurance. Upon Mortgagee's written request, Mortgagor at its sole cost and expense, shall, carry and maintain or cause to carry and maintain such other insurance coverage(s) as Mortgagee may, in its reasonable discretion, deem necessary or appropriate in such amounts, with such companies and in such form as Mortgagee deems satisfactory in its sole and absolute discretion, all at Mortgagor's sole expense. Each of the policies required under all subparagraphs of this **Section 6** shall provide that no cancellation thereof shall be effective without thirty (30) days' prior written notice to Mortgagee, and Mortgagor shall deliver evidence of full payment of premiums not later than the date of this Mortgage.

(g) **RIGHT OF MORTGAGEE TO PURCHASE INSURANCE.** UNLESS MORTGAGOR PROVIDES MORTGAGEE WITH EVIDENCE OF THE INSURANCE COVERAGE REQUIRED BY THIS MORTGAGE, MORTGAGEE MAY PURCHASE INSURANCE AT MORTGAGOR'S EXPENSE TO PROTECT MORTGAGEE'S INTERESTS IN THE MORTGAGED PROPERTY. THIS INSURANCE MAY, BUT NEED NOT, PROTECT MORTGAGOR'S INTERESTS IN THE MORTGAGED PROPERTY. THE COVERAGE PURCHASED BY MORTGAGEE MAY NOT PAY ANY CLAIMS THAT MORTGAGOR MAKES OR ANY CLAIM THAT IS MADE AGAINST MORTGAGOR IN CONNECTION WITH THE MORTGAGED PROPERTY. MORTGAGOR MAY LATER CANCEL ANY SUCH INSURANCE PURCHASED BY MORTGAGEE, BUT ONLY AFTER PROVIDING MORTGAGEE WITH EVIDENCE THAT MORTGAGOR HAS OBTAINED INSURANCE AS REQUIRED BY THIS MORTGAGE. IF MORTGAGEE PURCHASES INSURANCE FOR THE MORTGAGED PROPERTY, MORTGAGOR WILL BE RESPONSIBLE FOR THE COSTS OF THAT INSURANCE, INCLUDING INTEREST AND ANY OTHER CHARGES THAT MORTGAGEE MAY IMPOSE IN CONNECTION WITH THE PLACEMENT OF THE INSURANCE, UNTIL THE EFFECTIVE DATE OF THE CANCELLATION OR EXPIRATION OF THE INSURANCE. THE COSTS OF THE INSURANCE MAY BE ADDED TO THE SECURED INDEBTEDNESS. THE COSTS OF THE INSURANCE MAY BE MORE THAN THE COST OF INSURANCE MORTGAGOR MAY BE ABLE TO OBTAIN ON ITS OWN.

7. **Condemnation.** Any and all awards heretofore or hereafter made or to be made to the present or any subsequent owner of the Mortgaged Property by any governmental or other lawful authority for the taking, by condemnation or eminent domain, of all or any part of the Mortgaged Property, (including any award from the United States government at any time after the allowance of a claim therefor, the ascertainment of the amount thereto, and the issuance of a

warrant for payment thereof), are hereby assigned by Mortgagor to Mortgagee, which awards Mortgagee is hereby authorized to negotiate, collect and receive from the condemnation authorities. Mortgagee is hereby authorized to give appropriate receipts and acquittances therefor. Mortgagor shall give Mortgagee immediate notice of the actual or threatened commencement of any condemnation or eminent domain proceedings of which it has knowledge affecting all or any part of the Mortgaged Property (including severance of, consequential damage to or change in grade of streets), and shall immediately deliver to Mortgagee copies of any and all papers served in connection with any such proceedings. Mortgagor further agrees to make, execute and deliver to Mortgagee, free and clear of any encumbrance of any kind whatsoever, any and all further assignments and other instruments deemed necessary by Mortgagee for the purpose of validly and sufficiently assigning all awards and other compensation heretofore, now and hereafter made to Mortgagor for any taking, either permanent or temporary, under any such proceeding. Any such award shall be applied toward the indebtedness secured by this Mortgage or applied toward restoring the Mortgaged Property in accordance with the provisions of and in the same manner as is provided for insurance proceeds in **Section 6(a)** hereof. Notwithstanding the foregoing, any expenses, including, without limitation, reasonable attorneys' fees and expenses, incurred by Mortgagee in intervening in such action or compromising and settling such action or claim, or collecting such proceeds, shall be reimbursed to Mortgagee first out of the proceeds.

**8. Stamp Tax.** If, by the laws of the United States of America, or of any state or political subdivision having jurisdiction over Mortgagor, any tax is due or becomes due in respect of the execution and delivery of this Mortgage, the Note or any of the other Loan Documents, then Mortgagor shall pay such tax in the manner required by any such law. Mortgagor further agrees to reimburse Mortgagee for any sums which Mortgagee may expend by reason of the imposition of any such tax. Notwithstanding the foregoing, Mortgagor shall not be required to pay any income or franchise taxes of Mortgagee.

**9. Lease Assignment.** Mortgagor acknowledges that, concurrently herewith, Mortgagor has executed and delivered to Mortgagee, as additional security for the repayment of the Loan, an Assignment of Rents and Leases (the "Assignment") pursuant to which Mortgagor has assigned to Mortgagee interests in the leases of the Premises and the rents and income from the Premises. All of the provisions of the Assignment are hereby incorporated herein as if fully set forth at length in the text of this Mortgage. Mortgagor agrees to abide by all of the provisions of the Assignment.

**10. Effect of Extensions of Time and Other Changes.** If the payment of the Obligations or any part thereof is extended or varied, if any part of any security for the payment of the Obligations is released, if the rate of interest charged under the Note is changed or if the time for payment thereof is extended or varied, all persons now or at any time hereafter liable therefor, or interested in the Premises or having an interest in Mortgagor, shall be held to assent to such extension, variation, release or change and their liability and the lien and all of the provisions hereof shall continue in full force, any right of recourse against all such persons being expressly reserved by Mortgagee, notwithstanding such extension, variation, release or change.

11. **Effect of Changes in Laws Regarding Taxation.** If any law is enacted after the date hereof requiring (a) the deduction of any lien on the Premises from the value thereof for the purpose of taxation, or (b) the imposition upon Mortgagee of the payment of the whole or any part of the Taxes, charges or liens herein required to be paid by Mortgagor, or (c) a change in the method of taxation of mortgages or debts secured by mortgages or Mortgagee's interest in the Premises, or the manner of collection of taxes, so as to affect this Mortgage or the Obligations or the holders thereof, then Mortgagor, upon demand by Mortgagee, shall pay such Taxes or charges, or reimburse Mortgagee therefor; provided, however, that Mortgagor shall not be deemed to be required to pay any income or franchise taxes of Mortgagee. Notwithstanding the foregoing, if in the opinion of counsel for Mortgagee it is or may be unlawful to require Mortgagor to make such payment or the making of such payment might result in the imposition of interest beyond the maximum amount permitted by law, then Mortgagee may declare all of the Obligations to be immediately due and payable.

12. **Mortgagee's Performance of Defaulted Acts and Expenses Incurred by Mortgagee.** If an Event of Default has occurred, Mortgagee may, but need not, make any payment or perform any act herein required of Mortgagor in any form and manner deemed expedient by Mortgagee, and may, but need not, make full or partial payments of principal or interest on prior encumbrances, if any, and purchase, discharge, compromise or settle any tax lien or other prior lien or title or claim thereof, or redeem from any tax sale or forfeiture affecting the Premises or consent to any tax or assessment or cure any default of Mortgagor in any lease of the Premises. All monies paid for any of the purposes herein authorized and all expenses paid or incurred in connection therewith, including reasonable attorneys' fees, and any other monies advanced by Mortgagee in regard to any tax referred to in Section 8 above or to protect the Premises or the lien hereof, shall be so much additional Obligations, and shall become immediately due and payable by Mortgagor to Mortgagee, upon demand, and with interest thereon accruing from the date of such demand until paid at the Default Interest Rate. In addition to the foregoing, any costs, expenses and fees, including reasonable attorneys' fees, incurred by Mortgagee in connection with (a) sustaining the lien of this Mortgage or its priority, (b) protecting or enforcing any of Mortgagee's rights hereunder, (c) recovering any Obligations, (d) any litigation or proceedings affecting the Note, this Mortgage, any of the other Loan Documents or the Premises, including, without limitation, bankruptcy and probate proceedings, or (e) preparing for the commencement, defense or participation in any threatened litigation or proceedings affecting the Note, this Mortgage, any of the other Loan Documents or the Premises, shall be so much additional Obligations, and shall become immediately due and payable by Mortgagor to Mortgagee, upon demand, and with interest thereon accruing from the date of such demand until paid at the Default Interest Rate. The interest accruing under this section shall be immediately due and payable by Mortgagor to Mortgagee, and shall be additional Obligations evidenced by the Note and secured by this Mortgage. Mortgagee's failure to act shall never be considered as a waiver of any right accruing to Mortgagee on account of any Event of Default. Should any amount paid out or advanced by Mortgagee hereunder, or pursuant to any agreement executed by Mortgagor in connection with the Loan, be used directly or indirectly to pay off, discharge or satisfy, in whole or in part, any lien or encumbrance upon the Premises or any part thereof, then Mortgagee shall be subrogated to any and all rights, equal or superior titles, liens and equities, owned or claimed by any owner or holder of said outstanding liens, charges and

Obligations, regardless of whether said liens, charges and indebtedness are acquired by assignment or have been released of record by the holder thereof upon payment.

**13. Security Agreement.** Mortgagor and Mortgagee agree that this Mortgage shall constitute a Security Agreement within the meaning of the Code with respect to (a) all sums at any time on deposit for the benefit of Mortgagor or held by Mortgagee (whether deposited by or on behalf of Mortgagor or anyone else) pursuant to any of the provisions of this Mortgage or any other Loan Document, and (b) with respect to any personal property included in the granting clauses of this Mortgage, which personal property may not be deemed to be affixed to the Premises or may not constitute a "Fixture" (within the meaning of Section 9-102(41) of the Code and which property is hereinafter referred to as "**Personal Property**"), and all replacements of, substitutions for, additions to, and the proceeds thereof, and the "**Supporting Obligations**" (as defined in the Code) (all of said Personal Property and the replacements, substitutions and additions thereto and the proceeds thereof being sometimes hereinafter collectively referred to as "**Collateral**"), and that Mortgagor hereby grants a security interest in and to the Collateral in favor of Mortgagee, and the Collateral and all of Mortgagor's right, title and interest therein are hereby assigned to Mortgagee, all to secure payment of the Obligations. All of the provisions contained in this Mortgage pertain and apply to the Collateral as fully and to the same extent as to any other property comprising the Premises; and the following provisions of this section shall not limit the applicability of any other provision of this Mortgage but shall be in addition thereto:

- (a) Mortgagor (being the Debtor as that term is used in the Code) is and will be the true and lawful owner of the Collateral, subject to no liens, charges or encumbrances other than the lien hereof, other liens and encumbrances benefiting Mortgagee and no other party, and liens and encumbrances, if any, expressly permitted by the other Loan Documents.
- (b) The Collateral is to be used by Mortgagor solely for business purposes.
- (c) The Collateral will be kept at the Real Estate and, except for Obsolete Collateral (as hereinafter defined), will not be removed therefrom without the consent of Mortgagee (being the Secured Party as that term is used in the Code). The Collateral may be affixed to the Real Estate but will not be affixed to any other real estate.
- (d) The only persons having any interest in the Premises are Mortgagor, Mortgagee and holders of interests, if any, expressly permitted hereby.
- (e) No Financing Statement (other than Financing Statements showing Mortgagee as the sole secured party, or with respect to liens or encumbrances, if any, expressly permitted hereby) covering any of the Collateral or any proceeds thereof is on file in any public office except pursuant hereto; and Mortgagor, at its own cost and expense, upon demand, will furnish to Mortgagee such further information and will execute and deliver to Mortgagee such financing statements and other documents in form satisfactory to Mortgagee and will do all such acts as Mortgagee may request at any time or from time to time or as may be necessary or appropriate to establish and maintain a perfected security interest in the Collateral as security for the Obligations, subject to no

other liens or encumbrances, other than liens or encumbrances benefiting Mortgagee and no other party, and liens and encumbrances (if any) expressly permitted hereby; and Mortgagor will pay the cost of filing or recording such financing statements or other documents, and this instrument, in all public offices wherever filing or recording is deemed by Mortgagee to be desirable. Mortgagor hereby irrevocably authorizes Mortgagee at any time, and from time to time, to file in any jurisdiction any initial financing statements and amendments thereto, without the signature of Mortgagor that (i) indicate the Collateral (A) is comprised of all assets of Mortgagor or words of similar effect, regardless of whether any particular asset comprising a part of the Collateral falls within the scope of Article 9 of the Uniform Commercial Code of the jurisdiction wherein such financing statement or amendment is filed, or (B) as being of an equal or lesser scope or within greater detail as the grant of the security interest set forth herein, and (ii) contain any other information required by Section 5 of Article 9 of the Uniform Commercial Code of the jurisdiction wherein such financing statement or amendment is filed regarding the sufficiency or filing office acceptance of any financing statement or amendment, including (A) whether Mortgagor is an organization, the type of organization and any organizational identification number issued to Mortgagor, and (B) in the case of a financing statement filed as a fixture filing or indicating Collateral as as-extracted collateral or timber to be cut, a sufficient description of the real property to which the Collateral relates. Mortgagor agrees to furnish any such information to Mortgagee promptly upon request. Mortgagor further ratifies and affirms its authorization for any financing statements and/or amendments thereto, executed and filed by Mortgagee in any jurisdiction prior to the date of this Mortgage. In addition, Mortgagor shall make appropriate entries on its books and records disclosing Mortgagee's security interests in the Collateral.

(f) Upon an Event of Default hereunder, Mortgagee shall have the remedies of a secured party under the Code, including, without limitation, the right to take immediate and exclusive possession of the Collateral, or any part thereof, and for that purpose, so far as Mortgagor can give authority therefor, with or without judicial process, may enter (if this can be done without breach of the peace) upon any place which the Collateral or any part thereof may be situated and remove the same therefrom (provided that if the Collateral is affixed to real estate, such removal shall be subject to the conditions stated in the Code); and Mortgagee shall be entitled to hold, maintain, preserve and prepare the Collateral for sale, until disposed of, or may propose to retain the Collateral subject to Mortgagor's right of redemption in satisfaction of Mortgagor's obligations, as provided in the Code. Mortgagee may render the Collateral unusable without removal and may dispose of the Collateral on the Premises. Mortgagee may require Mortgagor to assemble the Collateral and make it available to Mortgagee for its possession at a place to be designated by Mortgagee which is reasonably convenient to both parties. Mortgagee will give Mortgagor at least ten (10) days notice of the time and place of any public sale of the Collateral or of the time after which any private sale or any other intended disposition thereof is made. The requirements of reasonable notice shall be met if such notice is mailed, by certified United States mail or equivalent, postage prepaid, to the address of Mortgagor hereinafter set forth at least ten (10) days before the

time of the sale or disposition. Mortgagee may buy at any public sale. Mortgagee may buy at private sale if the Collateral is of a type customarily sold in a recognized market or is of a type which is the subject of widely distributed standard price quotations. Any such sale may be held in conjunction with any foreclosure sale of the Premises. If Mortgagee so elects, the Premises and the Collateral may be sold as one lot. The net proceeds realized upon any such disposition, after deduction for the commercially reasonable expenses of retaking, holding, preparing for sale, selling and the reasonable attorneys' fees and legal expenses incurred by Mortgagee, shall be applied against the Obligations in such order or manner as Mortgagee shall select. Mortgagee will account to Mortgagor for any surplus realized on such disposition.

(g) The terms and provisions contained in this section, unless the context otherwise requires, shall have the meanings and be construed as provided in the Code.

(h) This Mortgage is intended to be a financing statement within the purview of Section 9-502(b) of the Code with respect to the Collateral and the goods described herein, which goods are or may become fixtures relating to the Premises. The addresses of Mortgagor (Debtor) and Mortgagee (Secured Party) are hereinbelow set forth. This Mortgage is to be filed for recording with the Recorder of Deeds of the county or counties where the Premises is located. Mortgagor is the record owner of the Premises.

(i) To the extent permitted by applicable law, the security interest created hereby is specifically intended to cover all Leases between Mortgagor or its agents as lessor, and various tenants named therein, as lessee, including all extended terms and all extensions and renewals of the terms thereof, as well as any amendments to or replacement of said Leases, together with all of the right, title and interest of Mortgagor, as lessor thereunder.

(j) Mortgagor represents and warrants that: (i) Mortgagor is the record owner of the Premises; (ii) Mortgagor's chief executive office is located at: 700 Chase Street, Gary, Indiana 46404; (iii) Mortgagor's state of organization is the State of Indiana; (iv) Mortgagor's exact legal name is as set forth on Page 1 of this Mortgage; and (v) Mortgagor's organizational identification number is 2000041700130.

(k) Mortgagor hereby agrees that: (i) where Collateral is in possession of a third party, Mortgagor will join with Mortgagee in notifying the third party of Mortgagee's interest and obtaining an acknowledgment from the third party that it is holding the Collateral for the benefit of Mortgagee; (ii) Mortgagor will cooperate with Mortgagee in obtaining control with respect to Collateral consisting of: deposit accounts, investment property, letter of credit rights and electronic chattel paper; and (iii) until the Obligations are paid in full, Mortgagor will not change the state where it is located or change its name or form of organization without giving Mortgagee at least thirty (30) days prior written notice in each instance.



14. **Restrictions on Transfer.**

(a) Mortgagor, without the prior written consent of Mortgagee, shall not effect, suffer or permit any Prohibited Transfer (as defined herein). Any conveyance, sale, assignment, transfer, lien, pledge, mortgage, security interest or other encumbrance or alienation (or any agreement to do any of the foregoing) of any of the following properties or interests shall constitute a "**Prohibited Transfer**":

(i) The Premises or any part thereof or interest therein, excepting only sales or other dispositions of Collateral ("**Obsolete Collateral**") no longer useful in connection with the operation of the Premises, provided that prior to the sale or other disposition thereof, such Obsolete Collateral has been replaced by Collateral of at least equal value and utility which is subject to the lien hereof with the same priority as with respect to the Obsolete Collateral;

in each case whether any such conveyance, sale, assignment, transfer, lien, pledge, mortgage, security interest, encumbrance or alienation is effected directly, indirectly (including the nominee agreement), voluntarily or involuntarily, by operation of law or otherwise; provided, however, that the foregoing provisions of this section shall not apply (i) to liens securing the Obligations, (ii) to the lien of current taxes and assessments not in default, (iii) to any transfers of the Premises, or part thereof, or interest therein, or any beneficial interests, or shares of stock or partnership or joint venture interests, as the case may be, by or on behalf of an owner thereof who is deceased or declared judicially incompetent, to such owner's heirs, legatees, devisees, executors, administrators, estate or personal representatives, or (iv) to leases permitted by the terms of the Loan Documents, if any.

(b) In determining whether or not to make the Loan, Mortgagee evaluated the background and experience of Mortgagor and its officers in owning and operating property such as the Premises, found it acceptable and relied and continues to rely upon same as the means of maintaining the value of the Premises which is Mortgagee's security for the Note. Mortgagor and its officers are well experienced in borrowing money and owning and operating property such as the Premises, were ably represented by a licensed attorney at law in the negotiation and documentation of the Loan and bargained at arm's length and without duress of any kind for all of the terms and conditions of the Loan, including this provision. Mortgagor recognizes that Mortgagee is entitled to keep its loan portfolio at current interest rates by either making new loans at such rates or collecting assumption fees and/or increasing the interest rate on a loan, the security for which is purchased by a party other than the original Mortgagor. Mortgagor further recognizes that any secondary junior financing placed upon the Premises (i) may divert funds which would otherwise be used to pay the Note; (ii) could result in acceleration and foreclosure by any such junior encumbrancer which would force Mortgagee to take measures and incur expenses to protect its security; (iii) would detract from the value of the Premises should Mortgagee come into possession thereof with the intention of selling same; and (iv) would impair Mortgagee's right to accept a deed in lieu of foreclosure, as a foreclosure by Mortgagee would be necessary to clear the title to the Premises. In accordance with the foregoing and for the purposes of (a) protecting Mortgagee's

security, both of repayment and of value of the Premises; (b) giving Mortgagee the full benefit of its bargain and contract with Mortgagor; (c) allowing Mortgagee to raise the interest rate and collect assumption fees; and (d) keeping the Premises free of subordinate financing liens, Mortgagor agrees that if this section is deemed a restraint on alienation, that it is a reasonable one.

**15. Mortgagor's Covenants.** Mortgagor agrees and covenants that until all Obligations secured hereby are paid in full, it shall:

(a) Maintain its assets, accounts, books, records, financial statements, stationery, invoices, and checks separate from and not commingled with any of those of any other person or entity;

(b) Conduct its own business in its own name, pay its own liabilities out of its own funds, allocate fairly and reasonably any overhead for shared employees and office space, and maintain an arm's length relationship with its affiliates;

(c) Hold itself out as a separate entity, correct any known misunderstanding regarding its separate identity, maintain adequate capital in light of its contemplated business operations, and observe all organizational formalities;

(d) Not guarantee or become obligated for the debts of any other entity or person other than its joint and several liability for the Obligations or hold out its credits as being available to satisfy the obligations of others, including not acquiring obligations or securities of its partners, members or shareholders;

(e) Not pledge its assets for the benefit of any other entity or person or make any loans or advances to any person or entity;

(f) Not enter into any contract or agreement with any party which is directly or indirectly controlling, controlled by or under common control with Mortgagor (an "Affiliate"), except upon terms and conditions that are intrinsically fair and substantially similar to those that would be available on an arms-length basis with third parties other than any Affiliate;

(g) Not allow any constituent party of Mortgagor to seek the dissolution or winding up, in whole or in part, of Mortgagor, nor merge with or be consolidated into any other entity;

(h) Maintain its assets in such a manner that it will not be costly or difficult to segregate, ascertain or identify its individual assets from those of any constituent party of Mortgagor, any Affiliate, or any other person or entity; and

(i) Not hereafter have any debts or obligations other than normal accounts payable in the ordinary course of business, this Mortgage, the Loan, any other indebtedness or other obligation of Mortgagor unless any existing indebtedness has paid in full prior to or through application of proceeds from the funding of the Loan.

**16. Events of Default; Acceleration.** Each of the following shall constitute an “Event of Default” for purposes of this Mortgage:

(a) Failure of Mortgagor to pay any amount when the same becomes due and payable under the Note or any of the other Loan Documents, whether interest or principal or both or any other amount due under the Note or under the other Loan Documents and whether as an installment, by acceleration of the Maturity Date or otherwise;

(b) Failure of Mortgagor to perform or observe any other covenant, warranty or other provision contained in this Mortgage or any of the other Loan Documents and not otherwise covered in any of the other provisions of this **Section 16**; provided if such default is capable of being cured, Mortgagor shall have a period of thirty (30) days after the date on which written notice of the nature of such failure is given by Mortgagee to Mortgagor to cure such default; if any, provided and, if such default is by its nature is capable of being cured but cannot be cured within said thirty (30) day period and Mortgagor diligently commences and prosecutes such cure during said thirty (30) day period, Mortgagor shall have an additional thirty (30) days to cure such default, but in no event shall the period to cure any such default exceed sixty (60) days after the date Mortgagee’s notice is given to Mortgagor.

(c) the existence of any inaccuracy or untruth in any material respect in any certification, representation or warranty contained in this Mortgage or any of the other Loan Documents or of any statement or certification as to facts delivered to Mortgagee by Mortgagor;

(d) the occurrence of a Prohibited Transfer;

(e) the occurrence of an Event of Default under the Note or any of the other Loan Documents;

(f) the occurrence of any default or event of default, after the expiration of any applicable periods of notice or cure, under any document or agreement evidencing or securing any other obligation or indebtedness of Mortgagor to Mortgagee; or

(g) The dissolution of Mortgagor.

If an Event of Default occurs and the notice and cure periods have expired, Mortgagee may, at its option, declare the whole of the Obligations to be immediately due and payable without further notice to Mortgagor, with interest thereon accruing from the date of such Event of Default until paid at the Default Interest Rate.

**17. Foreclosure; Expense of Litigation.**

(a) When all or any part of the Obligations shall become due, whether by acceleration or otherwise, Mortgagee shall have the right to foreclose the lien hereof for such Obligations or part thereof and/or exercise any right, power or remedy provided in this Mortgage or any of the other Loan Documents in accordance with the Indiana

Mortgage Foreclosure Law (Indiana Code Ann. §32-30-10-1 et. seq. (1992), as amended) (as may be amended from time to time, the "**Foreclosure Law**"). In the event of a foreclosure sale, Mortgagee is hereby authorized, without the consent of Mortgagor, to assign any and all insurance policies to the purchaser at such sale or to take such other steps as Mortgagee may deem advisable to cause the interest of such purchaser to be protected by any of such insurance policies.

(b) In any suit to foreclose the lien hereof, there shall be allowed and included as additional indebtedness in the decree for sale all expenditures and expenses which may be paid or incurred by or on behalf of Mortgagee for reasonable attorneys' fees, appraisers' fees, outlays for documentary and expert evidence, stenographers' charges, publication costs, and costs (which may be estimated as to items to be expended after entry of the decree) of procuring all such abstracts of title, title searches and examinations, title insurance policies, and similar data and assurances with respect to the title as Mortgagee may deem reasonably necessary either to prosecute such suit or to evidence to bidders at any sale which may be had pursuant to such decree the true condition of the title to or the value of the Premises. All expenditures and expenses of the nature mentioned in this section and such other expenses and fees as may be incurred in the enforcement of Mortgagor's obligations hereunder, the protection of the Premises and the maintenance of the lien of this Mortgage, including the reasonable fees of any attorney employed by Mortgagee in any litigation or proceeding affecting this Mortgage, the Note, or the Premises, including probate and bankruptcy proceedings, or in preparations for the commencement or defense of any proceeding or threatened suit or proceeding shall be immediately due and payable by Mortgagor, with interest thereon until paid at the Default Interest Rate and shall be secured by this Mortgage.

**18. Application of Proceeds of Foreclosure Sale.** The proceeds of any foreclosure sale of the Premises shall be distributed and applied in accordance with the Foreclosure Law and, unless otherwise specified therein, in such order as Mortgagee may determine in its sole and absolute discretion.

**19. Appointment of Receiver.** Upon or at any time after the filing of a complaint to foreclose this Mortgage, the court in which such complaint is filed shall, upon petition by Mortgagee, appoint a receiver for the Premises in accordance with the Foreclosure Law. Such appointment may be made either before or after sale, without notice, without regard to the solvency or insolvency of Mortgagor at the time of application for such receiver and without regard to the value of the Premises or whether the same shall be then occupied as a homestead or not and Mortgagee hereunder or any other holder of the Note may be appointed as such receiver. Such receiver shall have power to collect the rents, issues and profits of the Premises (a) during the pendency of such foreclosure suit, (b) in case of a sale and a deficiency, during the full statutory period of redemption, whether there be redemption or not, and (c) during any further times when Mortgagor, but for the intervention of such receiver, would be entitled to collect such rents, issues and profits. Such receiver also shall have all other powers and rights that may be necessary or are usual in such cases for the protection, possession, control, management and operation of the Premises during said period, including, to the extent permitted by law, the right to lease all or any portion of the Premises for a term that extends beyond the time of such

receiver's possession without obtaining prior court approval of such lease. The court from time to time may authorize the application of the net income received by the receiver in payment of (i) the Obligations, or by any decree foreclosing this Mortgage, or any tax, special assessment or other lien which may be or become superior to the lien hereof or of such decree, provided such application is made prior to foreclosure sale, and (ii) any deficiency upon a sale and deficiency.

**20. Mortgagee's Right of Possession in Case of Default.** At any time after an Event of Default has occurred, Mortgagor shall, upon demand of Mortgagee, surrender to Mortgagee possession of the Premises. Mortgagee, in its discretion, may, with process of law, enter upon and take and maintain possession of all or any part of the Premises, together with all documents, books, records, papers and accounts relating thereto, and may exclude Mortgagor and its employees, agents or servants therefrom, and Mortgagee may then hold, operate, manage and control the Premises, either personally or by its agents. Mortgagee shall have full power to use such measures, legal or equitable, as in its discretion may be deemed proper or necessary to enforce the payment or security of the avails, rents, issues, and profits of the Premises, including actions for the recovery of rent, actions in forcible detainer and actions in distress for rent. Without limiting the generality of the foregoing, Mortgagee shall have full power to:

- (a) cancel or terminate any lease or sublease for any cause or on any ground which would entitle Mortgagor to cancel the same;
- (b) elect to disaffirm any lease or sublease which is then subordinate to the lien hereof;
- (c) extend or modify any then existing leases and to enter into new leases, which extensions, modifications and leases may provide for terms to expire, or for options to lessees to extend or renew terms to expire, beyond the Maturity Date and beyond the date of the issuance of a deed or deeds to a purchaser or purchasers at a foreclosure sale, it being understood and agreed that any such leases, and the options or other such provisions to be contained therein, shall be binding upon Mortgagor and all persons whose interests in the Premises are subject to the lien hereof and upon the purchaser or purchasers at any foreclosure sale, notwithstanding any redemption from sale, discharge of the Obligations, satisfaction of any foreclosure judgment, or issuance of any certificate of sale or deed to any purchaser;
- (d) make any repairs, renewals, replacements, alterations, additions, betterments and improvements to the Premises as Mortgagee deems necessary;
- (e) insure and reinsure the Premises and all risks incidental to Mortgagee's possession, operation and management thereof; and
- (f) receive all of such avails, rents, issues and profits.

**21. Application of Income Received by Mortgagee.** Mortgagee, in the exercise of the rights and powers hereinabove conferred upon it, shall have full power to use and apply the

avails, rents, issues and profits of the Premises to the payment of or on account of the following, in such order as Mortgagee may determine:

(a) to the payment of the operating expenses of the Premises, including cost of management and leasing thereof (which shall include compensation to Mortgagee and its agent or agents, if management be delegated to an agent or agents, and shall also include lease commissions and other compensation and expenses of seeking and procuring tenants and entering into leases), established claims for damages, if any, and premiums on insurance hereinabove authorized;

(b) to the payment of taxes and special assessments now due or which may hereafter become due on the Premises; and

(c) to the payment of any Obligations, including any deficiency which may result from any foreclosure sale.

**22. Compliance with Indiana Mortgage Foreclosure Law.**

(a) If any provision in this Mortgage shall be inconsistent with any provision of the Foreclosure Law, provisions of the Foreclosure Law shall take precedence over the provisions of this Mortgage, but shall not invalidate or render unenforceable any other provision of this Mortgage that can be construed in a manner consistent with the Foreclosure Law.

(b) If any provision of this Mortgage shall grant to Mortgagee (including Mortgagee acting as a mortgagee-in-possession) or a receiver appointed pursuant to the provisions of **Section 19** of this Mortgage any powers, rights or remedies prior to, upon or following the occurrence of an Event of Default which are more limited than the powers, rights or remedies that would otherwise be vested in Mortgagee or in such receiver under the Foreclosure Law in the absence of said provision, Mortgagee and such receiver shall be vested with the powers, rights and remedies granted in the Foreclosure Law to the full extent permitted by law.

**23. Rights Cumulative.** Each right, power and remedy herein conferred upon Mortgagee is cumulative and in addition to every other right, power or remedy, express or implied, given now or hereafter existing under any Loan Document or at law or in equity, and each and every right, power and remedy herein set forth or otherwise so existing may be exercised from time to time as often and in such order as may be deemed expedient by Mortgagee, and the exercise or the beginning of the exercise of one right, power or remedy shall not be a waiver of the right to exercise at the same time or thereafter any other right, power or remedy, and no delay or omission of Mortgagee in the exercise of any right, power or remedy accruing hereunder or arising otherwise shall impair any such right, power or remedy, or be construed to be a waiver of any Event of Default or acquiescence therein.

**24. Mortgagee's Right of Inspection.** Mortgagor shall permit Mortgagee and its representatives and agents to inspect the Premises from time to time upon reasonable prior

telephonic notice during normal business hours and as frequently as Mortgagee considers reasonable.

**25. Release Upon Payment and Discharge of Mortgagor's Obligations.** Mortgagee shall release this Mortgage and the lien hereof by proper instrument upon payment and discharge in full in cash of all Obligations, including payment of all reasonable expenses incurred by Mortgagee in connection with the execution of such release.

**26. Notices.** Any notice that Mortgagee or Mortgagor may desire or be required to give to the other hereunder shall be deemed given (i) upon receipt when delivered or if sent by nationally recognized overnight air courier, or (ii) two (2) business days after being deposited in the United States certified mail, return receipt requested, properly addressed to the party, at the address of such party set forth below, or at such other address, as the party to whom notice is to be given has specified by notice hereunder to the party seeking to give such notice:

(a) If to Mortgagee, at:

American Chartered Bank  
2205 Butterfield Road  
Downers Grove, Illinois 6014  
Attention: Scott Theuerkauf

With a copy to:

Duane Morris LLP  
190 South LaSalle Street  
Suite 3700  
Chicago, Illinois 60603  
Attention: Daniel Kohn, Esq.

If to Mortgagor, at:

Chase Land, L.L.C.  
700 Chase Street  
Gary, Indiana 46404  
Attention: Kathy E. Paxton

With a copy to:

Staub Anderson Green LLC  
55 West Monroe Street  
Suite 1925  
Chicago, Illinois 60603  
Attention: David K. Staub, Esq.

Except as otherwise specifically required herein, notice of the exercise of any right or option granted to Mortgagee by this Mortgage is not required to be given.

**27. Waiver of Rights.** Mortgagor hereby covenants and agrees that it will not at any time insist upon or plead, or in any manner claim or take any advantage of, any stay, exemption or extension law or any so-called "**Moratorium Law**" now or at any time hereafter in force providing for the valuation or appraisal of the Premises, or any part thereof, prior to any sale or sales thereof to be made pursuant to any provisions herein contained, or to decree, judgment or order of any court of competent jurisdiction; or, after such sale or sales, claim or exercise any rights under any statute now or hereafter in force to redeem the property so sold, or any part thereof, or relating to the marshalling thereof, upon foreclosure sale or other enforcement hereof; and without limiting the foregoing:

(a) Mortgagor hereby expressly waives any and all rights of reinstatement and redemption, if any, under any order or decree of foreclosure of this Mortgage, on its own behalf and on behalf of each and every person, it being the intent hereof that any and all such rights of reinstatement and redemption of Mortgagor and of all other persons are and shall be deemed to be hereby waived to the full extent permitted by the provisions of the Foreclosure Law or other applicable law or replacement statutes;

(b) Mortgagor will not invoke or utilize any such law or laws or otherwise hinder, delay or impede the execution of any right, power or remedy herein or otherwise granted or delegated to Mortgagee but will suffer and permit the execution of every such right, power and remedy as though no such law or laws had been made or enacted; and

(c) If Mortgagor is a trustee, Mortgagor represents that the provisions of this section (including the waiver of reinstatement and redemption rights) were made at the express direction of Mortgagor's beneficiaries and the persons having the power of direction over Mortgagor, and are made on behalf of the trust estate of Mortgagor and all beneficiaries of Mortgagor, as well as all other persons mentioned above.

**28. Contests.** Notwithstanding anything to the contrary herein contained, Mortgagor shall have the right to contest by appropriate legal proceedings diligently prosecuted any Taxes imposed or assessed upon the Premises or which may be or become a lien thereon and any mechanics', materialmen's or other liens or claims for lien upon the Premises (each, a "**Contested Liens**"), and no Contested Lien shall constitute an Event of Default hereunder, if, but only if:

(a) Mortgagor shall forthwith give notice of any Contested Lien to Mortgagee at the time the same shall be asserted;

(b) Mortgagor shall either pay under protest or deposit with Mortgagee the full amount (the "**Lien Amount**") of such Contested Lien, together with such amount as Mortgagee may reasonably estimate as interest or penalties which might arise during the period of contest; provided that in lieu of such payment Mortgagor may furnish to



Mortgagee a bond or title indemnity in such amount and form, and issued by a bond or title insuring company, as may be reasonably satisfactory to Mortgagee;

(c) Mortgagor shall diligently prosecute the contest of any Contested Lien by appropriate legal proceedings having the effect of staying the foreclosure or forfeiture of the Premises, and shall permit Mortgagee to be represented in any such contest and shall pay all reasonable expenses incurred, in so doing, including fees and expenses of Mortgagee's counsel (all of which shall constitute so much additional Obligations bearing interest at the Default Interest Rate until paid, and payable upon demand); and

(d) Mortgagor shall pay each such Contested Lien and all Lien Amounts together with interest and penalties thereon (i) if and to the extent that any such Contested Lien shall be determined adverse to Mortgagor, or (ii) forthwith upon demand by Mortgagee if, in the opinion of Mortgagee, and notwithstanding any such contest, the Premises shall be in jeopardy or in danger of being forfeited or foreclosed; provided that if Mortgagor shall fail so to do, Mortgagee may, but shall not be required to, pay all such Contested Liens and Lien Amounts and interest and penalties thereon and such other sums as may be necessary in the judgment of Mortgagee to obtain the release and discharge of such liens; and any amount expended by Mortgagee in so doing shall be so much additional Obligations bearing interest at the Default Interest Rate until paid, and payable upon demand; and provided further that Mortgagee may in such case use and apply monies deposited as provided in subsection (b) above and may demand payment upon any bond or title indemnity furnished as aforesaid.

**29. Expenses Relating to Note and Mortgage.**

(a) Mortgagor will pay all reasonable and necessary expenses, charges, costs and fees relating to the Loan or necessitated by the terms of the Note, this Mortgage or any of the other Loan Documents, including without limitation, Mortgagee's reasonable attorneys' fees in connection with the negotiation, documentation, administration, servicing and enforcement of the Note, this Mortgage and the other Loan Documents, all filing, registration and recording fees, all other expenses incident to the execution and acknowledgment of this Mortgage and all federal, state, county and municipal taxes, and other taxes (provided Mortgagor shall not be required to pay any income or franchise taxes of Mortgagee), duties, imposts, assessments and charges arising out of or in connection with the execution and delivery of the Note and this Mortgage. Mortgagor recognizes that, during the term of this Mortgage, Mortgagee:

(i) May be involved in court or administrative proceedings, including, without restricting the foregoing, foreclosure, probate, bankruptcy, creditors' arrangements, insolvency, housing authority and pollution control proceedings of any kind, to which Mortgagee shall be a party by reason of the Loan Documents or in which the Loan Documents or the Premises are involved directly or indirectly;

(ii) May make preparations following the occurrence of an Event of Default hereunder for the commencement of any suit for the foreclosure hereof, which may or may not be actually commenced;

(iii) May make preparations following the occurrence of an Event of Default hereunder for, and do work in connection with, Mortgagee's taking possession of and managing the Premises, which event may or may not actually occur;

(iv) May make preparations for and commence other private or public actions to remedy an Event of Default hereunder, which other actions may or may not be actually commenced;

(v) May enter into negotiations with Mortgagor or any of its agents, employees or attorneys in connection with the existence or curing of any Event of Default hereunder, the sale of the Premises, the assumption of liability for any of the Obligations or the transfer of the Premises in lieu of foreclosure; or

(vi) May enter into negotiations with Mortgagor or any of its agents, employees or attorneys pertaining to Mortgagee's approval of actions taken or proposed to be taken by Mortgagor which approval is required by the terms of this Mortgage.

(b) All expenses, charges, costs and fees described in this section shall be so much additional Obligations, shall bear interest from the date so incurred until paid at the Default Interest Rate and shall be paid, together with said interest, by Mortgagor forthwith upon demand.

**30. Statement of Obligations.** Mortgagor, within seven (7) days after being so requested by Mortgagee, shall furnish a duly acknowledged written statement setting forth the amount of the debt secured by this Mortgage, the date to which interest has been paid and stating either that no offsets or defenses exist against such debt or, if such offsets or defenses are alleged to exist, the nature thereof.

**31. Further Instruments.** Upon request of Mortgagee, Mortgagor shall execute, acknowledge and deliver all such additional instruments and further assurances of title and shall do or cause to be done all such further acts and things as may reasonably be necessary fully to effectuate the intent of this Mortgage and of the other Loan Documents.

**32. Additional Obligations Secured.** All persons and entities with any interest in the Premises or about to acquire any such interest should be aware that this Mortgage secures more than the stated principal amount of the Note and interest thereon; this Mortgage secures any and all other amounts which may become due under the Note, any of the other Loan Documents, or any other document or instrument evidencing, securing or otherwise affecting the Obligations, including, without limitation, any and all amounts expended by Mortgagee to operate, manage or maintain the Premises or to otherwise protect the Premises or the lien of this Mortgage.

**33. Indemnity.** Mortgagor hereby covenants and agrees that no liability shall be asserted or enforced against Mortgagee in the exercise of the rights and powers granted to Mortgagee in this Mortgage, and Mortgagor hereby expressly waives and releases any such liability. Mortgagor shall indemnify and save Mortgagee and its officers, directors, employees, agents, affiliates, successors and assigns harmless from and against any and all liabilities, obligations, losses, damages, claims, costs and expenses, including reasonable attorneys' fees and court costs (collectively, "**Claims**"), of whatever kind or nature which may be imposed on, incurred by or asserted against Mortgagee or any of its officers, directors, employees, agents, affiliates, successors and assigns at any time by any third party which relate to or arise from: (a) any suit or proceeding (including probate and bankruptcy proceedings), or the threat thereof, in or to which Mortgagee or its officers, directors, employees, agents, affiliates, successors and assigns may or do become a party, either as plaintiff or as a defendant, by reason of this Mortgage or for the purpose of protecting the lien of this Mortgage; (b) the offer for sale or sale of all or any portion of the Premises; and (c) the ownership, leasing, use, operation or maintenance of the Premises, if such Claims relate to or arise from actions taken prior to the surrender of possession of the Premises to Mortgagee in accordance with the terms of this Mortgage. All costs provided for herein and paid for by Mortgagee shall be so much additional Obligations and shall become immediately due and payable upon demand by Mortgagee and with interest thereon from the date incurred by Mortgagee until paid at the Default Interest Rate.

**34. Subordination of Property Manager's Lien.** Any property management agreement for the Premises entered into hereafter with a property manager shall contain a provision whereby the property manager agrees that any and all mechanics' lien rights that the property manager or anyone claiming by, through or under the property manager may have in the Premises shall be subject and subordinate to the lien of this Mortgage and shall provide that Mortgagee may terminate such agreement, without penalty or cost, at any time after the occurrence of an Event of Default hereunder. Such property management agreement or a short form thereof, at Mortgagee's request, shall be recorded with the Recorder of Deeds of the county where the Premises is located. In addition, if the property management agreement in existence as of the date hereof does not contain a subordination provision, Mortgagor shall cause the property manager under such agreement to enter into a subordination of the management agreement with Mortgagee, in recordable form, whereby such property manager subordinates present and future lien rights and those of any party claiming by, through or under such property manager to the lien of this Mortgage.

**35. Compliance with Environmental Laws.** Concurrently herewith Mortgagor has executed and delivered to Mortgagee that certain Environmental Indemnity Agreement of even date herewith (as amended or modified, the "**Indemnity**") pursuant to which Mortgagor has indemnified Mortgagee for environmental matters concerning the Premises, as more particularly described therein. The provisions of the Indemnity are hereby incorporated herein and this Mortgage shall secure the obligations of Mortgagor thereunder.

**36. Miscellaneous.**

(a) **Successors and Assigns.** This Mortgage and all provisions hereof shall be binding upon and enforceable against Mortgagor and its assigns and other successors.

This Mortgage and all provisions hereof shall inure to the benefit of Mortgagee, for the benefit of Mortgagee, their successors and assigns and any holder or holders, from time to time, of the Note.

(b) Invalidity of Provisions; Governing Law. In the event that any provision of this Mortgage 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, Mortgagor and Mortgagee 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 Mortgage 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. **THIS MORTGAGE SHALL BE GOVERNED BY THE INTERNAL LAWS OF THE STATE OF ILLINOIS (WITHOUT GIVING EFFECT TO ILLINOIS CHOICE OF LAW PRINCIPLES), EXCEPT WITH RESPECT TO THE ENFORCEMENT HEREOF AGAINST THE PREMISES IN THE STATE OF INDIANA, WHICH ENFORCEMENT SHALL BE GOVERNED BY THE LAWS OF THE STATE OF INDIANA (WITHOUT GIVING EFFECT TO INDIANA CHOICE OF LAW PRINCIPLES).**

(c) Municipal Requirements. Mortgagor shall not by act or omission permit any building or other improvement on the Premises not subject to the lien of this Mortgage to rely on the Premises or any part thereof or any interest therein to fulfill any municipal or governmental requirement, and Mortgagor hereby assigns to Mortgagee any and all rights to give consent for all or any portion of the Premises or any interest therein to be so used. Similarly, no building or other improvement on the Premises shall rely on any premises not subject to the lien of this Mortgage or any interest therein to fulfill any governmental or municipal requirement. Any act or omission by Mortgagor which would result in a violation of any of the provisions of this subsection shall be void.

(d) Rights of Tenants. Mortgagee shall have the right and option to commence a civil action to foreclose this Mortgage and to obtain a decree of foreclosure and sale subject to the rights of any tenant or tenants of the Premises having an interest in the Premises prior to that of Mortgagee. The failure to join any such tenant or tenants of the Premises as party defendant or defendants in any such civil action or the failure of any decree of foreclosure and sale to foreclose their rights shall not be asserted by Mortgagor as a defense in any civil action instituted to collect the Obligations, or any part thereof or any deficiency remaining unpaid after foreclosure and sale of the Premises, any statute or rule of law at any time existing to the contrary notwithstanding.

(e) Option of Mortgagee to Subordinate. At the option of Mortgagee, this Mortgage shall become subject and subordinate, in whole or in part (but not with respect to priority of entitlement to insurance proceeds or any condemnation or eminent domain award) to any and all leases of all or any part of the Premises upon the execution by Mortgagee of a unilateral declaration to that effect and the recording thereof in the Office of the Recorder of Deeds in and for the county wherein the Premises is situated.

(f) Mortgagee-in-Possession. Nothing herein contained shall be construed as constituting Mortgagee a mortgagee-in-possession in the absence of the actual taking of possession of the Premises by Mortgagee pursuant to this Mortgage.

(g) Relationship of Mortgagee and Mortgagor. Mortgagee shall in no event be construed for any purpose to be a partner, joint venturer, agent or associate of Mortgagor or of any lessee, operator, concessionaire or licensee of Mortgagor in the conduct of their respective businesses, and, without limiting the foregoing, Mortgagee shall not be deemed to be such partner, joint venturer, agent or associate on account of Mortgagee becoming a mortgagee-in-possession or exercising any rights pursuant to this Mortgage, any of the other Loan Documents, or otherwise. The relationship of Mortgagor and Mortgagee hereunder is solely that of debtor/creditor.

(h) Time of the Essence. Time is of the essence of the payment by Mortgagor of all amounts due and owing to Mortgagee under the Note and the other Loan Documents and the performance and observance by Mortgagor of all terms, conditions, obligations and agreements contained in this Mortgage and the other Loan Documents.

(i) No Merger. The parties hereto intend that this Mortgage and the lien hereof shall not merge in fee simple title to the Premises, and if Mortgagee acquires any additional or other interest in or to the Premises or the ownership thereof, then, unless a contrary intent is manifested by Mortgagee as evidenced by an express statement to that effect in an appropriate document duly recorded, this Mortgage and the lien hereof shall not merge in the fee simple title and this Mortgage may be foreclosed as if owned by a stranger to the fee simple title.

(j) Maximum Obligations. Notwithstanding anything contained herein to the contrary, in no event shall the Obligations exceed an amount equal to five (5) times the original principal amount of the Loan; provided, however, in no event shall Mortgagee be obligated to advance funds in excess of the face amount of the Note.

(k) **CONSENT TO JURISDICTION**. TO INDUCE MORTGAGEE TO ACCEPT THE NOTE, MORTGAGOR IRREVOCABLY AGREES THAT, SUBJECT TO MORTGAGEE'S SOLE AND ABSOLUTE ELECTION, ALL ACTIONS OR PROCEEDINGS IN ANY WAY ARISING OUT OF OR RELATED TO THE NOTE AND THIS MORTGAGE WILL BE LITIGATED IN COURTS HAVING SITUS IN CHICAGO, ILLINOIS, OR AT THE SOLE OPTION OF MORTGAGEE, IN ANY OTHER COURT IN WHICH MORTGAGEE SHALL INITIAL LEGAL OR EQUITABLE PROCEEDINGS AND WHICH HAS SUBJECT MATTER JURISDICTION OVER THE MATTER IN CONTROVERSY. MORTGAGOR HEREBY CONSENTS AND SUBMITS TO THE JURISDICTION OF ANY COURT LOCATED WITHIN CHICAGO, ILLINOIS, WAIVES PERSONAL SERVICE OF PROCESS UPON MORTGAGOR, AND AGREES THAT ALL SUCH SERVICE OF PROCESS MAY BE MADE BY CERTIFIED MAIL DIRECTED TO MORTGAGOR AT

THE ADDRESS STATED HEREIN AND SERVICE SO MADE WILL BE DEEMED TO BE COMPLETED UPON ACTUAL RECEIPT.

(l) WAIVER OF JURY TRIAL. MORTGAGOR AND MORTGAGEE (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 (A) UNDER THIS MORTGAGE OR ANY RELATED AGREEMENT OR UNDER ANY AMENDMENT, INSTRUMENT, DOCUMENT OR AGREEMENT DELIVERED OR WHICH MAY IN THE FUTURE BE DELIVERED IN CONNECTION WITH THIS MORTGAGE OR (B) ARISING FROM ANY BANKING RELATIONSHIP EXISTING IN CONNECTION WITH THIS MORTGAGE, AND AGREES THAT ANY SUCH ACTION OR PROCEEDING WILL BE TRIED BEFORE A COURT AND NOT BEFORE A JURY. MORTGAGOR AGREES THAT IT WILL NOT ASSERT ANY CLAIM AGAINST MORTGAGEE OR ANY OTHER PERSON INDEMNIFIED UNDER THIS MORTGAGE ON ANY THEORY OF LIABILITY FOR SPECIAL, INDIRECT, CONSEQUENTIAL, INCIDENTAL OR PUNITIVE DAMAGES.

(m) Complete Agreement. This Mortgage constitutes the complete agreement between the parties with respect to the subject matter hereof and it may not be modified, altered or amended except by an agreement in writing signed by both Mortgagor and Mortgagee.

(n) Remedies Against Other Collateral. Mortgagor hereby acknowledges that certain Loan Documents other than this Mortgage create liens on collateral located in counties or states other than the counties and state in which the Premises is located and that a default under this Mortgage, any other mortgage securing the Loan or other Loan Documents shall constitute a default under all of the mortgages securing the Loan or all of the Loan Documents. Mortgagor further acknowledges that this Mortgage and the other Loan Documents are cross-defaulted and the Loan secured hereby is also secured by the other Loan Documents. Mortgagor agrees that Mortgagee may proceed, at the same or at different times, to foreclose any or all liens against such collateral by any proceedings appropriate in the county and state where such collateral lies, and that no event of enforcement taking place in any county or state pursuant to any of the Loan Documents shall preclude or bar enforcement in any other county or state. Any foreclosure or other appropriate remedy brought in any county or state in which collateral is located may be brought and prosecuted as to any part of such collateral without regard to the fact that foreclosure proceedings or other appropriate remedies have or have not been instituted elsewhere on any other part of the collateral for the Loan.

(o) Indiana Provisions.

(i) In the event of any inconsistency between the terms and conditions of this **Section 36(o)** and the other terms and conditions of this Mortgage, the terms and conditions of this **Section 36(o)** shall control and be binding.

(ii) The last installment or final payment upon maturity of the indebtedness secured by this Mortgage becomes due and payable not later than August 24, 2017.

(iii) Each of the Obligations is payable without relief from valuation and appraisement laws, and the Mortgage waives, to the fullest extent permitted by law, the benefit of all laws now existing or hereafter enacted providing for any valuation or appraisement before sale of any portion of the Premises.

(iv) Where any provision of this Mortgage is inconsistent with any provision of Indiana law regulating the creation or enforcement of a lien or security interest in real or personal property including, but not by way of limitation, IC 32-29-7 and IC 32-30-10, the provisions of Indiana law shall take precedence over the provisions of this Mortgage that cannot be construed in a manner consistent with Indiana law. Any provisions in this Mortgage to the contrary notwithstanding, to the extent the laws of the State of Indiana limit (i) the availability of the exercise of any of the remedies set forth herein, including without limitation the right of Mortgagee to exercise self-help in connection with the enforcement of the terms of this Mortgage, or (ii) the enforcement of waivers and indemnities made by the Mortgagor, such remedies, waivers or indemnities shall be exercisable or enforceable if, and to the extent, permitted by the laws in force at the time of the exercise of such remedies or the enforcement of such waivers or indemnities without regard to the enforceability of such remedies, waivers or indemnities at the time of the execution and delivery of this Mortgage.

(v) Mortgagor and Mortgagee acknowledges that the Premises is not "property" (as that term is defined in IC 13-11-2-174) for purposes of the Indiana Responsible Property Transfer Law (IC 13-25-3).

(vi) This Mortgage shall secure all of the Obligations including all future advances of every kind and whenever occurring, whether made as an obligation or made at the option of Mortgagee, including but not limited to advances made after a reduction to a zero or other balance, or made otherwise; provided, however, that the maximum amount of the Obligations secured by this Mortgage outstanding at any time, including future advances, shall not exceed \$4,200,000.00, such maximum amount being stated herein pursuant to and in accordance with IC 32-29-1-10. This Mortgage shall further secure all modifications, extensions, and renewals of any Obligations secured by this Mortgage. Pursuant to IC 32-29-1-10, the lien of this Mortgage with respect to any future advances, modifications, extensions, and renewals referred to herein and made from time to time shall have the same priority to which this Mortgage otherwise would be entitled as of the date of this Mortgage is executed and recorded without regard to the fact that such future advance, modification, extension or renewal may occur after this Mortgage is executed.

(vii) Anything contained in this Mortgage to the contrary notwithstanding, no waiver made by the Mortgagor in this Mortgage or in any of the other terms and provisions of the Loan Documents shall be deemed to constitute a waiver by the Mortgagor of the time limitations on issuance of process under a judgment or decree of foreclosure set out in IC 32-29-7-5 or a release by the Mortgagee or any judgment holder of the Obligations of the right to seek a deficiency judgment against the Mortgagor, or any other person or entity who may be personally liable for the Obligations, which right to seek a deficiency judgment is hereby reserved, preserved, and retained by the Mortgagee, its successors and assigns.


[Signature Page Follows]





**IN WITNESS WHEREOF**, Mortgagor, acting by and through its duly authorized representative, has duly executed and delivered this Open-End Mortgage, Security Agreement, Assignment of Rents and Leases and Fixture Filing the day and year first above written.

**CHASE LAND, L.L.C.**, an Indiana limited liability company

By:   
Name: ROBERT J. COBB  
Title: MANAGER



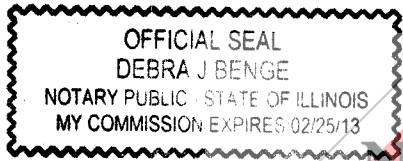
**Signature Page to Open-End Mortgage, Security Agreement  
Assignment of Rents and Leases and Fixture Filing**

STATE OF Illinois )  
 ) SS.  
COUNTY OF Cook )

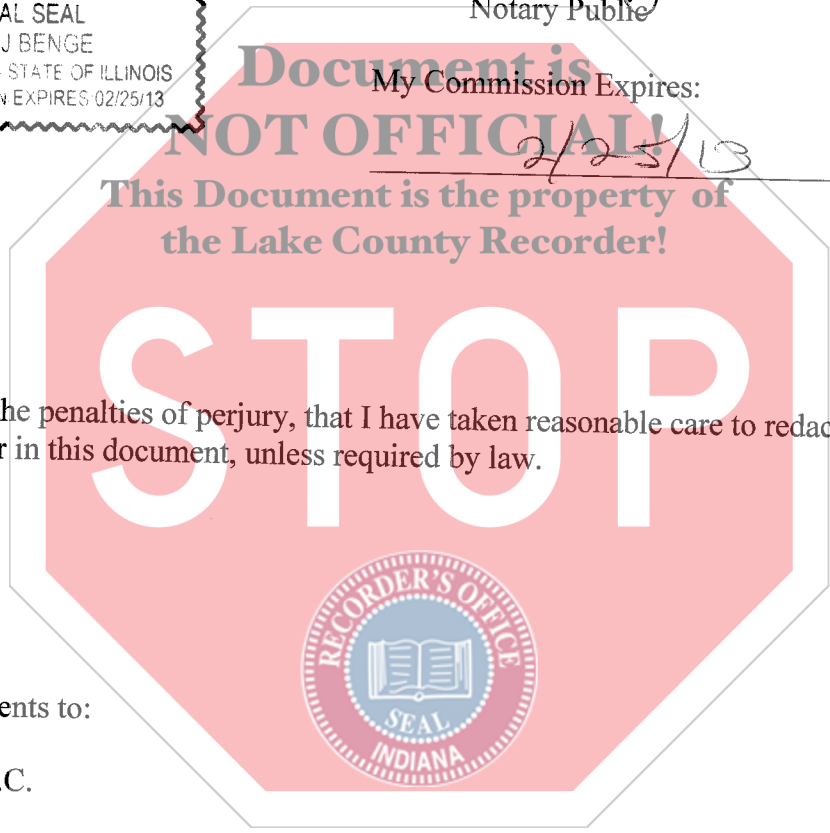
The undersigned, a Notary Public in and for the said County, in the State aforesaid, DO HEREBY CERTIFY that Robert J. Bobb the manager of **CHASE LAND, L.L.C.**, an Indiana limited liability company, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument as such entity, appeared before me this day in person and acknowledged that s/he signed and delivered the said instrument as his/her own free and voluntary act and as the free and voluntary act of said limited liability company, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 24<sup>th</sup> day of August, 2012.

Debra J. Bengel  
Notary Public



My Commission Expires: 2/25/13



I affirm, under the penalties of perjury, that I have taken reasonable care to redact each Social Security Number in this document, unless required by law.

Daniel Kohn

Mail Tax Statements to:

Chase Land, L.L.C.  
700 Chase Street  
Gary, Indiana 46404

Notary Page to Open-End Mortgage, Security Agreement  
Assignment of Rents and Leases and Fixture Filing

**EXHIBIT "A"**

**LEGAL DESCRIPTION OF REAL ESTATE**

Part of the Southeast Quarter of Section 6, Township 36 North, Range 8 West of the Second Principal Meridian, in the City of Gary, Lake County, Indiana, being more particularly described as follows:

Commencing at the Southwest corner of the Southeast Quarter of said Section 6; thence North 00 degrees 12 minutes 35 seconds East, along the West line of the Southeast Quarter of Section 6, a distance of 604.02 feet; thence South 89 degrees 47 minutes 25 seconds East. A distance of 43.02 feet, to the point of beginning, thence North 00 degrees 12 minutes 35 seconds east, parallel with the West line of the Southeast Quarter of said Section 6, a distance of 770.04 feet; thence South 89 degrees 12 minutes 34 seconds East, parallel with the South line of said Section 6, a distance of 792.00 feet; thence South 00 degrees 12 minutes 35 seconds West, parallel with the West line of the Southeast Quarter of said Section 6, a distance of 770.04 feet; thence North 89 degrees 12 minutes 34 seconds West, parallel with the South line of said Section 6, a distance of 792.00 feet, to the point of beginning.

Property  
Address

700 Chase Street, Gary Indiana 46404

Tax No.:

45-08-06-451-001.000-004



**EXHIBIT "B"**

**PERMITTED EXCEPTIONS**

Schedule B Exceptions Nos. 3 and 7 thru 19 to Chicago Title Insurance Company Pro Forma Title Policy having an NBU No. 21202196

