

2014 000770

STATE OF INDIANA
LAKE COUNTY
FILED FOR RECORD

2014 JAN -8 PM 2:26

MICHAEL B. BROWN
RECORDER

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REAL ESTATE MORTGAGE

This indenture witnesseth that **RYAN AUSTGEN**, of Lake County, State of Indiana (the "Mortgagor"), MORTGAGES AND WARRANTS to **THOMAS W. AUSTGEN** (the "Mortgagee") the following real estate in LAKE County, State of Indiana (the "Real Estate"), to-wit:

LOT 20 IN H.R. NICHOLS ADDITION TO THE TOWN OF LOWELL, AS PER PLAT THEREOF RECORDED IN PLAT BOOK 1 PAGE 22 IN THE OFFICE OF THE RECORDER OF LAKE COUNTY, INDIANA.

This Mortgage is given to secure payment and full performance by Mortgagor of:

the principal of and interest on the indebtedness evidenced by a certain promissory note ("Note"), dated November 20, 2013, given by Mortgagor to Mortgagee, in the principal sum of One Hundred Thirty-Six Thousand Five Hundred and 00/100ths Dollars (\$136,500.00), and any other amounts payable to Mortgagee pursuant to the terms and provisions of the Note (the "Primary Debt"); together with all covenants and agreements contained in this Mortgage, and all sums advanced and costs and expenses incurred by Mortgagee pursuant to the terms of this Mortgage, including without limitation advancements, costs of collection and reasonable attorney's fees (hereinafter, collectively with the Primary Debt, the "Indebtedness").

Mortgagor hereby further covenants with the Mortgagee as follows:

1. **Payment of Sums Due.** Mortgagor covenants and agrees to promptly pay the principal of and interest on the Primary Debt and the other Indebtedness, as and when the payment(s) thereof become due, all without relief from valuation and appraisal laws and with attorney's fees.
2. **Care and Condition of Mortgaged Property.** Mortgagor shall (a) keep the Mortgaged Property in good condition and repair, without waste, and free from encroachments and from mechanic's or materialman's lien or claims for liens not expressly subordinated to this Mortgage; (b) pay when due any indebtedness which

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may be secured by a lien or charge on the Mortgaged Property, whether or not superior to the lien of this Mortgage; and (c) comply with all requirements of law and covenants and restrictions of record applicable to the Mortgaged Property or its use.

3. **Warranties.** Mortgagor covenants and warrants that: (a) Mortgagor is lawfully seized of the Real Estate in fee simple, has valid and indefeasible title to the Mortgaged Property and has a good and legal right to convey and mortgage the Mortgaged Property; and (b) the Mortgaged Property is and will remain free from all mortgages and liens except only mortgages and liens in favor of Mortgagee and mortgages and liens which are secondary and subordinate to any mortgages and liens in favor of Mortgagee, and Mortgagor will warrant and defend title to the Mortgaged Property against all claims made thereon.

4. **Insurance.** Mortgagor will keep the Mortgaged Property insured against loss by fire, extended casualty, vandalism, malicious mischief and such other hazards as reasonably may be required from time to time by Mortgagee, and losses thereunder shall be payable to Mortgagee pursuant to standard noncontributing mortgage endorsements in favor of Mortgagee. Any monies received as payment for any loss under any of the required insurance paid over to Mortgagee may be applied, at the option of Mortgagee, either to the prepayment of any portion of the Indebtedness, without premium, or to the reimbursement of Mortgagor for expenses incurred by Mortgagor in the restoration or repair of the Mortgaged Property.

5. **Taxes.** Mortgagor will pay and discharge when due all taxes, general and special assessments, and all other governmental and municipal charges and impositions of any kind imposed upon, assessed against or arising in respect of the Mortgaged Property.

6. **Transfer of Mortgaged Property.** Mortgagor shall not, without the prior written consent of Mortgagee, lease, transfer, sell, contract to sell, or in any way further encumber all or any part of the Mortgaged Property. Mortgagee hereby consents to the transfer of the Mortgaged Property by Mortgagor to a Revocable Trust of which Mortgagor is the Settlor and Trustee.

7. **Condemnation.** If all or any part of the Mortgaged Property, is taken or damaged pursuant to an exercise, or threat of exercise, of the power of eminent domain, the entire proceeds of the award or compensation payable in respect of the part so taken or damaged shall be paid directly to Mortgagee, if so directed by Mortgagee. The proceeds of any award or compensation actually received by Mortgagee after deduction therefrom of all costs and expenses including reasonable attorneys' fees incurred by Mortgagee in connection with the taking shall be applied, without premium, first, to restoration of the Mortgaged Property with the balance, if any, applied to payment of the Indebtedness.

8. **Default and Acceleration.**

(a) The following shall each constitute an "Event of Default" for purposes of this Mortgage:

(i) default by the Mortgagor in any payment provided for in the Note, or in the performance of any covenant or agreement of the Mortgagor hereunder; or

(ii) if the Mortgagor shall be adjudged bankrupt or insolvent, or if a receiver or trustee shall be appointed for the Mortgagor or any part of the Mortgaged Property, or if any action for bankruptcy or receivership shall be filed which involves the Mortgagor.

(b) Upon the occurrence of any "Event of Default", and at any time thereafter, then, in any and every such case, the entire Indebtedness shall, at the option of Mortgagee, become immediately due and payable without any notice, presentment, demand, protest, notice of protest, or other notice of dishonor or demand of any kind, all of which are hereby expressly waived by Mortgagor, and Mortgagee shall have the right immediately to foreclose the mortgage lien created by this Mortgage against the Mortgaged Property, to enforce every other security interest created by this Mortgage and to institute any action, suit or other proceeding which Mortgagee may deem necessary or proper for the protection of its interests.

9. **Foreclosure Proceedings.**

(a) All expenses which may be paid or incurred by or on behalf of Mortgagee in connection with the foreclosure of this Mortgage, including without limitation, reasonable attorneys' fees, shall constitute Advancements, shall be immediately due and payable by Mortgagor, with interest thereon at the rate of five percent (5%) per annum, and shall be allowed and included as Indebtedness in the judgment for sale.

(b) The proceeds of any foreclosure sale of the Mortgaged Property shall be distributed and applied in the following order of priority: First, on account of all Advancements incident to the foreclosure proceedings and all costs; second, all other items which under the terms of this Mortgage constitute Indebtedness additional to the Primary Debt; third, all principal, interest and other amounts remaining unpaid on the Primary Debt; and fourth, any remainder to the person or persons entitled thereto as determined by the court in the foreclosure proceedings.

10. **Provisions Severable.** In the event any one or more of the provisions of this Mortgage for any reason shall be held to be invalid, illegal or unenforceable in any respect, such

11. **Binding Effect.** This Mortgage shall (a) run with the land, and (b) apply and extend to, be binding upon and inure to the benefit of Mortgagor and Mortgagee, and their respective heirs, administrators, successors and assigns. The word "Mortgagee" shall include the successors and assigns of Mortgagee, and the holder or holders, from time to time, of the Note and any other Indebtedness instruments.

12. **Assignment.** This Mortgage may not be assigned by the Mortgagor without the prior written consent of the Mortgagee.

13. **Governing Law.** This Mortgage shall be governed by the Law of the State of Indiana.

14. **Notice.** All notices herein required will be in writing and will be served upon the parties at the following addresses:

Mortgagor: Ryan Austgen
113 Prairie Street
Lowell, IN 46356

Mortgagee: Thomas W. Austgen
3789 West 153rd Avenue
Crown Point, IN 46307

or to such other addresses as the parties may designate. All notices will be in writing and will be personally delivered or mailed (certified mail, return receipt requested). However, if any party attempts to give notice by certified mail and the addressee fails to claim or accept such mail, such notice may be given by first class mail.

15. **Miscellaneous.** The captions in this Mortgage are for convenience only and do not define or limit the provisions of this Mortgage. All changes to this Mortgage must be in writing signed by Mortgagee and, if this Mortgage is to be recorded, shall not be effective until recorded. The invalidity, illegality or unenforceability of any provision herein shall not affect the validity, legality or enforceability of any other provision of this Mortgage.

