

29

**MORTGAGE, ASSIGNMENT OF LEASES, AND SECURITY AGREEMENT**

THIS MORTGAGE, ASSIGNMENT OF LEASES, AND SECURITY AGREEMENT (hereinafter "Mortgage") dated this 17th day of December, 2014 is made by BEHLING ENGINEERING & CONSULTING, LLC., an Indiana Limited Liability Company with its principal office located at 7439 Calumet Avenue, Hammond, Indiana 46324 ("Grantor"), in favor of LARRY G. BEHLING, residing at 8212 Baring Avenue, Munster, in Lake County, Indiana ("Grantee").

2014 DEC 22 08:39

WITNESSETH

**WHEREAS**, Grantee has extended or will extended financial accommodations to the Grantor to enable Grantor to purchase the Real Estate that is the subject of this Mortgage, and pursuant thereto, the Grantor has executed and delivered the following loan documents in favor of the Grantee: (I) Promissory Note (Secured), dated as of December 17, 2014, in the principal amount of Forty-Six Thousand Dollars and 00/100 (\$46,000.00) (hereinafter "Note"), and

**WHEREAS**, this Mortgage is given to secure all indebtedness and other obligations owed to Grantee under the Grantor's Note, and this Mortgage shall secure not only presently existing indebtedness due under the Grantor's Note, but also future advances and other indebtedness made in accordance with the agreements between Grantee and Grantor up to the maximum amount stated in this Mortgage, to the same extent as if such future advances were made on the date of the execution of this Mortgage and Grantor's Note, although there may be no indebtedness hereby secured outstanding at the time any advance is made. The lien of this Mortgage shall be valid as to all indebtedness hereby secured, including future advances, from the time of its execution by Grantor and subsequent recording in the Recorder's Office of the county in which the Premises are located; and

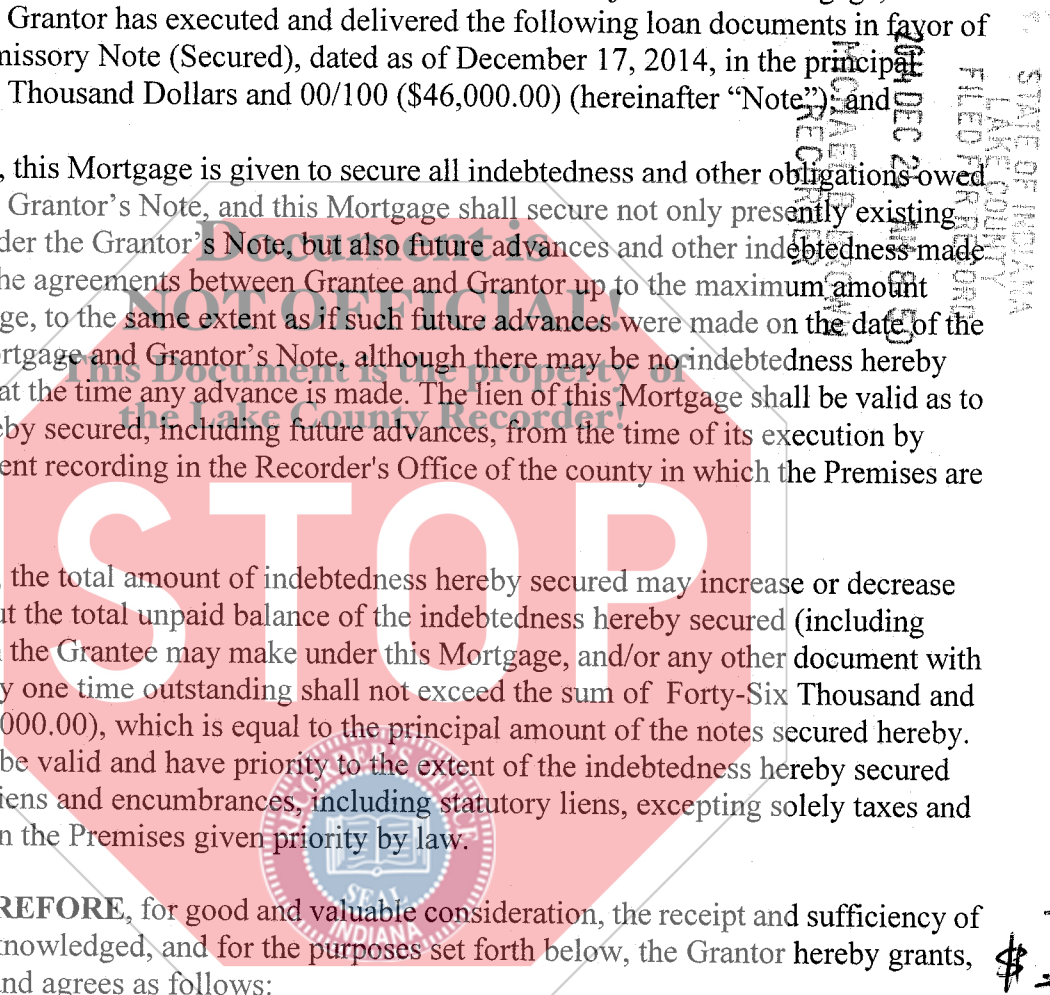
**WHEREAS**, the total amount of indebtedness hereby secured may increase or decrease from time to time, but the total unpaid balance of the indebtedness hereby secured (including disbursements which the Grantee may make under this Mortgage, and/or any other document with respect thereto, at any one time outstanding shall not exceed the sum of Forty-Six Thousand and 00/100 Dollars (\$46,000.00), which is equal to the principal amount of the notes secured hereby. This Mortgage shall be valid and have priority to the extent of the indebtedness hereby secured over all subsequent liens and encumbrances, including statutory liens, excepting solely taxes and assessments levied on the Premises given priority by law.

**NOW, THEREFORE**, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and for the purposes set forth below, the Grantor hereby grants, conveys, covenants and agrees as follows:

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## ARTICLE 1 - GRANTING CLAUSES

1.1 The Grantor does hereby give, grant, warrant, bargain, sell, grant a security interest in, mortgage, pledge, hypothecate, assign, and convey unto the Grantee, his successors and assigns, all right, title and interest of the Grantor in and to the following real and personal property (hereinafter collectively referred to as the "Premises"):

(a) the real property situated in Lake County, Indiana, described as follows:

**Lot 9 in Block 6 in Calumet Highlands, in the City of Hammond as per plat thereof, recorded in Plat Book 18, page 23, in the Office of the Recorder of Lake County, Indiana.**

**Parcel Identification Number: 45-07-18-104-004.000-023**

(Common Address: 7439 Calumet Avenue, Hammond, Indiana 46324.)

together with all rights and easements now or hereafter created which are appurtenant thereto (including without limitation all streets, alleys, passages, water, water courses, riparian rights, minerals, rights, liberties and privileges thereof, if any) and all strips and gores and all related tenements and hereditaments, if any (collectively referred to as the "Land"); and

(b) all buildings and improvements of every kind and description now or hereafter erected or placed on the Land and all materials intended for construction, reconstruction, alteration and repair of such improvements now or hereafter erected thereon (collectively, the "Improvements"), all of which materials shall be deemed to be included within the Premises immediately upon the delivery thereof to the Land, and all fixtures and articles of personal property now or hereafter owned by the Grantor and attached to, or located on, and used in the construction, management or operation of the Land or the Improvements, including but not limited to all furniture, furnishings, apparatus, machinery, motors, elevators, fittings, radiators, awnings, shades, blinds, office equipment, carpeting and other furnishings, and all plumbing, heating, lighting, ventilating, refrigerating, incinerating, air-conditioning and sprinkler equipment and fixtures and appurtenances thereto, and all renewals or replacements thereof, proceeds therefrom, and articles in substitution therefor, whether or not the same are or shall be attached to the Improvements in any manner, but as to any leased items the mortgage, security interest, and other interests created by this Mortgage shall be limited to any interest of the Grantor and the Borrower in said leased items (collectively the "Personalty"); and

(c) all awards and other compensation heretofore made but unpaid or hereafter to be made with respect to the Land or the Improvements for any taking by eminent domain, either permanent or temporary, of all or any part of the Land or the Improvements or any easement or appurtenance thereof, including severance and consequential damages and change in grade of streets, which said awards and compensation are hereby assigned to the Grantee, and its successors and assigns; and

(d) all of the Grantors' right, title and interest in all present and future leases, subleases, lettings and licenses of the Land or the Improvements including, without limitation, cash or securities (including without limitation guaranties, letters of credit and other credit enhancement instruments or agreements) deposited thereunder to secure performance by the Grantors' tenants of their obligations thereunder, whether such cash or securities are to be held until the expiration of the terms of such leases or applied to one or more of the expiration of such terms, as well as in and to all judgments, awards of damages and other proceeds relating to rent, tenancies, subtenancies and occupancies of the Land, Improvements and the Personalty, and in and to present and future remainders, rents, issues and profits thereof, and

(e) all of the Grantors' interest in and to all unearned premiums accrued, accruing or to accrue under any and all insurance policies now or hereafter obtained by the Grantor insuring all or any portion of the Land or the Improvements and in and to any and all proceeds payable under any one or more of said policies; and

(f) all of the Grantors' interest in all rents, issues, proceeds, income, revenue and profits of or accruing from any of the foregoing and any renewals, replacements, substitutions, extensions, improvements, betterments, appurtenances and additions to the Improvements or Personalty made or acquired by the Grantors after the date hereof and all licenses, permits and other like rights or interests now or hereafter held or acquired by the Grantor and necessary or useful for the operation of the Land or the Improvements.

TO HAVE AND TO HOLD all and singular the Premises, whether now owned, held or hereafter acquired by the Grantors, unto the Grantee and its successors and assigns forever.

**Document is  
Not Official!  
This Document is the property of  
ARTICLE 2 - OBLIGATIONS SECURED  
the Lake County Recorder!**

2.1 Security for Indebtedness. The Grantors have executed and delivered this Mortgage for the purpose of securing the performance of the covenants and agreements contained herein and in the Grantor's Note of even date herewith, and any other financing documents and agreements between Grantor and Grantee, and to secure the payment when due, but not necessarily in the order set forth, of:

(a) any and all sums advanced or loaned to, or to be advanced or loaned to, the Grantor, pursuant to the Grantor's Note or other financing agreements with Grantee, and all other obligations and liabilities of the Grantor arising under or in connection with the Grantor's Note or other financing agreements with Grantee, together with interest thereon at the rate or rates in effect from time to time as provided in the Grantor's Note and other financing agreements with Grantee, including, but not limited, the Purchase Money indebtedness in the principal amount of **Forty-Six Thousand and 00/100 Dollars (\$46,000.00), plus interest thereon at the rate of Five Percent (5%) per annum, payable over Sixty (60) consecutive monthly installments of Eight Hundred Sixty-Eight and 07/100 Dollars per month, with the first such monthly installment due on or before January 15, 2015, and by the 15<sup>th</sup> of each month thereafter**, until the full amount of the indebtedness due under the Grantor's Note is paid in full to Grantee;

(b) all sums expended or advanced by the Grantee pursuant to any term or provision of this Mortgage, the Grantor's Note or any of the other financing agreements with Grantee;

(c) all advances or disbursements of the Grantee with respect to the Premises pursuant to Section 8.4 of this Mortgage for the payment of taxes, levies, assessments, insurance premiums or costs incurred for the protection of the Premises; and

(d) the unpaid balances of any loan advances and all other liabilities and indebtedness of the Grantor, under the Grantor's Note and all other liabilities and indebtedness of the Grantor owed to Grantee under any other financing agreements with Grantee, to the extent that the total unpaid indebtedness secured hereby, exclusive of the interest thereon, does not exceed Forty-Six Thousand and 00/100 Dollars (\$46,000.00)(all of such debts, liabilities and obligations being collectively referred to herein as the "Indebtedness"), and as security for the payment of the Indebtedness, the Grantor has granted to the Grantee, its successors and assigns, a lien against the Premises.

2.2 Security for Future Advances. This Mortgage is given for the purpose of creating a lien on the Premises and expressly is to secure not only the existing Indebtedness but also all extensions, renewals, modifications or reamortizations of the Indebtedness, all increases or additions to the Indebtedness, and all other debts, obligations and liabilities of every kind and character of the Grantor now or hereafter existing in favor of the Grantee arising out of or in connection with the Indebtedness, any other financing agreements with Grantee, and all extensions, renewals, modifications or reamortizations thereof, whether such debts, obligations or liabilities be direct or indirect, primary or secondary, joint or several, fixed or contingent, and whether originally payable to the Grantee or to a third party and subsequently acquired by the Grantee, and all loans and future advances and readvances made by the Grantee to the Grantor, whether such advances are obligatory or to be made at the option of the Grantee or otherwise, to the same extent as if such future advances were made, whether under the Grantor's Note or otherwise, on the date of the execution of this Mortgage, and creates such a lien for all advances regardless of who is the owner of the Premises at the time such advances are made. The total amount of the Indebtedness may decrease or increase from time to time. However, the total unpaid balance secured at any one time shall not exceed Forty-Six Thousand and 00/100 Dollars (\$46,000.00), plus interest thereon computed in accordance with the Financing Agreement and any disbursement made for the payment of taxes, levies or insurance on the Premises with interest on such disbursements computed in accordance with the Grantor's Note or other financing agreements with the Grantee. Any such future advances and readvances, with interest, shall be secured by this Mortgage and shall be evidenced by the Grantor's Note and the other financing agreements with the Grantee.

### ARTICLE 3 - REPRESENTATIONS AND WARRANTIES

The Grantor represents and warrants as follows:

3.1 Construction and Completion of Improvements. All Improvements comprising the Premises have been completed and installed in a good workmanlike manner, in compliance with all applicable laws, ordinances, building codes and the plans and specifications therefor or, if not in compliance with any of the foregoing, such failure to comply will not reasonably be likely to have a "Material Adverse Effect" on the Grantee's rights to the Premises as security for the Indebtedness secured by this Mortgage. The Premises are served by electric, gas, sewer, water, telephone and other utilities required for their present and contemplated uses and operation. Any and all streets, utility lines and offsite improvements which provide access to the Premises or are necessary for its present and contemplated uses, have been completed, and, to the best of Grantor's knowledge, are serviceable and have been accepted or approved by appropriate governmental bodies, if necessary, and if not necessary, valid, enforceable and subsisting easement agreements are in place therefor.

3.2 Title to the Premises. (a) The Grantor has good and marketable fee simple title to the real property components of the Premises, free and clear of all liens, security interests, restrictions and encumbrances, (b) the Grantor has good title to the Personalty (hereinafter collectively referred to as the "Collateral") free and clear of all liens, security interests, restrictions and encumbrances, and (c) the Grantor has good right to give, grant, warrant, bargain, sell, grant a security interest in, mortgage, pledge, hypothecate, assign, and convey the Premises in the manner and form as above written, The Grantor will warrant and defend the Premises, with the appurtenances whereunto belonging, to the Grantee, and its successors and assigns, forever against all claims, lawful or otherwise, and demands whatsoever, subject only to the Permitted Encumbrances as may be acceptable to Grantee.

3.3 Independence of Premises. To the best of its knowledge, the Grantor has not permitted, by act or omission, any building or other substantial improvements on 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 for the existence of such premises or such building or improvement, and no material Improvement on the Premises has relied on any premises not subject to the lien of this Mortgage or any interest therein to fulfill any governmental or municipal requirement. From and after the effective date hereof, the Grantor shall not permit, by act or omission, any building or other substantial improvements on 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 for the existence of such premises or such building or improvement, and no material 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. Grantor shall not by act or omission impair the integrity of the Premises as one or more separate subdivided zoning lots separate and apart from all other premises.

3.4 Business Purpose. The Indebtedness is incurred solely for a business purpose and not a personal, family, household or agricultural purpose.

## ARTICLE 4 - COVENANTS AND AGREEMENTS

The Grantor and its successors and assigns hereby covenant and agree with the Grantee and its successors and assigns, as follows:

4.1 Payment of Indebtedness. The Grantor will perform the obligations under the Grantor's Note and any other financing agreements with Grantee to which either of them are a party and keep and perform all covenants, agreements, conditions and stipulations thereof. The Grantor hereby acknowledges that the Indebtedness was incurred in good faith for full value received.

4.2 Payment of Taxes.

(a) The Grantor shall pay or cause to be paid, before any penalty, interest or cost may be imposed, all real estate taxes, assessments, levies, water and sewer rents and charges, charges for public utilities and all other governmental charges, general and special, ordinary and extraordinary, foreseen and unforeseen, of any kind and nature whatsoever which at any time during the term of this Mortgage may be assessed, levied, imposed upon, or grow or become due and payable out of or in respect of, or become a lien on, the Premises or any part thereof or any appurtenance thereto or the Indebtedness or the interest of the Grantee therein excepting any income, franchise or other similar tax imposed on the Grantee under the laws of the United States or any other applicable law (all such taxes, assessments, levies, water and sewer rents and charges, charges for public utilities, and any other governmental charges being hereinafter collectively referred to as "Taxes", and any of the same being hereinafter referred to as a "Tax"); provided, however, that if any Tax may at the option of the taxpayer be paid in installments (whether or not interest shall accrue on the unpaid balance of such Tax), the Grantor may exercise the option to pay the same (and any accrued interest on the unpaid balance of such Tax) in installments and, in such event, shall pay such installments as the same respectively become due and before any fine, penalty, further interest or cost may be added thereto. The Grantors shall submit evidence of the payment of all Taxes to the Grantee not more than ten (10) Business Days after a request therefor by the Grantee. The Grantor shall be entitled to the benefit of installment payments regarding any Tax which is payable in installments, provided, however, in the event of the occurrence and during the continuance of an Event of Default which has not been waived in writing by the Grantee at Grantee's sole discretion, the entire amount of such Tax (together with any accrued interest on the unpaid balance thereof) shall, for the purposes of this Section 4.2, be deemed due and payable by the Grantor in its entirety, at the option of the Grantee, on the day a lien relating thereto would attach to the Premises;

(b) Notwithstanding the provisions of subsection (a) above the Grantor shall have the right to contest in good faith and by timely and appropriate proceedings effective to stay the enforcement thereof any Tax, provided, however, that if in the reasonable judgment of the Grantee the Premises shall at any time be in jeopardy of tax foreclosure, the Grantor shall post with the Grantee (or other agent if required under applicable law) sufficient security, satisfactory to the Grantee, in its reasonable judgment, for the payment thereof, with interest, costs, and penalties,

under written agreement conditioning payment of such contested Taxes upon determination of such contest, or prior thereto if the continuance of such contest shall put the Premises in jeopardy of tax sale or forfeiture.

4.3 Insurance.

(a) The Grantor shall keep the Improvements on the Premises insured by a policy or policies of all risk replacement cost insurance (with agreed amount endorsement), which policies may exclude the cost of the foundation and may have a deductible that is no greater than \$1,000.00 per occurrence, against loss or damage by, and business interruption insurance reasonably acceptable to the Grantee covering loss or damage resulting from, fire, flood and such other hazards, casualties and contingencies (including, but not limited to, extended coverage, vandalism, malicious mischief), in an amount not less than the greater of (I) the full replacement cost thereof, or (ii) the amount necessary so that neither the Grantor nor the Grantee shall be deemed a co-insurer of a loss, which such policy shall be for the benefit of the Grantor and the Grantee, as their interests may appear, and shall provide that no cancellation, reduction in amount, or change in coverage shall be effective until at least thirty (30) days after written notice to the Grantee thereof.

(b) The Grantor shall maintain for the mutual benefit of the Grantee and the Grantor general public liability insurance against claims for personal injury, death or property damage occurring upon, in or about the Premises or any elevators therein and on, in or about the adjoining streets and passageways, such insurance to afford protection to such limits as the Grantee may from time to time request, acting reasonably. All of such insurance shall be primary and non-contributing with any insurance policy which may be carried by the Grantee.

(c) The Grantor shall maintain all workers' compensation coverage required in connection with the Premises by applicable law.

(d) All insurance policies shall be issued by an insurer lawfully doing business in the State of Indiana and reasonably satisfactory to the Grantee, and, to the extent of its interest, shall identify the Grantee, and its successors and assigns as an additional insured and loss payee, as first mortgagee without contribution. If the insurance coverage required hereunder is provided as part of a blanket policy, then the amount of the coverage specifically applicable to the Premises shall be stated on the face of the policy. The Grantor shall deliver to the Grantee an original certificate of insurance evidencing the insurance coverage required hereunder and an original certificate of insurance with respect to each new policy issued in replacement for any expiring policy, with evidence of advance premium payments as reasonably required by the Grantee at least thirty (30) days before the date of such expiration at the Grantee's address as set forth at the beginning of this Mortgage, or at such other place or to such other party as the Grantee may, from time to time, designate in writing.

(e) The Grantor, to the full extent permitted by law and without invalidating the insurance with respect to the Premises required above, shall use reasonable efforts to obtain

endorsements by all insurers waiving any right of subrogation against tenants under any leases with respect to the Premises, shall enforce the provisions of all existing leases of the Premises requiring the tenants thereunder to provide the same, and shall require the same of all future tenants of the Premises. The Grantee shall not, because of accepting, rejecting, approving or obtaining insurance, incur any liability for the existence, nonexistence, form or legal sufficiency thereof, the solvency of any insurer, or the payment of losses.

(g) Upon foreclosure of this Mortgage, any Event of Default (as hereinafter defined), or other transfer of title or assignment of the Premises in discharge, in whole or part, of the Indebtedness, all right, title and interest of the Grantor in and to all policies of insurance, or portions thereof, required by this Section 4.3, and relating to the Premises shall inure to the benefit of and pass to the Grantee.

4.4 Changes in Law Regarding Taxes. If at any time the United States or the State of Indiana or any of their subdivisions having jurisdiction shall levy, assess, or charge any Tax (I) upon this Mortgage, the Indebtedness or the interest of the Grantee and in the Premises or (ii) upon the Grantee by reason of or as holder of any of the foregoing, then the Indebtedness and the accrued interest thereon shall be and become due and payable at the option of the Grantee forty-five (45) days after the mailing of notice of such election to the Grantor; provided, however, said option shall not be available if the Grantor lawfully may pay for (or reimburse the Grantee for) such Tax including interest and penalties thereon to or for the Grantee and elects to pay and does, in fact, pay when payable, for all such Tax, including interest and penalties thereon. The Grantor further agrees to deliver to the Grantee, at any time, within five (5) Business Days after the Grantee's written request, such evidence as may be required by any government agency having jurisdiction in order to determine whether the Indebtedness hereby secured is subject to or exempt from any such Tax or any other governmental filing, or reporting requirement.

4.5 Liens. The Grantor shall keep the Premises free and clear from all mechanics' liens and statutory liens of every kind other than Taxes which may be a lien but not yet due and payable. Further, the Grantor will keep and maintain the Premises free from all claims of all persons supplying labor, materials, and/or services which will enter into or otherwise contribute to the construction of any and all buildings and improvements now being erected or which hereafter may be erected on the Premises, notwithstanding by whom such labor or materials may have been contracted. Notwithstanding the provisions of this Section to the contrary, the Grantor shall have the right to contest (and it shall not be an Event of Default so long as the Grantor shall contest), in good faith and by timely and appropriate proceedings effective to stay the enforcement of any such mechanics' lien or statutory lien provided that if in the reasonable judgment of the Grantee the Premises shall at any time be in jeopardy of foreclosure, the Grantor shall post with the Grantee, or such other agent as may be required pursuant to any applicable statute, sufficient security, satisfactory to the Grantee in its sole discretion, for the payment thereof, with interest, attorney fees, costs and penalties, under written agreement conditioning payment of such contested mechanics' lien or statutory lien upon determination of such contest, or prior thereto if the continuance of such contest or litigation shall put the Premises in jeopardy of foreclosure sale or forfeiture for such lien.



4.6 Transfers and Encumbrances.

(a) Except as otherwise permitted in this Mortgage, the Grantor's Note or other financing agreements with the Grantee, the Grantor shall not (i) sell, encumber (including without limitation by means of subordinate mortgage or lien upon the Premises or any part thereof), convey into trust, assign, lease or dispose of the Premises or any part thereof or interest therein, or (ii) enter into any contract or agreement to do anything prohibited by clause of this Section 4.6(a), expressly including without limitation any land contract, lease/purchase, lease/option or option agreement without, in each such case, first obtaining the written consent of the Grantee. Any such lease, encumbrance, conveyance, transfer or agreement not actually approved by the Grantee shall, at the option of the Grantee, be null and void and shall not grant any rights in the Premises to the parties named therein. Any merger, consolidation or liquidation with respect to the Grantor, or any change in the beneficial ownership of the Grantor (or any permitted successor-in-interest thereof) shall constitute a "sale" of the Premises for the purpose of this Mortgage. In the event title to the Premises or any part thereof or interest therein becomes vested in a Person or Persons not approved by the Grantee to the extent such approval is required under this Mortgage, the Indebtedness shall become due and payable in full at the option of the Grantee. In the event title to the Premises or any part thereof or interest therein becomes vested in a Person or Persons other than the Grantor or the Grantee, the Grantee may, without notice to the Grantor, deal with such successor or successors-in-interest with respect to this Mortgage and the Indebtedness in the same manner as with the Grantor, without in any way releasing, discharging or otherwise affecting any liability to the Grantee under this Mortgage or for the Indebtedness.

(b) The consent of the Grantee required under this Section 4.6 may be refused or predicated upon any terms, conditions and covenants deemed advisable or necessary by the Grantee in his sole discretion, including but not limited to the right to change the interest rate, date of maturity or payments of principal and/or interest, to require payment of any amounts as additional consideration as a transfer fee or otherwise and to require assumption of this Mortgage, (or any obligations of the Grantor thereunder). Any lease or sublease of the Premises or any part thereof or interest therein shall provide for the attornment by the tenant thereof and of all tenants or estates thereunder to the owner of the Premises after foreclosure or after a deed in lieu of foreclosure.

4.7 Waste. The Grantor shall not commit waste upon the Premises or suffer waste to be committed thereon.

4.8 Compliance with Laws, Private Restrictions and Agreements. The Grantor will keep the Premises in compliance with all laws, covenants, restrictions and agreements affecting the Premises (including, without limitation, those relating to Hazardous Substance, as hereinafter defined), the noncompliance with which could reasonably be expected to have a Material Adverse Effect. The Grantor shall observe and comply with all conditions and requirements necessary to preserve and extend any and all rights, licenses, permits (including but not limited to zoning variances, special exceptions and conditional use permits, privileges, franchises and concessions) which are applicable to the Premises or which have been granted to or contracted for by the

Grantor in connection with any existing or presently contemplated use of the Premises, and shall obtain and keep in full force and effect all necessary governmental and municipal approvals as may be necessary from time to time to comply with any and all conditions attached to the insurance relating to the Premises and maintenance thereof. However, any alleged noncompliance with respect to any of the foregoing shall not be deemed to be an Event of Default if and to the extent that: (I) appropriate corrective measures are commenced promptly after the non-compliance becomes apparent or is alleged, and thereafter are being diligently pursued to the satisfaction of, or are being corrected by procedures satisfactory to the court, agency or other governmental authority in question, (ii) the alleged noncompliance is contested in good faith by timely and appropriate proceedings effective to stay the enforcement thereof or (iii) such noncompliance by the Grantor, when taken singly or with all other such noncompliance, could not reasonably be expected to result in a Material Adverse Effect.

The Grantor further covenants and agrees as follows:

- (a) The Grantor shall faithfully abide by, perform and discharge, at the Grantor's sole cost and expense, each and every obligation, covenant and agreement of the Grantor under any and all agreements affecting the Premises the violation of which could reasonably be expected to result in a Material Adverse Effect on the business or condition, financial or otherwise of the Grantor or the condition, value, or usefulness of the Premises (such agreements, as the same may be amended, supplemented, modified or substituted from time to time hereinafter collectively referred to as the "Agreements") and the Grantor shall use commercially reasonable efforts to enforce and secure the performance of each and every obligation, covenant, condition and agreement therein by any other party therein to be performed;
- (b) The Grantor shall not release, terminate or materially modify or alter the terms or provisions of the Agreements without the Grantee's prior written consent, which shall not be unreasonably withheld; however, as long as an Event of Default under this Mortgage, Grantor's Note, or any of the financing agreements with Grantee has not occurred, the Grantor shall be permitted to renew the term of, exercise any renewal under, or extend the term of any Agreement without such consent. Any such rights and interests acquired by the Grantor pursuant to such renewal or extension shall automatically become a part of the Premises and subject to this Mortgage.
- (c) Subject to subsection (b) above, the Grantor hereby expressly releases, relinquishes and surrenders to the Grantee all of the Grantor's right, power and authority to amend, modify or in any way alter the terms and provisions of the Agreements; provided, however, that the Grantee shall not exercise such right, power and authority unless an Event of Default shall occur and be continuing. Any attempt on the part of the Grantor to exercise any such right, power or authority without the

prior written consent of the Grantee thereto (which shall not be unreasonably withheld) shall constitute an Event of Default hereunder.

- (d) Any and all consents of the Grantor required under the Agreements prior to any action shall only be given after written approval by the Grantee, which shall not be unreasonably withheld; and
- (e) Any default by the Grantor under any of the Agreements the nonperformance of which would give rise to the Grantor's loss of its rights thereunder and which is not cured within any applicable grace period shall constitute an Event of Default hereunder.

#### 4.9 Maintenance and Alterations.

(a) The Grantor shall construct, keep and maintain, and make all necessary and proper replacements to all Improvements (including fixtures) and all apparatus and personal property owned by the Grantor now or hereafter situated on the Premises at all times in good working order, condition and repair, fit and proper for the respective purposes, for which they were erected or installed (ordinary wear and tear and, subject to the provisions of Section 5.1, fire and casualty excepted) and shall refrain from wasting or destroying any such necessary assets or any part thereof and from being negligent in the care or use thereof.

(b) Except as otherwise permitted under Section 5.1, no substantial Improvements on the Premises shall be demolished or removed by the Grantor without the prior written consent of the Grantee which shall not unreasonably be withheld. The Grantor further covenants and agrees to make no alterations to the Improvements now or hereafter located on the Premises that materially and adversely affect or materially and adversely change either the quantity or quality thereof without the prior written consent of the Grantee.

4.10 Management of the Premises. The Grantor shall not enter into any franchise, management, operating or license agreement regarding the operation or management of the Premises without the Grantee's prior written consent.

4.11 Performance of Prior Covenants. The Grantor covenants and agrees to make all payments and perform all conditions and covenants called for in any easements, restrictions or other encumbrances now encumbering the Premises or any part thereof or interest therein, and in the event of any default in any such payment or payments, conditions or covenants which continues beyond any applicable cure or grace period, if any, the Grantee, without waiving the option to declare an Event of Default hereunder, herein reserves the right to make such payments, or perform such conditions or covenants with respect to any such default that could reasonably be expected to have a Material Adverse Effect. Any and all such sums paid or expenses incurred on behalf of the Grantee, together with interest thereon from the date of payment at the rate of 3.00% per annum over the prime rate of interest announced from time to time by Grantee (the "Default Rate"), shall be added to the Indebtedness and be secured by this Mortgage. However, any alleged

noncompliance with respect to any of the foregoing shall not be deemed to be an Event of Default if and to the extent that: (I) appropriate corrective measures are commenced promptly after the non-compliance becomes apparent or is alleged, and thereafter are being diligently pursued to the satisfaction of, or are being corrected by procedures satisfactory to, the court, agency or other governmental authority in question, (ii) the alleged noncompliance is contested in good faith by timely and appropriate proceedings effective to stay the enforcement thereof or (iii) such noncompliance by the Grantor, when taken singly or with all other such noncompliance, could not reasonably be expected to result in a Material Adverse Effect.

4.12 Visitation. The Grantor shall immediately upon reasonable prior written request of the Grantee (provided that no notice need be given in connection with examinations, audits and inspections undertaken during the continuance of an Event of Default) permit the Grantee during normal business hours: (I) to examine the Premises with the guidance and supervision of the Grantor, and to examine the Grantor's records and make copies of and extracts from such records; and (ii) to consult with the Grantor's officers, directors, accountants, actuaries, trustees and plan administrators, as the case may be, in respect of the condition of the Premises, each of which parties is hereby authorized by the Grantor to make such information available to the Grantee to the same extent that it would to the Grantor.

4.13 Indemnification. The Grantor hereby indemnifies and agrees to protect, defend, and save harmless the Grantee, its directors, officers, agents, attorneys and employees (each individually, an "Indemnitee" and any two or more of them collectively referred to as "Indemnitees") from and against all liabilities, obligations, claims, damages, penalties, causes of action, costs, and expenses (including, without limitation, reasonable attorneys' fees and expenses), imposed upon or incurred by or asserted against the Indemnitees (except as to each Indemnitee, liabilities, obligations, claims, damages, penalties, causes of action, costs, and expenses resulting from such Indemnitee's gross negligence or willful misconduct) by reason of (a) this Mortgage, the Premises, or any interest therein, receipt of any rents, issues, proceeds or profits therefrom or the exercise of any right or remedy under this Mortgage (excepting any income, franchise or other similar tax imposed on the Indemnitees under the laws of the United States or any other applicable laws); (b) any obligation or liability on the part of the Indemnitees to be performed or discharged under the terms and provisions of any agreements relating to the Premises, except for such liabilities as the Indemnitees may specifically assume thereunder; (c) any accident, injury to or death of persons or loss of or damage to property occurring in, on, or about the Premises or any part thereof or on the adjoining sidewalks, curbs, adjacent property, or adjacent parking areas, streets, or ways except to the extent arising after the Grantee has taken possession of the Premises; (d) any use, non-use, or condition in, on, or about the Premises, or any part thereof or on the adjoining sidewalks, curbs, adjacent property, or adjacent parking areas, streets or ways except to the extent arising after the Grantee has taken possession of the Premises; (e) any actions or omissions of the Grantor relating to this Mortgage or any failure on the part of the Grantor to perform or comply with any of the terms of this Mortgage; (f) the performance of any labor or services or the furnishing of any materials or other property in respect of the Premises or any part thereof except after the Grantee has taken possession of the Premises unless otherwise provided in this Mortgage; and (g) any lease agreement, the exercise of rights or remedies

thereunder, and any and all claims and demands whatsoever which may be asserted against the Indemnities by reason of any alleged obligations or undertakings on its or their part to perform or discharge any of the terms, covenants or agreements contained in any lease agreement with respect to the Premises except to the extent arising after the Grantee has taken possession of the Premises. Any amounts payable to the Indemnities by reason of the application of this Section 4.13 shall be secured by this Mortgage and shall become due and payable within five (5) Business Days after the written demand by the Grantee and shall bear interest from and after such date at the highest rate of interest then applicable under the Grantor's Note or other financing agreement with Grantee from the date loss or damage is sustained by the Indemnities until paid. The obligations and liabilities of the Grantor under this Section 4.13 shall survive the satisfaction, foreclosure, delivery of a deed in lieu of foreclosure, execution, termination or cancellation of the Indebtedness, this Mortgage, any other financing agreements with Grantee or any other documents relating thereto for whatever reason.

## ARTICLE 5 - CASUALTY LOSSES AND EMINENT DOMAIN

### 5.1 Casualty Loss and Application of Insurance Proceeds.

(a) Insurance Proceeds. The Grantor and Grantee each agree that all amounts and proceeds (including instruments) in respect of the proceeds of any casualty insurance policy on the Improvements (the "Insurance Proceeds"), shall be paid by the respective insurers directly to the Grantee, and if paid to the Grantor such Insurance Proceeds shall be received only in trust for the Grantee, shall be segregated from other funds of the Grantor and shall be forthwith paid over to the Grantee in the same form as received (with any necessary endorsement). Each of the parties hereto agrees, to the fullest extent that it effectively may do so under applicable law, that the Grantee shall receive, hold, apply and disburse all such Insurance Proceeds in accordance with the provisions of Section 5.1(b).

(b) Repairs and Restoration.

(I) In case of any casualty loss to the Premises (each a "Casualty Loss"), the Grantor shall make or cause to be made the repairs to or replacements of the Premises necessary to repair and restore the Premises as nearly as possible to the condition the Premises were in immediately prior to such Casualty Loss promptly after the Insurance Proceeds are settled, and the Grantee shall make the Insurance Proceeds received by the Grantee pursuant to the provisions of this Mortgage as a result of such Casualty Loss, after deduction of its reasonable costs and expenses, if any, in collecting the same (the "Net Insurance Proceeds") available for the repair and restoration of the Premises, provided that (I) no Event of Default shall have occurred and be continuing under the Financing Documents, and (II) in the event that the Insurance Proceeds exceed \$50,000.00 the Grantor shall have provided to the reasonable satisfaction of the Grantee contracts for such repair or replacement demonstrating the Grantor's ability to effect such repair or replacement at a cost not greater than such Insurance Proceeds (or, if such cost is greater, accompanied by an explanation of the source of funds for such excess amounts satisfactory to the Grantee). Upon satisfaction of the applicable provisions of the preceding sentence of this

paragraph, (A) if the Insurance Proceeds are less than or equal to \$50,000, the Net Insurance Proceeds will be disbursed by the Grantee to the Grantor to pay for the costs of repair and restoration of the Premises, or (B) if the Insurance Proceeds are greater than \$50,000, the Net Insurance Proceeds shall be held by the Grantee in a separate interest-bearing account until expended in connection with the repair and restoration of the Premises, it being agreed that any tier Insurance Proceeds (together with any accrued interest thereon) so held by the Grantee shall constitute additional security for the payment of the Indebtedness secured by this Mortgage. The Net Insurance Proceeds (together with any accrued interest thereon) so held by the Grantee shall be paid by the Grantee to the Grantor for application of as much as may be necessary for the payment of the costs of repair, rebuilding or restoration, either on completion thereof or as the work progresses, as directed by the Grantor, but subject to Grantee's consent. As a condition to the disbursement of the Net Insurance Proceeds (and any accrued interest thereon) so held by the Grantee, the Grantee shall be entitled to receive (1) evidence reasonably satisfactory to the Grantee from the title company insuring the Premises evidencing that no mechanics' liens have been filed against the Premises (2) a certificate from an engineer or architect selected by the Grantee, certifying that all work in place has been completed in accordance with the plans and specifications approved by the Grantee and (3) certificates, affidavits and/or lien waivers from contractors and materialmen that all sums payable to such contractors and materialmen to the date of such certificates or affidavits have been paid. The Grantee may, prior to making payment from such separate award account, require the Grantor to provide reasonable evidence that, or deposit with the Grantee moneys to be placed in such account so that, there will be adequate moneys available for such repair and restoration if the Net Insurance Proceeds are not sufficient for such purpose. The Grantee shall not be obligated to make any payment from such account if an Event of Default has occurred and is continuing. Any balance of the Net Insurance Proceeds (together with any accrued interest thereon) held by the Grantee remaining after payment of all costs of such repair, rebuilding or restoration shall be applied by the Grantee in accordance with Section 5.3 below.

(ii) If an Event of Default shall have occurred and be continuing at the time of a Casualty Loss or there shall have occurred a Casualty Loss resulting in the actual or constructive total loss of all or any substantial portion of the Premises which occurs within the last twenty-four (24) months of the term of the Indebtedness, all insurance payments in respect of such portion of the Premises shall be paid to and applied by the Grantee as specified in Section 5.3 hereof.

(c) Adjustment of Claims for Insurance Proceeds by Grantor: Provided that no Event of Default has occurred and is continuing at the time of a Casualty Loss and the aggregate Insurance Proceeds payable with respect to such Casualty Loss do not exceed Fifty Thousand Dollars (\$50,000.00), the Grantor shall adjust such claim and receive such Insurance Proceeds directly and shall make or cause to be made the repairs to or replacements of the Premises necessary to repair and restore the Premises as nearly as possible to the condition the Premises were in immediately prior to such Casualty Loss promptly after the Insurance Proceeds are settled.

## 5.2 Takings.

(a) Taking Proceeds. If any compulsory transfer or taking or transfer under threat of compulsory transfer or taking by any agency, department, authority, commission, board, instrumentality, or political subdivision of the State of Indiana or the United States of America shall be threatened in writing or occur with respect to all or any portion of the Premises (each such occurrence being hereinafter referred to as a "Taking"), the Grantor shall (i) promptly upon any such written threat of which it is aware or occurrence provide written notice thereof to the Grantee, (ii) diligently pursue all its rights to compensation against the State of Indiana or the United States, as the case may be, or against any agency, department, authority, commission, board, instrumentality or political subdivision thereof in respect of such Taking, (iii) not, without the written consent of the Grantee, which shall not be unreasonably withheld, compromise or settle any claim against the State of Indiana or the United States, as the case may be, or against any agency, department, authority, commission, board, instrumentality or political subdivision thereof, (iv) hold all amounts and proceeds (including instruments) received in respect of any Taking ("Taking Proceeds") in trust for the benefit of the Grantee segregated from other funds of the Grantor and (v) forthwith pay over to the Grantee all such amounts and proceeds in the same form as received (with any necessary endorsement), free and clear of any encumbrances of any kind or nature whatsoever, to be received, held, applied and disbursed in accordance with the provisions of Section 5.2 (b) or Section 5.3 below, as the case may be. To the extent that participation is legally available to the Grantee, the Grantee may participate in any Taking proceedings, and the Grantor shall from time to time use its best efforts to deliver to the Grantee, to the furthest extent possible, all instruments reasonably requested by it to permit such participation. Notwithstanding any Taking, the Grantor shall continue to pay all payments at the time and in the manner provided for in the Financing Documents and the amount outstanding on the Indebtedness shall not be reduced until any award or payment therefor shall have been actually received and applied by the Grantee to the prepayment of the Indebtedness. If the Premises are sold, through foreclosure or otherwise, prior to the receipt by the Grantee of the Taking Proceeds, the Grantee shall have the right to receive such Taking Proceeds or a portion thereof sufficient to repay the Indebtedness. The Grantor shall file and prosecute its claim or claims for any such award or payment in good faith and with due diligence and cause the same to be collected and paid over to the Grantee. The Grantor shall, upon written demand of the Grantee, make, execute and deliver any and all assignments and other instruments sufficient for the purpose of assigning any such award or payment to the Grantee, free and clear of any encumbrances of any kind or nature whatsoever.

If less than all of the Premises are taken, unless in the sole discretion of the Grantee such Taking will either have, a Material Adverse Effect or the portion of the Premises owned by the Grantor at the conclusion of the Taking proceedings shall not be sufficient, as reasonably determined by the Grantee to permit the repair, rebuilding or restoration of the Premises to be completed in such a manner that the Improvements after completion of such repair, rebuilding or restoration shall constitute architecturally whole and commercially viable buildings, the Grantee shall make the award or payment received by the Grantee pursuant to the provisions of this Mortgage as a result of such Taking which is specifically awarded for the repair and restoration of the portion of the Premises not taken, or, in the absence of any such specific award, is in the

reasonable opinion of the Grantee necessary to pay for the costs which will be incurred in connection with the repair and restoration of the portion of the Premises not taken, after deduction of its reasonable costs and expenses, if any, in collecting the same (the "Net Restoration Award"), available for the repair and restoration of the Premises not taken, provided that (I) no Event of Default shall have occurred and be continuing under the Financing Documents, and (ii) the Grantor shall proceed with the repair and restoration of the Premises not taken as nearly as possible to the condition the Premises not taken were in immediately prior to such Taking promptly after the award is settled. Upon satisfaction of the provisions of the preceding sentence of this paragraph, (A) if the Taking Proceeds are less than or equal to \$50,000, the Net Restoration Award will be disbursed by the Grantee to the Grantor to pay for the costs of repair and restoration of the Premises not taken, or (B) if the Taking Proceeds are greater than \$50,000, the Net Restoration Award shall be held by the Grantee in a separate interest-bearing account until expended in connection with the repair and restoration of the Premises not taken, it being agreed that any Net Restoration Award (together with any accrued interest thereon) so held by the Grantee shall constitute additional security for the payment of all sums secured by this Mortgage. The Net Restoration Award (together with any accrued interest thereon) so held by the Grantee shall be paid by the Grantee to the Grantor for application of as much as may be necessary for the payment of the costs of repair, rebuilding or restoration, either on completion thereof or as the work progresses, as directed by the Grantor, but subject to Grantee's consent. As a condition to the disbursement of the Net Restoration Award (and any accrued interest thereon) so held by the Grantee, the Grantee shall be entitled to receive (I) evidence reasonably satisfactory to the Grantee from the title company insuring the Premises evidencing that no mechanics' liens have been filed against the Premises, (ii) a certificate from an engineer or an architect selected by the Grantee, certifying that all work in place has been completed in accordance with the plans and specifications approved by the Grantee and (iii) certificates, affidavits and or lien waivers from contractors and materialmen that all sums payable to such contractors and materialmen to the date of such certificates or affidavits have been paid. The Grantee may, prior to making payment from such separate award account, require the Grantor to provide reasonable evidence that, or deposit with the Grantee moneys to be placed in such account so that, there will be adequate moneys available for such repair and restoration if the Net Restoration Award is insufficient for such purpose. The Grantee shall not be obligated to make any payment from such account if an Event of Default has occurred and is continuing. Any balance of the Net Restoration Award (together with any accrued interest thereon) so held by the Grantee remaining after payment of all costs of such repair, rebuilding or restoration shall be applied by the Grantee in accordance with Section 5.3 below. If an Event of Default has not occurred and the Net Restoration Award (together with any accrued interest thereon) exceeds all of the costs incurred for the repair, rebuilding, and/or restoration, and any costs incurred by the Grantee with respect to the repair, rebuilding, and/or restoration (which costs shall be paid from the Net Restoration Award), then any such excess will be used to reimburse the Grantor for any professional fees or other costs that the Grantor incurred with respect to the Taking and/or the repair, rebuilding, and/or restoration.

5.3 Application of Taking Proceeds and Insurance Proceeds. Except as otherwise provided in this Article 5, all Taking Proceeds and Insurance Proceeds with respect to the occurrence of a Casualty Loss or Taking shall constitute a payment under the Grantor's Note or



other financing agreements with Grantee, and applied by the Grantee in accordance with the terms of such financing agreements, to the Indebtedness or such portions thereof as determined by the Grantee in its sole and absolute discretion.

5.4 Power of Attorney for Taking Proceeds and Insurance Proceeds. The Grantor hereby irrevocably makes, constitutes, and appoints the Grantee (and all officers, employees, or agents designated by the Grantee) as its true and lawful attorney-in-fact and agent, with full power of substitution, such that the Grantee shall have the right and authority, upon the occurrence and during the continuance of an Event of Default, to make and adjust claims under such policies of insurance, receive and endorse the name of the Grantor on, any check, draft, instrument or other item of payment for the proceeds of any Taking or policies of insurance and make all determinations and decisions with respect to Takings and policies of insurance. This power of attorney is a power coupled with an interest and shall be irrevocable. Without waiving or releasing any obligation or Event of Default by the Grantor, the Grantee may (but shall not be required to) at any time or times thereafter maintain such action with respect thereto as the Grantee deems advisable. All sums disbursed by the Grantee in connection therewith (including, but not limited to, reasonable attorneys' and paralegal's fees and disbursements, court costs, expenses and other charges relating thereto) shall be payable on demand, and until paid by the Grantor to the Grantee, with interest thereon at the Default Rate, and shall be additional Indebtedness secured by this Mortgage.

#### ARTICLE 6 - ENVIRONMENTAL COMPLIANCE

6.1 Definitions. The following definitions apply to the provisions of this Article:

(a) "Environmental Indemnity Agreement" The Environmental Indemnity Agreement dated of even date herewith by and among Borrower and Grantee (the "Environmental Indemnity"), which is incorporated herein as if fully set forth and shall supplement the rights and obligations of Grantor. The terms "Environmental Law(s)" and "Hazardous Substances" as used herein, shall have the meaning given to such terms in the Environmental Indemnity Agreement.

6.2 Right of Entry. In addition to all rights of entry contained in this Mortgage and the Environmental Indemnity and except as otherwise provided in the Financing Agreement, the Grantee shall have the right to enter and inspect the condition of the Premises at any reasonable time upon reasonable prior notice to the Grantor and, at any time if the Grantee has a reasonable basis to believe that a violation or alleged violation of Environmental Laws has occurred at or affecting the Premises, to conduct, or to designate a representative to conduct, at the cost and expense of the Grantor, such inspection, testing, environmental audit or other procedures that the Grantee believes are necessary or desirable to determine current compliance with the covenants and representations contained herein; provided, however, that upon the occurrence of an Event of Default which has not been waived in writing by the Grantee at its sole option, the Grantee may exercise such access and other rights at any time the Grantee deems such action necessary or desirable.

6.3 Obligations of the Grantee. Nothing contained in this Mortgage shall obligate the Grantee to take any action with respect to the Premises, any Hazardous Substance thereon, or any condition or activity that is in violation of Environmental Laws or to take any action, against any Person with respect to such substances, condition or activity.

#### ARTICLE 7 - SECURITY AGREEMENT

This Mortgage shall constitute a security agreement for the purpose of creating a security interest in the Collateral to secure the Indebtedness. This Mortgage also constitutes a financing statement with respect to any and all property included in the Premises which is or may become fixtures. Without derogating any of the provisions of this is Mortgage, the Grantor by this Mortgage:

(a) grants to the Grantee, and its successors and assigns, a first and prior security interest in all of the Grantor's right, title and interest in and to all Collateral, including, but not limited to, the items referred to above, together with all additions, accessions and substitutions and all similar property hereafter acquired and used or obtained for use on, or in connection with the Premises, and together with the proceeds of the Collateral, which are intended to be hereby secured; however, such intent shall never constitute an expressed or implied consent on the part of the Grantee to the sale of any or all of the Collateral;

(b) agrees that the security interest hereby granted by this Mortgage shall secure the payment of the Indebtedness, including any judgment, order or decree on the same;

(c) agrees not to sell, convey, mortgage or grant a security interest in, or otherwise dispose of or encumber, any of the Collateral or any of the Grantor's right, title or interest therein without first securing Grantee's written consent; and the Grantee may, at its sole option, require the Grantor to apply the proceeds from the disposition of Collateral in reduction of the Indebtedness hereby secured; provided, however, that the Grantee agrees to terminate its interest with respect to any Collateral which is sold with the Grantee's prior written consent;

(d) agrees that if any of the Grantor's rights in the Collateral are voluntarily or involuntarily transferred, whether by sale, creation of, a security interest, attachment, levy, garnishment or other judicial process, without the prior written consent of the Grantee, such transfer shall constitute an Event of Default by the Grantor under the terms of this Mortgage;

(e) agrees that upon the occurrence of any Event of Default, the Grantee may, with or without notice to the Grantor, exercise its rights to declare all Indebtedness secured by the security interest created hereby immediately due and payable, in which case the Grantee shall have all rights and remedies granted by law and more particularly the Uniform Commercial Code as adopted by the State of Indiana (as the same may be amended, revised, supplemented, substituted or replaced from time to time, the "Code"), including, but not limited to, the right to take possession of the Collateral, and for this purpose may enter upon any premises on which any or all of the Collateral is situated without being deemed guilty of trespass and without liability for

damages thereby occasioned, and take possession of and operate said Collateral or remove it therefrom. Upon the occurrence and during the continuance of any Event of Default hereunder which has not been waived by the Grantee at its sole option, the Grantee shall have the further right to take any action it deems necessary, appropriate or desirable, at its option and in its discretion, to repair, refurbish or otherwise prepare the Collateral for sale, lease or other use or disposition, and to sell at public or private sales or otherwise dispose of, lease, or utilize the Collateral (or any part thereof) in any manner authorized or permitted by law and to apply the proceeds thereof toward payment of any costs and expenses (including reasonable attorneys' fees and legal expenses, to the extent permitted by law) thereby incurred by the Grantee and toward payment of the Indebtedness, in such order and manner as the Grantee may elect. Any notice given by the Grantee as provided herein at least ten (10) days before the time of sale or disposition shall be deemed reasonable and shall fully satisfy any requirements for giving of said notice;

(f) agrees, to the extent permitted by law and without limiting any rights and privileges herein granted to the Grantee, that upon the occurrence of an Event of Default, the Grantee may dispose of any or all of the Collateral at the same time and place upon giving the same notice provided for in this Mortgage, and in the same manner as the nonjudicial foreclosure sale provided under the terms and conditions of this Mortgage;

(g) authorizes the Grantee to file, in the jurisdiction where this Mortgage will be given effect, one or more financing or continuation statements and amendments thereto, relative to all or any part of the Collateral without the signature of the Grantor where permitted by law (a carbon, photographic or other reproduction of this Mortgage or any financing statement covering the Collateral or any part thereof shall be sufficient as a financing statement where permitted by law); and

(h) acknowledges that the Grantor as of the date hereof, has joined the Grantee in the execution of one or more financing statements, to be filed in accordance with the provisions of the Code.

#### ARTICLE 8 - DEFAULTS AND REMEDIES

8.1 Default. Any of the following occurrences or acts shall constitute an Event of Default ("Event of Default") under this Mortgage: (I) the Grantor shall fail to pay the Indebtedness in accordance with the Grantor's Note or other financing agreements with Grantee or make any payment hereunder when required to be paid, and such failure shall continue beyond the expiration of the applicable grace period, if any; (ii) the Grantor shall fail to observe or perform any of its covenants, agreements or obligations under Sections 4.3, 4.5, 4.6, 4.7, 4.8, or 4.11 of this Mortgage, (iii) the Grantor shall fail to observe or perform any of its agreements or obligations under any provision of this Mortgage not specifically set forth in clauses (I) or (ii) of this Section which failure shall remain unremedied for a period of thirty (30) days after the Grantor discovers or should have discovered such failure, and the applicable cure period provided in such sections; or (iv) any representation, warranty or statement made in this Mortgage shall be false or inaccurate in any material respect when made or deemed made.

8.2 Acceleration of Maturity, Remedies. Upon the occurrence and during the continuance of an Event of Default which has not been waived by the Grantee in writing (at the sole option of the Grantee), the whole Indebtedness hereby secured shall become immediately due and payable, although the Indebtedness shall not have matured, anything contained in this Mortgage to the contrary notwithstanding, and thereupon or at any time during the continuance of such Event of Default, the Grantee may proceed to foreclose this Mortgage or otherwise pursue any other right or remedy available under this Mortgage, whether at law or in equity, including, but not limited to, the rights and remedies set forth in Article 7 hereof and in Sections 8.2 through 8.8 below.

8.3 Performance By the Grantee. The Grantor hereby agrees that in the event the Grantor shall fail to comply with any or all of its covenants, agreements, conditions and stipulations herein set forth and such failure results in the occurrence of an Event of Default which has not been waived by the Grantee in writing (at the sole option of the Grantee), then the Grantee shall be and hereby is authorized and empowered during the continuance of such Event of Default, at its option, but without legal obligation so to do, to pay and/or perform the same without waiver of any other remedy, including, without limitation, payment and/or performance (I) of any unpaid obligation secured by any lien on the Premises and all or any part of any unpaid Taxes; (ii) to effect insurance on the Premises in the amounts required hereunder; and (iii) to enter or have its agents enter upon the Premises whenever necessary for the purpose of inspecting the Premises and curing any Event of Default. The Grantor agrees that the Grantee shall thereupon have a claim against the Grantor for all sums paid by the Grantee for such Taxes, insurance, rents and defaults cured, together with a lien upon the Premises for the sum so paid plus interest thereon at the Default Rate from and after the date of advancement. The Grantee, in making any payment herein as hereby authorized in the place and stead of the Grantor relating to (I) Taxes, may do so according to any bill, statement or estimate procured from the appropriate public office without inquiry into the validity of any Tax, sale forfeiture, tax lien or title or claim thereof, or (ii) any adverse title, lien, statement of lien, encumbrance, claim or charge, shall be the sole judge of the legality or validity of same, or (iii) any other purpose herein and hereby authorized., but not enumerated in this Section, may do so whenever, in its good faith judgment and discretion, such advance or advances shall seem necessary or desirable to protect the full security intended to be created by this Mortgage, and provided further that in connection with any advance, the Grantee, in the event of apparent or thereafter adverse title, lien or encumbrance, or foreclosure, by the Grantee or any other lien claimant, at its option, may and is hereby authorized to obtain a continuation report of title prepared by a title insurance company, the cost and expense of which shall be repayable by the Grantor within five (5) Business Days after the Grantee's written demand and shall be hereby secured.

8.4 Appointment of Receiver. In the event an action shall be instituted to foreclose this Mortgage, or prior to foreclosure but after the occurrence and during the continuance of an Event of Default which has not been waived by the Grantee in writing (at the sole option of the Grantee), the Grantee shall be entitled to the appointment of a receiver of the rents, issues and profits of the Premises as a matter of right and without notice, with power to collect the rents, issues and profits

of the Premises due and becoming due during the period of default and pendency of such foreclosure suit to and including the date of confirmation of the sale under such foreclosure and during the redemption period, if any, after such confirmation, such rents and profits being hereby expressly assigned and pledged pursuant to Article 9 below as security for the payment of the Indebtedness secured by this Mortgage without regard to the value of the Premises or the solvency of any person or persons liable for the payment of the Indebtedness and regardless of whether the Grantee have an adequate remedy at law. The Grantor for itself and for any subsequent owner of the Premises hereby waives any and all defenses to the application for a receiver as above provided and hereby specifically consents to such appointment without notice, but nothing herein contained is to be construed to deprive the holder of this Mortgage of any other right, remedy or privilege it may now have under the law to have a receiver appointed. The provision for the appointment of receiver and the assignment of such rents, issues and profit is made an express condition upon which the financial accommodations hereby secured are extended. In such event, the court shall at once on application of the Grantee or its attorney in such action, ex parte and without notice, appoint a receiver to take immediate possession of, manage and control the Premises, for the benefit of the holder or holders of the Indebtedness and of any other parties in interest, with power to collect the rents and profits of the Premises during the pendency of such action, and to apply the same toward the payment of the Indebtedness, notwithstanding that the Premises or any part thereof is occupied by the Grantor or any other person. The rights and remedies herein provided for shall be deemed to be cumulative and in addition to, and not in limitation of, those provided by law; and if there be no receiver so appointed, the Grantee itself may proceed to collect the rents, issues and profits from the Premises. From any said rents, issues and profits collected by the receiver or by the Grantee prior to a foreclosure sale shall be deducted the cost of collection thereof and the expenses of operation of the Premises, including but not limited to real estate commissions, the receiver's fee and the reasonable fees of its attorney, if any, the Grantee's reasonable attorney's fees, if permitted by law, and court costs; the remainder shall be applied against the Indebtedness hereby secured. In the event such rents, issues and profits and other income are not adequate to pay all Taxes and other expenses of operation, the Grantee may, but shall not be obligated to, advance to any receiver the amounts necessary to operate, maintain and repair the Premises and any such amounts so advanced, together with interest thereon at the Default Rate from and after the date of advancement, shall be secured by this Mortgage and have the same priority of collection as the indebtedness.

8.5 Taking Possession of the Premises. After the occurrence and during the continuance of an Event of Default which has not been waived by the Grantee in writing (at the sole option of the Grantee), the Grantee is authorized subsequent to the institution of any foreclosure proceedings to enter upon the Premises, or any part thereof, and to take possession of the Premises and of all books, records and accounts relating thereto and to exercise without interference from the Grantor any and all rights which the Grantor has with respect to the management, possession, operation, protection or preservation of the Premises, including the right to rent the same for the account of the Grantor and to deduct from such rents all costs, expenses and liabilities of every character incurred by the Grantee in collecting such rents and in managing, operating, maintaining, protecting or preserving the Premises (including, without limitation, reasonable attorneys' fees) and to apply the remainder of such rents on the Indebtedness hereby

secured in accordance with the Grantor's Note or other financing agreements with the Grantee. All such costs, expenses and liabilities incurred by the Grantee in collecting such rents and in managing, operating, maintaining, protecting or preserving the Premises, if not paid out of rents as herein above provided, shall constitute a demand obligation owing by the Grantor and shall draw interest from the date of expenditure until paid at the Default Rate, all of which shall constitute a portion of the Indebtedness. If necessary to obtain the possession provided for above, the Grantee may invoke any and all legal remedies to dispossess the Grantor, including specifically one or more actions for forcible entry and detainer, trespass to try title and restitution. In connection with any action taken by the Grantee pursuant to this Section, the Grantee shall not be liable for any loss sustained by the Grantor resulting from any failure to let the Premises, or any part thereof, or from any other act or omission of the Grantee in managing the Premises unless such loss is caused by the gross negligence or willful misconduct of the Grantee, nor shall the Grantee be obligated to perform or discharge any obligation, duty or liability under any lease agreement covering the Premises or any part thereof or under or by reason of this instrument or the exercise of rights or remedies hereunder except to the extent arising after the Grantee has taken possession and control of the Premises. Nothing in this Section shall impose any duty, obligation or responsibility upon the Grantee for the control, care, management or repair of the Premises, nor for the carrying out of any of the terms and conditions of any such lease agreement; nor shall it operate to make the Grantee responsible or liable for any waste committed on the Premises by the tenants or by any other parties or for any dangerous or defective condition of the Premises, or for any negligence (other than the Grantee's own gross negligence after taking possession and control of the Premises) in the management, upkeep, repair or control of the Premises resulting in loss or injury or death to any tenant, licensee, employee or stranger.

8.6 Remedies Non-Exclusive. Each remedy or right of the Grantee shall not be exclusive of but shall be in addition to every other remedy or right now or hereafter existing at law or in equity. No delay in the exercise or omission to exercise any remedy or right accruing on any Event of Default hereunder shall impair any such remedy or right or be construed to be a waiver of any such Event of Default or acquiescence therein, nor shall it affect any subsequent Event of Default of the same or different nature. Every such remedy or right may be exercised concurrently or independently and when and as often as may be deemed expedient by the Grantee.

8.7 Execution of Judgment. If more than one property, lot, parcel, estate or interest is covered by this Mortgage, and if this Mortgage is foreclosed upon, or judgment is entered upon any obligation hereby secured, execution may be made upon any one or more of the properties, lots, estates, parcels or interests, and not upon the others, or upon all of such properties or parcels, either together or separately, and at different times or at the same time, and execution sales may likewise be conducted separately or concurrently, in each case at the Grantee's election.

8.8 Fees Payable on Foreclosure. In case of foreclosure of this Mortgage in any court of law or equity, whether or not any order or judgment has been entered therein, and to the extent permitted by law, a reasonable sum as aforesaid shall be allowed for reasonable attorney's fees of the plaintiff in such proceedings, for stenographer's fees, for court costs, and for all moneys expended for documentary evidence and the cost of a current title report and/or title insurance

policy for the purpose of such foreclosure, such sums to be secured by the lien of this Mortgage; and, to the extent permitted by law, there shall be included in any judgment or decree foreclosing this Mortgage and be paid out of said rents, issues and profits or put of the proceeds of any sale made in pursuance of any such judgment or decree: (a) all, costs and expenses of such suit or suits, advertising, sale and conveyance, including reasonable attorneys' fees and stenographer's fees, if and to the extent permitted by law, outlays for documentary evidence and the cost of said updated title report, and/or title insurance policy; (b) all moneys advanced by the Grantee, if any, for any purpose authorized in this Mortgage with interest as herein provided; ©) all the accrued interest remaining unpaid on the Indebtedness; and (d) the Indebtedness.

#### **ARTICLE 9 - ASSIGNMENT OF LEASES AND RENTS**

The Grantor hereby absolutely and unconditionally assigns to the Grantee, and its successors and assigns, all of its interest as lessor with respect to all existing and future leases of the Premises. This assignment is a present assignment of the Grantor's interest in all such leases and to the rents and profits thereunder as additional collateral for the Indebtedness hereby secured. This assignment of leases and rents is a present, absolute and irrevocable assignment and is made to secure and enforce the payment of the Indebtedness. The Grantor hereby irrevocably grants to the Grantee the present and continuing right, coupled with an interest, to collect such rents and to enforce such leases and to enter and possess the Premises for such purposes. However, the Grantee hereby conditionally waives such right, and grants to the Grantor the revocable license to collect and to enforce the same, provided, however, that, said waiver and such license of the Grantor to collect such rents and to enforce such leases may, after the occurrence and during the continuance of an Event of Default, be revoked by the Grantee at any time by giving notice of such revocation to the Grantor. All rents collected by the Grantor after the giving of such notice of revocation by the Grantee shall be held by the Grantor as a trust fund for the Grantee. Following such notice of revocation, the Grantee may retain and apply the rents toward payment of the Indebtedness in such order and manner as set forth in the Grantor's Note or other financing agreements with the Grantee.

#### **ARTICLE 10 - GENERAL**

10.1 No Waiver. No sale of the Premises, no forbearance on the part of the Grantee, no extension of the time for the payment of the Indebtedness or any change in the terms thereof consented to by the Grantee shall in any way whatsoever operate to release, discharge, modify, change or affect the original liability of the Grantor herein, either in whole or in part. No waiver by the Grantee of any breach of any covenant of the Grantor herein contained shall be construed as a waiver of any subsequent breach of the same or any other covenant herein contained. The failure of the Grantee to exercise the option for acceleration of maturity and/or foreclosure (including sale under power of sale hereunder) following any Event of Default hereunder or to exercise any other option granted to the Grantee hereunder in any one or more instances, or the acceptance by the Grantee of partial payment hereunder shall not constitute a waiver of any such Event of Default, nor extend or affect the grace period, if any, but such option shall remain continuously in force with respect to any unremedied or uncured Event of Default. Acceleration of maturity once

claimed in accordance with the Grantor's Note or other financing agreements with the Grantee may, at the option of the Grantee, be rescinded by written acknowledgment to that effect by the Grantee, but the tender and acceptance of partial payments alone shall not in any way affect or rescind such acceleration of maturity, or extend or affect the grace period, if any. The Grantee may pursue their rights without first exhausting their rights hereunder and all rights, powers and remedies hereby conferred upon the Grantee are in addition to each and every right which the Grantee may have hereunder at law or equity, and may be enforced concurrently therewith.

10.2 Legal Proceedings. If any action or proceeding be commenced, to which action or proceeding the Grantee is made a party by reason of the execution of this Mortgage or the Indebtedness or in which it becomes necessary to defend or uphold the lien of this Mortgage, or the priority thereof or possession of the Premises, or otherwise to perfect, the security hereunder, or in any suit, action, legal proceeding or dispute of any kind in which the Grantee is made a party or appears as party plaintiff or defendant, affecting the Indebtedness, this Mortgage, or the interest created herein, or the Premises, including, but not limited to, bankruptcy, probate and administration proceedings, foreclosure of this Mortgage or any condemnation action involving the Premises, all reasonable sums paid by the Grantee for the expense of any litigation to prosecute and defend the rights and liens created hereby shall be paid by the Grantor to the Grantee, together with interest thereon from the date of payment at the Default Rate. Any such sum and the interest thereon shall be immediately due and payable and be hereby secured, having the benefit and priority of the lien hereby created.

10.3 Subrogation. Should the proceeds of the Indebtedness, the repayment of which is hereby secured, or any part thereof, or any amount paid out or advanced by the Grantee, be used directly or indirectly to pay off, discharge, or satisfy, in whole or in part, any prior lien or encumbrance upon the Premises or any part thereof, then the Grantee shall be subrogated to such other liens or encumbrances and to any additional security held by the holder thereof and shall have the benefit of the priority of all of the same.

10.4 Release and Partial Release. The Grantor agrees, without affecting the liability of any person for payment of the Indebtedness hereby secured or affecting the lien of this Mortgage upon the Premises or any part thereof (other than persons or property explicitly released as a result of the exercise by the Grantee of its rights and privileges hereunder), that the Grantee, without notice, and without regard to the consideration, if any, paid therefor, and notwithstanding the existence at that time of any inferior liens thereon, may release as to the Grantee and this Mortgage any part of the security herein described or any person liable for the Indebtedness (or any part thereof) hereby secured, without in any way affecting the priority of the lien of this Mortgage to the full extent of the Indebtedness remaining unpaid upon any part of the security not expressly released, and may agree with any party obligated on the Indebtedness or having any interest in the security herein described to extend the time for payment of any part or all of the Indebtedness hereby secured. Such agreement shall not, in any way, release or impair the lien hereof, but shall extend the lien hereof as against the title of all parties having any interest in said security which interest is subject to said lien. In the event the Grantee: (a) releases, as aforesaid, any part of the security described herein or any person liable for the Indebtedness (or any part thereof) hereby



secured, (b) grants an extension of time for any payments of the Indebtedness hereby secured, (c) takes other or additional security for the payment thereof, or (d) waives or fails to exercise any right granted herein or in the Grantor's Note or other financing agreements with the Grantee, no such act or omission shall, except with respect to the security or person so released, release the Grantor, subsequent purchasers of the Premises or any part thereof, or makers or sureties of this Mortgage under any covenant of this Mortgage or preclude the Grantee from exercising any right, power or privilege herein granted or intended to be granted with respect to any other Event of Default then made or any subsequent Event of Default.

10.5 Waiver of Homestead Rights and Appraisement. To the extent permitted by law with respect to the Indebtedness and any renewals or extensions thereof, the Grantor waives, relinquishes and renounces any and all homestead and exemption rights and all benefit of any and every law now or hereafter in force to exempt from levy and sale, as well as the benefit of all valuation and appraisement privileges and moratoria under or by virtue of the constitution and laws of the State of Indiana or any other state or of the United States, now existing or hereafter enacted.

10.6 Covenants to Run with the Land. All the covenants hereof shall run with the land.

10.7 No Claims Against Grantee. Nothing contained in this Mortgage shall constitute any request by the Grantee, express or implied, for the performance of any labor or services or the furnishing of any materials or other property in respect of the Premises or any part thereof, or be construed to give the Grantor any right, power or authority to contract for or permit the performance of any labor or services or the furnishing of any materials or other property in such fashion as would provide the basis for any claim either against the Grantee or that could give rise to any lien based on the performance of such labor or services or the furnishing of any such materials or other property against the Property subject to the lien of this Mortgage.

10.8 Further Assurances. To the extent possible and reasonable, the Grantor shall execute, acknowledge and deliver any and all such further acts, conveyances, documents, mortgages and assurances as the Grantee may reasonably require for accomplishing the purpose hereof forthwith upon the request of the Grantee, whether in writing or otherwise. If the Grantor shall not have delivered to the Grantee duly executed statements or agreements referred to herein above within ten (10) days of the Grantee's written demand therefor, the Grantee may file such agreements and documents in the name of the Grantor, except that Uniform Commercial Code financing statements may be filed by the Grantee at any time, and without further authorization or notice. The Grantor hereby appoints the Grantee as its attorney-in-fact in connection with any of the applicable Premises covered by this Mortgage, to execute and file on its behalf any such agreements and documents with the appropriate public office. This power, being coupled with an interest, shall be irrevocable so long as this Mortgage remains in effect.

10.9 Recordation. At the request of the Grantee, the Grantor, at its expense, will cause all instruments of further assurance requested by the Grantee (including, without limitation, all necessary amendments, supplements and continuation statements) at all times to be kept, recorded,

filed and registered in such manner and in such places as may be required by law in order fully to establish, preserve and protect the lien of this Mortgage as a valid first mortgage lien on all real property; fixtures and interests therein included in the Premises, and a valid, perfected first priority security interest in the Collateral (including, in each such case, without limitation, any such properties acquired after the execution hereof), and the rights of the Grantee as to the Premises. However, neither a demand so made by the Grantee, nor the failure of the Grantee to make any such demand, shall be construed as a release of any such Premises, or any part thereof, from the lien of this Mortgage, it being understood and agreed that this covenant and any security instrument delivered to the Grantee pursuant hereto are cumulative and given as additional security.

10.10 Notices. All notices, requests and demands to or upon the Grantor and/or the Grantee shall be in writing and shall be given solely: (a) by hand delivery or overnight courier delivery service, with all charges paid, (b) by facsimile transmission, if confirmed same day in writing by first class mail mailed, or c) by registered or certified mail, postage prepaid and addressed to the parties. For purposes of this Mortgage, such notices shall be deemed to be given and received: (i) if by hand or by overnight courier service, upon actual receipt, (ii) if by facsimile transmission, upon receipt of machine-generated confirmation of such transmission (and provided the above-stated written confirmation is sent), and (iii) if by registered or certified mail, upon the first to occur of actual receipt or the expiration of three (3) days after the date when deposited in the mail, postage prepaid; provided, however, that notices from the Grantor to the Grantee hereunder shall not be effective until actually received by the Grantee. All such notices, requests and demands shall be addressed as follows:

to the Grantor: Behling Engineering & Consulting, LLC  
7439 Calumet Avenue  
Hammond, Indiana 46324

to the Grantee: Larry G. Behling  
8212 Baring Avenue  
Munster, Indiana 46321

By written notice, the Grantor and the Grantee may change the address to which notice is given to that party, provided that such changed notice shall include a street address to which notices may be delivered by overnight courier in the ordinary course on any Business Day.

10.11 Governing Law; Parties Bound. This Mortgage shall be governed by and construed according to the laws of the State of Indiana without regard to the internal conflict laws of such State. This Mortgage shall be binding upon the signatory hereto and its successors and assigns and any subsequent owners of the Premises, and shall inure to the benefit of the Grantee and its successors and assigns.

10.12 Conflict With Laws. If any provision(s) hereof are in conflict with any applicable law or are otherwise unenforceable for any reason whatsoever, then such provision(s) shall be

deemed null and void to the extent of such conflict or unenforceability, but shall be deemed separable from and shall not invalidate any other provisions of this Mortgage.

10.13 Interest Rate Limitation. Notwithstanding anything herein to the contrary, if at anytime the applicable interest rate, together with all fees and charges that are treated as interest under applicable law as provided for herein or in any other document executed in connection herewith, or otherwise contracted for, charged, taken, received or reserved by the Grantee, shall exceed the maximum lawful rate that may be contracted for, charged, taken, received or reserved by the Grantee in accordance with applicable law, the rate of interest and all such charges payable, contracted for, charged, taken, received or reserved in respect of the financial accommodations extended by the Grantee to the Grantor shall be limited to the maximum rate permitted by applicable law.

10.14 Rules of Construction. Whenever used, the singular number shall include the plural, the plural the singular and the use of any gender shall include all genders. All of the covenants of the Grantor herein contained are joint and several. All of the covenants and agreements herein contained shall bind the Grantor and the Grantee and the benefits and advantages thereof shall also inure to their respective heirs, executors, administrators, successors, and permitted assigns. It is specifically agreed that TIME IS OF THE ESSENCE of this Mortgage, the Grantor's Note, and all of the documents incorporated herein by reference, and that the waiver of the rights or options, or obligations secured hereby, shall not at any time thereafter be held to be abandonment of such rights.

10.15 Amendments and Waivers. No amendment or waiver of any provision of this Mortgage, nor consent to any departure by the Grantor therefrom, shall in any event be effective unless the same shall be in writing and signed by the Grantee and the Grantor. Such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given.

10.16 Waiver of Jury Trial. THE GRANTOR HEREBY WAIVES TRIAL BY JURY IN ANY ACTION OR PROCEEDING TO WHICH THE GRANTOR MAY BE A PARTY, ARISING OUT OF, OR IN ANY WAY PERTAINING TO (A) THIS MORTGAGE, (B) ANY OF THE OTHER FINANCING DOCUMENTS, OR (C) THE PREMISES. This waiver is knowingly, willingly and voluntarily made by the Grantor, and the Grantor hereby represents that no representations of fact or opinion have been made by any individual to induce this waiver of trial by jury or to in any way nullify its effect.

10.17 Waiver of Marshalling. Notwithstanding the existence of any other mortgage or security interest in the Premises held by Grantee or by any other party, Grantee shall have the right to determine the order in which any or all of the Premises and Grantor's general intangibles shall be subjected to the remedies provided herein. Grantee shall have the right to determine the order in which any or all portions of the Indebtedness secured hereby are satisfied from the proceeds realized upon the exercise of the remedies provided herein. Grantor, any party who consents to this Instrument, and any party who now or hereafter acquires a mortgage or security interest in the Premises or Grantor's general intangibles and who has actual or constructive notice hereof, hereby

waives any and all right to require the marshalling of assets in connection with the exercise of any of the remedies permitted by applicable law or provided herein.

#### ARTICLE 11 - FULL PERFORMANCE

If the Grantor pays all the Indebtedness when due, and otherwise performs all the obligations imposed upon the Grantor under this Mortgage, the Grantee shall, upon the written request of the Grantor and subject to the terms of this Mortgage, execute and deliver to the Grantor on the ninety second (92<sup>nd</sup>) day following the payment in full of the Indebtedness, a suitable satisfaction and release of this Mortgage, and suitable statements of termination of any financing statement on file evidencing the Grantee's security interest in personal property, in form and substance satisfactory to the Grantee in its sole and exclusive discretion; provided, however, the Grantee agrees that if required by a purchaser of the Premises, the Grantee will sooner execute and deliver a satisfaction of this Mortgage, in form and substance satisfactory to the Grantee in its sole and exclusive discretion, in connection with any sale of the Premises which is acceptable to the Grantee, but only upon the payment of all amounts due under this Mortgage. The Grantor shall have the right to prepay in whole or in part all of the Indebtedness secured by this Mortgage. The Grantee will not charge any fees for its services for releases of this Mortgage or releases of any other documents if the Grantor pays all amounts due under this Mortgage, but Grantor shall reimburse Grantee for any out-of-pockets filing fees and related expenses incurred by Grantee in releasing this Mortgage or other documents. Notwithstanding the foregoing, however, if (A) a petition under Title XI of the United State Code (11 U.S.C. 101 et seq), is filed by or against the Grantor or its respective affiliates within ninety-one (91) days before the full or partial satisfaction of the Indebtedness, or (B) payment is made by the Grantor or any other person or entity, whether voluntarily or otherwise, on the Indebtedness and thereafter the Grantee is forced to remit the amount of that payment: (1) to any trustee in bankruptcy or to any similar person under any federal or state bankruptcy law or law for the relief of debtors; (2) by reason of any judgment, decree or order of any court or administrative body having jurisdiction over the Grantor or any of the Grantor's property; and/or (3) by reason of any settlement or compromise of any claim made by the Grantor with any claimant (including without limitation, the Grantee), then the Indebtedness shall be considered unpaid for the purpose of enforcement of this Mortgage and this Mortgage shall continue to be effective or shall be reinstated, as the case may be, notwithstanding any cancellation of this Mortgage or of any note or other instrument or agreement evidencing the Indebtedness, and the Premises will continue to secure the amount repaid or recovered to the same extent as if that amount never had been originally received by the Grantee, and the Grantor shall be bound by any judgment, decree, order, settlement or compromise relating to the Indebtedness or to this Mortgage.

