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STATE OF INDIANA  
LAKE COUNTY  
FILED FOR RECORD

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MICHAEL B. BROWN  
RECORDER

**FIRST MORTGAGE, ASSIGNMENT OF RENTS, FIXTURE FILING, SECURITY  
AGREEMENT AND  
FINANCING STATEMENT**

**Document is  
NOT OFFICIAL!**

from  
 MINIGROUP INDIANA LLC, an Indiana limited liability company  
 with its address at  
 7251 Indianapolis, Indiana 46324

**This Document is the property of  
the Lake County Recorder!**

**STOP**

to  
 BYLINE BANK, an Illinois banking corporation  
 with its address at  
 3639 N. Broadway Avenue, Suite 516, Chicago, Illinois 60613



**PREPARED BY:**  
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 Muncie, Indiana 47305

**RETURN TO:**

**Byline Bank  
500 Elm Grove Road  
Suite 104  
Elm Grove, WI 53122  
Attn: Loan Operations Department**

THIS SECURITY INSTRUMENT (DEFINED HEREIN) CONSTITUTES A CONTINUOUSLY PERFECTED FIXTURE FILING WHEN FILED OF RECORD IN THE OFFICE OF THE RECORDER OF LAKE COUNTY, INDIANA, PURSUANT TO IND. CODE 26-1-9.1-502 AND 26-1-9.1-515, AND THE TERMS AND PROVISIONS HEREOF.

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**FIRST MORTGAGE, ASSIGNMENT OF RENTS, FIXTURE FILING, SECURITY  
AGREEMENT AND FINANCING STATEMENT**

**THIS FIRST MORTGAGE, ASSIGNMENT OF RENTS, FIXTURE FILING, SECURITY AGREEMENT AND FINANCING STATEMENT** (the "**Mortgage**") is made and entered into effective as of the 19<sup>th</sup> day of January, 2017 (the "**Effective Date**"), by **MINIGROUP INDIANA LLC**, an Indiana limited liability company ("**Mortgagor**") in favor of **BYLINE BANK**, an Illinois banking corporation ("**Lender**").

**RECITAL**

Mortgagor and The Tzatziki Company, an Indiana corporation, are together indebted to Lender in the principal sum of **FOUR HUNDRED THIRTY THOUSAND and 00/100 DOLLARS (\$430,000.00)** together with interest thereon (the "**Loan**"), as evidenced by that certain U.S. Small Business Administration note of even date herewith in the principal amount **FOUR HUNDRED THIRTY THOUSAND and 00/100 DOLLARS (\$430,000.00)** executed by Mortgagor and The Tzatziki Company, an Indiana corporation, and delivered to Lender (the "**Note**"), which by reference is made a part hereof to the same extent as though set out in full in this Mortgage. The Note bears interest at variable rate as provided for therein.

**This Document is the property of  
the Lake County Recorder!**

**Article 1 - THE MORTGAGED PROPERTY:**

**Now, THEREFORE**, (a) to secure the payment of the Note and the performance and observance by Mortgagor of all covenants and conditions contained in the Note, in any renewals, extensions or modifications thereof, in this Mortgage, Security Agreement, Fixture Filing and Financing Statement and in all other instruments securing the Note; (b) to secure payment of any and all guarantee agreements securing the Loan (the "**Guaranty**") and (b) also to secure in accordance with Indiana Code, Section 32-29-1-10: (i) all future advances and re-advances that may subsequently be made to Mortgagor by Lender evidenced by the aforesaid Note, or any other promissory notes, and all renewals and extensions thereof; provided, however, that nothing contained herein shall create an obligation on the part of Lender to make future advances or re-advances to Mortgagor; and (ii) all other indebtedness of Mortgagor to Lender, now or hereafter existing, whether direct or indirect, the maximum amount of all indebtedness outstanding at any one time secured hereby not to exceed twice the face amount of the Note, plus interest thereon, and all charges and expenses of collection incurred by Lender, including court costs, and reasonable attorneys' fees; and (c) also in order to charge the properties, interests and rights hereinafter described with such payment, performance and observance; and (d) for and in consideration of the sum of \$1.00 paid by Lender to Mortgagor this date (collectively the "**Obligations**"), and for other valuable consideration, the receipt of which is acknowledged, Mortgagor does hereby grant, bargain, sell, alien, remise, release, convey, assign, transfer, mortgage, hypothecate, pledge, deliver, set over, warrant and confirm unto Lender, its successors and assigns forever, all right, title and interest of Mortgagor in and to:

**Section 1. THE LAND.** All that certain real property generally known as 7225 & 7231 Indianapolis Blvd., City of Hammond, County of Lake, State of Indiana, and more particularly described in Exhibit A attached hereto and made a part hereof (the "**Land**"); and

**Section 2. ADDITIONAL LAND.** All additional lands, estates and development rights hereafter acquired by Mortgagor for use in connection with the Land and the development of the Land and all additional lands and estates therein which may, from time to time, by supplemental mortgage or otherwise be expressly made subject to the lien of this Mortgage (the "**Additional Land**").

**Section 3. THE IMPROVEMENTS AND TANGIBLE PROPERTY.** Together with all buildings and improvements of every kind and description now or hereafter erected or placed on the aforesaid Land (the "**Improvements**") and all materials intended for construction, reconstruction, alteration and repair of such improvements now or hereafter erected thereon, all of which materials shall be deemed to be included within the premises hereby conveyed immediately upon the delivery thereof to the aforesaid Land, and all fixtures and articles of personal property now or hereafter owned by Mortgagor and attached to or contained in and used in connection with the aforesaid Land and Improvements or any part thereof or derived from or acquired by any proceeds of the Land or Improvements or any part thereof, including, but not limited to, all goods, furniture, appliances, furnishings, apparatus, machinery, equipment, motors, elevators, fittings, radiators, ranges, refrigerators, awnings, shades, screens, blinds, carpeting, office equipment and other furnishings and all plumbing, heating, lighting, cooking, laundry, ventilating, refrigerating, incinerating, air conditioning and sprinkler equipment, telephone systems, televisions and television systems, computer systems and fixtures and appurtenances thereto and all renewals or replacements thereof or articles in substitution thereof, whether or not the same are or shall be attached to the Land and Improvements in any manner (the "**Tangible Property**");

**Section 4. EASEMENTS AND OTHER INTERESTS.** Together with all easements, rights of way, gores of land, streets, ways, alleys, passages, sewer rights, waters, water courses, water rights and powers, and all estates, rights, titles, interests, privileges, liberties, tenements, hereditaments and appurtenances whatsoever, in any way belonging, relating or appertaining to any of the property hereinabove described, or which hereafter shall in any way belong, relate or be appurtenant thereto, whether now owned or hereafter acquired by Mortgagor, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof, and all the estate, right, title, interest, property, possession, claim and demand whatsoever, at law as well as in equity, of Mortgagor of, in and to the same, including but not limited to all judgments, awards of damages and settlements hereafter made resulting from condemnation proceedings or the taking of the property described in Article 1, Sections 1, 2, and 3 hereof or any part thereof under the power of eminent domain, or for any damage (whether caused by such taking or otherwise) to the property described in Article 1, Sections 1, 2, and 3 hereof or any part thereof, or to any rights appurtenant thereto (together the "**Easements and Other Interests**");

**Section 5. PROCEEDS.** All proceeds of any sales or other dispositions of the property described in Article 1, Sections 1, 2, 3 and 4 hereof or any part thereof, including cash proceeds, non-cash proceeds, insurance proceeds, products, replacements, additions, substitutions, renewals and accessions of any of the foregoing ("**Proceeds**").

**Section 6.** Everything referred to in Article 1, Sections 1, 2, 3, 4 and 5 hereof, including the Land, Additional Land, Improvements, Tangible Property, Easement and Other Interests and Proceeds and any additional property hereafter acquired by Mortgagor and secured by this Mortgage and subject to the lien of the Mortgage or intended to be so is referred to as the "**Premises**".

## **Article 2 - THE SECURITY INTEREST:**

**Section 1.** As additional collateral and further security for the repayment of the Obligations, including any Guaranty, Mortgagor does hereby grant, bargain, sell, remise, release, convey, assign, transfer, mortgage, hypothecate, pledge, deliver, set over, warrant and confirm unto Lender, its successors and assigns forever, a security interest in all of Mortgagor's right, title and interest in, to or under the following described property, and any and all proceeds and products thereof and accessions thereto (collectively, the "**Additional Property**") (each capitalized term used in this Article 2, Section 1 shall have the meaning given to it by Article 26-9.1-102 of the Indiana Uniform Commercial Code (the "**UCC**") as from time to time revised or amended and in effect in Indiana), which are located on, in or used in



connection with the Premises:

Section 1.1 All Goods (including all Equipment, Fixtures, and Inventory) and all accessions, attachments and other additions to, substitutes for, replacements for, improvements to and returns of such Goods;

Section 1.2 All General Intangibles (including, without limitation, all Contract Rights, choses in action, causes of action, corporate or other business records, inventions, designs, patents, patent applications, trademarks, trade names, trade secrets, goodwill, copyrights, registrations, licenses, franchises, claims under guaranties, security interests or other security held or granted to secure payment of contracts by account debtors, all rights to indemnification and all other intangible property of every kind and nature);

Section 1.3 All Accounts;

Section 1.4 All Chattel Papers;

Section 1.5 All As-Extracted Collateral;

Section 1.6 All Instruments, including Promissory Notes;

Section 1.7 All Investment Property;

Section 1.8 All Documents;

Section 1.9 All Deposit Accounts;

Section 1.10 All Letter-of-Credit Rights;

Section 1.11 All Supporting Obligations; and

Section 1.12 All products, replacements and Proceeds of any of the property described above in any form, and all proceeds of such Proceeds, including, without limitation, all cash and credit balances, all payments under any indemnity, warranty or guaranty with respect to any of such property, all awards for taking by eminent domain, all proceeds of fire or other insurance, including any refunds of unearned premiums in connection with any cancellation, adjustment, or termination of any insurance policy, all proceeds obtained as a result of any legal action or proceeding with respect to any of such property, and claims by Mortgagor against third parties for loss or damage to, or destruction of, any of such property.

All the Additional Property which comprise a part of the Premises shall, as far as permitted by law, be deemed to be affixed to the aforesaid land and conveyed therewith. As to the balance of the Additional Property, this Mortgage shall be considered to be a security agreement which creates a security interest in such items for the benefit of Lender and shall also serve as a financing statement as to any Fixtures, As-Extracted Collateral and Timber, as defined in the UCC, located on or attached to the Premises, in accordance with Sections 26-9.1-502(c) and 26-9.1-515(g) of the UCC. In that regard, Mortgagor grants to Lender all of the rights and remedies of a secured party under the UCC.

**Section 2. ASSIGNMENT OF LEASES, RENTS, AND PROFITS.**

Section 2.1 As additional security for the Obligations, Mortgagor hereby conditionally assigns to Lender all leases of the Premises (each, a "Lease"), the security deposits, rents, issues, profits, revenues, accounts, accounts receivable, contract rights, rights to payments for goods sold or leased or services



rendered, checks, notes, drafts, acceptances, instruments, deposit accounts, chattel paper, documents, securities, rentals receivables, installment payment obligations, book debts, actions, choses in action, judgments, awards, money, general intangibles, other forms of obligations and receivables, all monies due or to become due and all returned or repossessed goods now or hereafter pertaining to or resulting from the Premises or any part thereof or constituting or derived from or acquired by any proceeds of the Premises or any part thereof (the "**Rents and Profits**") reserving only the right to Mortgagor to collect the same as long as there shall exist no Event of Default (as defined in Article 3, Section 3 below). Upon acceleration under Article 3, Section 4.1 hereof or abandonment of the Premises, Lender shall be entitled to have a receiver appointed by a court to enter upon, take possession of and manage the Premises and to collect the rents of the Premises, including those past due. All rents collected by the receiver shall be applied first to payment of the costs of management of the Premises and collection of rents, including, but not limited to, receiver's fees, premiums on receiver's bonds and reasonable attorney's fees, and then to the sums secured by this Mortgage. The receiver shall be liable to account only for those rents actually received.

Section 2.2 Mortgagor hereby further grants to Lender the right to notify the lessee under any Lease of the assignment thereof and, after the occurrence of an Event of Default and during the continuation of same beyond any applicable grace or cure period, (i) to demand that such lessee pay all amounts due under such Lease directly to Lender, (ii) to enter upon and take possession of the Premises for the purpose of collecting the Rents and Profits, (iii) to dispossess by the usual summary proceedings any lessee defaulting in the payment thereof, (iv) to let the Premises, or any part thereof, and (v) to apply the Rents and Profits, after payment of all necessary charges and expenses, on account of the Obligations. Mortgagor hereby irrevocably authorizes and directs each lessee under any Lease to rely upon any such notice. Nothing contained in this Section shall be construed to bind Lender to the performance of any of the covenants, conditions or provisions contained in any Lease or otherwise to impose any obligation on Lender thereunder, except that Lender shall be accountable for any Rents and Profits actually received pursuant to such assignment. Mortgagor shall not modify, amend, terminate or consent to the cancellation, surrender or assignment of any Lease if any modification, amendment, termination or assignment would have a material adverse effect without Lender's prior written consent, which consent shall not be unreasonably withheld, conditioned or delayed (it being understood that the preceding portions of this sentence shall not apply to the expiration of any Lease by its terms). Mortgagor shall not accept prepayments of installments of Rents and Profits to become due for a period of more than one month in advance (except for security deposits and estimated payments of percentage rent, if any). The collection of Rents and Profits by Lender shall in no way waive the right of Lender to foreclose this Mortgage upon the occurrence of an Event of Default and the continuation of same beyond any applicable grace or cure period. Mortgagor shall furnish to Lender, within thirty (30) days after a request by Lender to do so, a written statement containing the names of all lessees, sublessees and concessionaires of the Premises, the terms of any Lease, the space occupied, the rentals or license fees payable thereunder, whether each such lessee is in default under its Lease and if so, the nature thereof.

Section 2.3 Mortgagor acknowledges that Lender has taken all actions necessary to obtain, and that upon recordation of this Mortgage Lender shall have, to the extent permitted under applicable law, a valid and fully perfected, first priority, present assignment of the Rents and Profits. Mortgagor acknowledges and agrees that upon recordation of this Mortgage, Lender's interest in the Rents and Profits shall be deemed to be fully perfected, "choate" and enforced as to Mortgagor and to the extent permitted under applicable law, all third parties, including, without limitation, any subsequently appointed trustee in any case under Title 11 of the United States Code (the "**Bankruptcy Code**"), without the necessity of commencing a foreclosure action with respect to this Mortgage, making formal demand for the Rents and Profits, obtaining the appointment of a receiver or taking other affirmative action. Without limitation of the absolute nature of the assignment of the Rents and Profits hereunder, Mortgagor and Lender agree that (i) this Mortgage shall constitute a "security agreement" for purposes of Section 552(b) of the Bankruptcy Code, (ii) the security interest created by this Mortgage extends to property of Mortgagor acquired before the commencement of a case under the Bankruptcy Code and to all amounts paid as Rents and Profits, and

(iii) such security interest shall extend to all Rents and Profits acquired by the estate after the commencement of any case in bankruptcy.

### Article 3 - MORTGAGE AND SECURITY AGREEMENT TERMS

Mortgagor and Lender covenant, represent and agree as follows:

**Section 1. THE LOAN.** Mortgagor shall perform, observe and comply with all provisions hereof, of the Note and of every other instrument securing the Note, including but not limited to this Mortgage, a loan agreement of even date herewith (the "Loan Agreement") and Financing Statements and all other related loan documents (collectively the "Loan Documents"), and will promptly pay to Lender the principal and any interest due thereon and all other sums required to be paid by Mortgagor under the terms of the Note and pursuant to the provisions of this Mortgage and the Loan Documents, when payment shall become due, all without deduction or credit for taxes or other similar charges paid by Mortgagor.

**Section 2. MORTGAGOR'S COVENANTS, REPRESENTATIONS AND AGREEMENTS.**

**Section 2.1 Title to Property.** Mortgagor represents and warrants that it is seized of the estate in the Land and Improvements (and any fixtures) in fee (and has title to any appurtenant easements) and has the right to convey, mortgage and encumber the same. As to the balance of the Premises, the Rents and Profits and the Additional Property, Mortgagor represents and warrants that it has good and absolute title to such property (save and except any such property owned by a tenant of Mortgagor and title to any security deposits held under leases with non-defaulting tenants), that it has the right to convey, mortgage and encumber such property and that it will warrant and defend such property against the claims of all persons or parties.

**Section 2.2 Mortgagor's Legal Name.** Mortgagor is a limited liability company duly organized and validly existing under the laws of the State of Indiana, and has the power to own and operate its properties, to carry on its business as now conducted and to enter into and to perform its obligations under this Mortgage. Mortgagor's exact and correct legal name is MINIGROUP INDIANA LLC. Mortgagor has all the requisite power and authority to run and operate its business as it is now being conducted. There has been no change in the name or address of Mortgagor, or the name or address under which Mortgagor conducts its business, since Mortgagor was formed. Mortgagor will preserve its entity existence and not, in one transaction or a series of transactions, merge into or consolidate with any other entity, or sell substantially all of its assets. Mortgagor will not change the state of its operations and will not change its name without providing Lender with thirty (30) days' prior written notice. Mortgagor warrants that Mortgagor does business under no other names with respect to the Premises other than the trade name disclosed to Lender. Mortgagor shall immediately notify Lender in writing of any change in the name of and the use of any trade names by Mortgagor, and, upon request of Lender, shall execute any additional financing statements and other certificates required to reflect any change in name or trade names and shall execute and file any assumed name certificate required by applicable laws including, without limitation, Ind. Code §23-15-1-1.

**Section 2.3 Reimbursement.** Mortgagor agrees that if it shall fail to pay when due any tax, assessment or charge levied or assessed against the Premises or any utility charge, whether public or private, or any insurance premium or if it shall fail to procure the insurance coverage and the delivery of the insurance certificates required hereunder, or if it shall fail to pay any other charge or fee described herein, then Lender, at its option, may pay or procure the same. Mortgagor will reimburse Lender upon demand for any sums of money paid by Lender pursuant to this Section, together with interest on each such payment at the rate set forth in the Note and all sums and interest thereon shall be secured hereby.



Section 2.4 Additional Documents. Mortgagor agrees to execute and deliver to Lender, concurrently with the execution of this Mortgage and upon the request of Lender from time to time hereafter, all financing statements and other documents reasonably required to perfect and maintain the security interest created hereby. Mortgagor hereby authorizes Lender at any time and from time to time to file any initial financing statements (the “**Financing Statements**”), amendments thereto and continuation statements with or without the signature of Mortgagor as authorized by applicable law, as applicable to all or part of the Additional Property. For purposes of such filings, Mortgagor agrees to furnish any information requested by Lender promptly upon request by Lender. Mortgagor also ratifies its authorization for Lender to have filed any like initial financing statements, amendments thereto and continuation statements, if filed prior to the date of this Mortgage. Mortgagor hereby irrevocably constitutes and appoints Lender and any officer or agent of Lender, with full power of substitution, as its true and lawful attorneys- in-fact with full irrevocable power and authority in the place and stead of Mortgagor or in Mortgagor’s own name to execute in Mortgagor’s name any documents and otherwise to carry out the purposes of this Section 2.4, to the extent that Mortgagor’s authorization above is not sufficient. To the extent not permitted by law, Mortgagor hereby ratifies all acts said attorneys-in-fact have lawfully done in the past or shall lawfully do or cause to be done in the future by virtue hereof. This power of attorney is coupled with an interest and shall be irrevocable.

Section 2.5 Transfer of Property. Mortgagor shall not sell, convey, transfer, lease (except tenant leases in the ordinary course of business) or further encumber any interest in or any part of the Premises, the Rents and Profits and the Additional Property, except to incorporate Tangible Property into the Improvements or to replace such with goods of quality and value at least equal to that replaced, without the prior written consent of Lender. If any person should obtain any interest in all or any part of the Premises pursuant to the execution or enforcement of any lien, security interest or other right, whether superior, equal or subordinate to this Mortgage or the lien hereof, such event shall be deemed to be a transfer by Mortgagor. Mortgagor shall not, without the prior written consent of Lender, further assign the rents from the Premises, nor enter into any agreement or do any act to amend, modify, extend, terminate or cancel, accept the surrender, subordinate, accelerate the payment of rent, or change the terms of any renewal option of any lease now or hereafter covering such property or any part thereof.

Section 2.6 Fees and Expenses. Mortgagor will pay or reimburse Lender for all reasonable attorneys’ fees, costs and expenses incurred by Lender in any action, legal proceeding or dispute of any kind which affects the Loan, the interest created herein, the Premises, the Rents and Profits or the Additional Property including but not limited to, any foreclosure of this Mortgage, enforcement of payment of the Note, Guaranty any condemnation action involving the Premises or any action to protect the security hereof. Any such amounts paid by Lender shall be due and payable upon demand and shall be secured hereby.

Section 2.7 Maintenance of Premises. Mortgagor will abstain from and will not permit the commission of waste in or about the Premises and will maintain the Premises in good condition and repair, reasonable wear and tear excepted. Mortgagor shall not remove, demolish, materially alter or materially change the use of any building, structure or other improvement presently or hereafter on the Premises without the prior written consent of Lender.

Section 2.8 Identity of Mortgagor. Mortgagor hereby acknowledges to Lender that (i) the identity of Mortgagor and the expertise available to Mortgagor were and continue to be material circumstances upon which Lender has relied in connection with, and which constitute valuable consideration to Lender for, the extending to Mortgagor of the indebtedness evidenced by the Note and (ii) any change in such identity or expertise could materially impair or jeopardize the security for the payment of the Note granted to Lender by this Mortgage. Mortgagor therefore covenants and agrees with Lender that Mortgagor shall not sell, transfer, convey, mortgage, encumber, lease (except tenant leases in the ordinary course of business) or otherwise dispose of the Premises, the Rents and Profits or the Additional Property or any part thereof or any interest therein or engage in subordinate financing with respect thereto

during the term of this Mortgage without the prior written consent of Lender. In addition, during the term of this Mortgage there shall not be any change in the ownership, membership or control of Mortgagor unless Lender in its sole discretion has given its approval.

Section 2.9 Compliance with Law. Mortgagor will do, or cause to be done, all such things as may be required by law in order fully to protect the security and all rights of Lender under this Mortgage. Mortgagor shall not cause or permit the lien of this Mortgage to be impaired in any way.

Section 2.10 Inspection. Mortgagor will permit Lender, or its agents, at all reasonable times to enter and pass through or over the Premises for the purpose of inspecting same.

Section 2.11 Releases and Waivers. Mortgagor agrees that no release by Lender of any of Mortgagor's successors in title from liability on the Loan or Guaranty no release by Lender of any portion of the Premises, the Rents and Profits nor the Additional Property, no subordination of lien, no forbearance on the part of Lender to collect on the Loan or Guaranty, or any part thereof, no waiver of any right granted or remedy available to Lender and no action taken or not taken by Lender shall in any way diminish Mortgagor's obligation to Lender or have the effect of releasing Mortgagor, or any successor to Mortgagor, from full responsibility to Lender for the complete discharge of each and every of Mortgagor's obligations hereunder or under the Note, the Guaranty, the Loan Agreement or any other Loan Documents.

Section 2.12 After Acquired Property. The lien of this Mortgage will automatically attach, without further act, to all after acquired property located in or on, or attached to, or used or intended to be used in connection with or with the operation of, the Premises or any part thereof.

Section 2.13 Eminent Domain.

a. Participation in Proceedings: Mortgagor shall promptly notify Lender of any actual or threatened initiation of any eminent domain proceeding as to any part of the Premises and shall deliver to Lender copies of any and all papers served or received in connection with such proceedings, and Lender shall have the right, at its option, to participate in such proceedings at the expense of Mortgagor (including, without limitation, Lender's attorneys' fees) and Mortgagor will execute such documents and take such other steps as required to permit such participation.

b. Right to Settle Claims: Lender is hereby authorized to adjust, compromise and collect any eminent domain award or settle a claim for damages and to apply the same to the outstanding balance of the Loan, subject to the provisions of Article 3, Section 2.13(c).

c. Use of Proceeds: Mortgagor assigns to Lender any proceeds or awards which may become due by reason of any condemnation or other taking for public use of the whole or any part of the Premises or any rights appurtenant thereto. The proceeds of any such condemnation award or proceeds or any part thereof may be applied by Lender to the outstanding balance of the Loan or Guaranty; provided that, subject to the provisions of Article 3, Section 2.13(d), such proceeds may be applied to restoration of the property taken if the following conditions are met:

(1) there exists no Event of Default (as defined in Article 3, Section 3) or any event or condition which, upon the giving of notice or the passage of time, or both, would constitute an Event of Default;

(2) Mortgagor presents sufficient evidence to Lender that (A) there are sufficient funds from the condemnation award or proceeds and from equity funds, if needed, to completely restore the Premises to an architectural whole as well as to maintain relevant debt service coverages and other operating expenses, and (B) the loss of the property taken will not materially diminish the value of the Premises;

(3) all parties having existing or expected possessory interests in the Premises agree in a manner satisfactory to Lender that they will continue their interests and arrangements for the contract terms then in effect following the restoration or repair;



(4) all parties having operating, management or franchise interests in, and arrangements concerning the Premises, agree that they will continue their interests and arrangements for the contract terms then in effect following the restoration or repair;

(5) all parties having commitments to provide financing with respect to the Premises, to purchase Mortgagor's interest in full or in part in the Premises or to purchase the Loan agree in a manner satisfactory to Lender that their commitments will continue in full force and effect and, if necessary, the expiration of such commitments will be extended by the time necessary to complete the restoration or repair;

(6) Mortgagor presents sufficient evidence to Lender that the Premises will be restored to an architectural whole prior to the maturity date of the Loan; and

(7) Lender will not incur any liability to any other person as a result of such use or release of insurance proceeds.

~~Section 2.14 Further Assignments; Acceleration: Mortgagor agrees to execute such further assignments and agreements as may be reasonably required by Lender to assure the effectiveness of Article 3, Section 2.13. In the event any governmental agency or authority shall require or commence any proceedings for the demolition of any buildings or structures comprising a part of the Premises, or shall commence any proceedings to condemn or otherwise take pursuant to the power of eminent domain a material portion of the Premises, Lender may, at its option, declare the Loan to be immediately due and payable in full and apply any condemnation awards or proceeds to the outstanding balance of the Loan.~~

~~Section 2.15 Operating Statements. Mortgagor will maintain full and correct books and records showing in detail the earnings and expenses of the Premises and will permit Lender and its representatives to examine said books and records and all supporting vouchers and data at any time and from time to time upon reasonable request by Lender. Upon reasonable request of Lender, Mortgagor will also submit to Lender statements of income and expenses accurately setting forth the operation of its interest in the Premises for each fiscal year. Such statements shall be in such form and forms as are acceptable to Lender and certified by the chief financial officer of Mortgagor. If Mortgagor shall have obtained a financial statement certified by a certified public accountant for any fiscal year, Mortgagor agrees to furnish a copy of such certified statement to Lender. Also, when so requested, Mortgagor will submit to Lender rent schedules showing occupied units or spaces classified by size or type, rents per month per unit or space and vacant units or spaces and proposed rents therefrom.~~

~~Section 2.16 Tax Funds.~~

~~a. Deposits of Tax Funds. Upon Lender's request and in Lender's sole discretion, Mortgagor shall deposit or cause to be deposited with or on behalf of Lender (a) on the date of the Loan closing and (b) on the first day of each month, an amount equal to one-twelfth of mean all real estate and personal property taxes, assessments, water rates or sewer rents, now or hereafter levied or assessed or imposed against the Premises or part thereof, together with all interest and penalties thereon (collectively, the "Taxes") that Lender estimates will be payable during the next ensuing 12 months in order to accumulate sufficient funds to pay all such Taxes at least ten days prior to their respective due dates, which amounts shall be transferred by or at the direction of Lender into an Account established to hold such funds (the "Tax Account"). Amounts deposited from time to time into the Tax Account pursuant to this Section 2.16(a) are referred to herein as the "Tax Funds." If at any time, Lender reasonably determines that the Tax Funds will not be sufficient to pay the Taxes, Lender shall notify Mortgagor of such determination and the monthly deposits for Taxes shall be increased by the amount that Lender estimates is sufficient to make up the deficiency at least ten days prior to the respective due dates for the Taxes; provided that if Mortgagor receives notice of any deficiency after the date that is ten days prior to the date that Taxes are due, Mortgagor will deposit with or on behalf of Lender, such amount within one business day after its receipt of such notice.~~

b. Release of Tax Funds. Provided Lender has requested the deposit of Tax Funds into the Tax Account, and provided no Event of Default shall exist and remain uncured, Lender shall apply the Tax Funds, if any, in the Tax Account to payments of Taxes. In making any payment relating to Taxes, Lender may do so according to any bill, statement or estimate procured from the appropriate public office (with respect to Taxes) without inquiry into the accuracy of such bill, statement or estimate or into the validity of any tax, assessment, sale, forfeiture, tax lien or title or claim thereof. If the amount of the Tax Funds shall exceed the amounts due for Taxes, Lender shall credit such excess against future payments to be made to the Tax Funds. Any Tax Funds remaining in the Tax Account after the Obligations have been paid in full shall be returned to Mortgagor.

Section 2.17 Insurance. Mortgagor agrees to keep the Premises insured against the risks reasonably associated with the Premises. Mortgagor will maintain this insurance in the amounts Lender reasonably requires. This insurance will last until the Premises is released from this Mortgage. Mortgagor may choose the insurance company, subject to Lender's approval, which will not be unreasonably withheld. All insurance policies and renewals will include a standard "mortgage clause"; and, where applicable, "loss payee clause". If required by Lender, Mortgagor agrees to maintain comprehensive general liability insurance and rental loss or business interruption insurance in amounts and under policies reasonably acceptable to Lender. The comprehensive general liability insurance must name Lender as an additional insured. The rental loss or business interruption insurance must be in an amount equal to at least coverage of six month's debt service, real estate taxes and insurance premiums. These provisions are obligations of the Tenant under the Lease. Mortgagor will give Lender and the insurance company immediate notice of any loss. All insurance proceeds will be applied to restoration or repair of the Premises or to the Obligations, at Lender's option. If Lender acquires the Premises in damaged condition, Mortgagor's rights to any insurance policies and proceeds will, subject to the terms of any prior mortgage, deed of trust, security agreement or other lien document, pass to Lender to the extent of the Obligations. Mortgagor will immediately notify Lender of cancellation or termination of insurance. If Mortgagor fails to keep the Premises insured Lender may obtain insurance to protect Lender's interest in the Premises. This insurance may include coverages not originally required of Mortgagor, may be written by a company other than one Mortgagor would choose, and may be written at a higher rate than Mortgagor could obtain if Mortgagor purchased the insurance

**Section 3. EVENTS OF DEFAULT**

Section 3.1 Events of Default. Upon the occurrence of any of the following, Lender shall be entitled to exercise Lender's remedies under this Mortgage or as otherwise provided by law (each being an "Event of Default"):

a. Mortgagor or any other person obligated under the Note fail to pay when due any amount payable under the Note or any other agreement or document executed in connection with the Obligations.

b. Mortgagor or any other person obligated under the Note (i) fails to observe or perform any other term of the Note or any other agreement or document executed in connection with the Obligations, (ii) makes any materially incorrect or misleading representation, warranty, or certificate to Lender, (iii) makes any materially incorrect or misleading representation in any financial statement or other information delivered to Lender, or (iv) defaults under the terms of any agreement or instrument relating to any debt for borrowed money (other than the debt evidenced by the Note) such that the creditor declares the debt due before its maturity.

c. Mortgagor or any other person obligated under the Note defaults under the terms of the Note, this Mortgage, any loan agreement, mortgage, security agreement, or other document executed and connected with the Obligations, or any Guaranty of the Loan evidenced by the Note becomes unenforceable in whole or in part.

d. Mortgagor fails to pay when due any amount payable under any note or agreement evidencing debt to Lender or defaults under the terms of any agreement or instrument relating to or securing any debt for borrowed money owing to Lender.

e. Mortgagor becomes insolvent or unable to pay its or its debts as they become due.

f. Mortgagor (i) makes an assignment for the benefit of creditors, or (ii) consents to the appointment of a custodian, receiver, or trustee for itself or himself or for a substantial part of its or Mortgagor's assets, or (iii) commences any proceeding under any bankruptcy, reorganization, liquidation, insolvency, or similar laws of any jurisdiction.

g. A custodian, receiver, or trustee is appointed for Mortgagor or for a substantial part of its assets without the consent of the party against which the appointment is made and is not removed within thirty (30) days after such appointment.

h. Proceedings are commenced against Mortgagor under any bankruptcy, reorganization, liquidation, or similar laws of any jurisdiction, and such proceedings remain undismissed for thirty (30) days after commencement, or Mortgagor consents to the commencement of such proceedings.

i. Any judgment is entered against Mortgagor, or any attachment, levy, or garnishment is issued against any property of Mortgagor.

j. Any proceedings are instituted for the foreclosure or collection of any mortgage, judgment, or lien affecting the Premises.

k. If Mortgagor sells, transfers, or hypothecates any part of the Premises except as provided in this Mortgage without the prior written consent of Lender.

l. Mortgage Lender consents to Mortgagor: (i) is dissolved, (ii) merges or consolidates with any third party, (iii) leases, sells, or otherwise conveys a material part of Mortgagor's assets or business outside the ordinary course of business, (iv) leases, purchases, or otherwise acquires a material part of the assets of any other corporation or business entity, except in the ordinary course of business, or (v) agrees to do any of the foregoing.

m. Lender receives at any time following the execution of this Mortgage a report from any office of the Secretary of State or other state department where a Financing Statement is filed indicating that Lender's security interest, as set forth in Article 2, is not prior to all other security interests or other interests reflected in the report.

#### **Section 4. FORECLOSURE**

Section 4.1 Acceleration of Loan; Foreclosure. Upon the occurrence of an Event of Default the entire balance of the Loan, including all accrued interest, shall, at the option of Lender, become immediately due and payable. Upon failure to pay the Loan in full at any stated or accelerated maturity, Lender may foreclose the lien of this Mortgage and take such other actions as provided by law or in the Loan Documents, the Guaranty or by judicial proceeding.

Section 4.2 Lender's Power of Enforcement. If an Event of Default shall have occurred, Lender may, either with or without entry or taking possession as hereinabove provided or otherwise, proceed by suit or suits at law or in equity or by any other appropriate proceeding or remedy: (a) to enforce payment of the Note or Guaranty or the performance of any term hereof or any other right; (b) to foreclose this Mortgage and to sell, as an entirety or in separate lots or parcels, the Premises, under the judgment or decree of a court or courts of competent jurisdiction; (c) exercise any or all of its rights and remedies with respect to the Additional Property under the UCC and such additional rights and remedies to which a secured party is entitled under the laws in effect in any jurisdiction where any rights and remedies hereunder may be asserted, including, without limitation, the right to exercise all powers of ownership pertaining to the Additional Property as if Lender was the sole and absolute owner thereof (and Mortgagor agrees to take all such action as may be appropriate to give effect to such right); and (d) to pursue any other remedy available to it. Lender shall take action either by such proceedings or by the exercise of its powers with respect to entry or taking possession, or both, as Lender may determine.



Section 4.3 Purchase by Lender. Upon any such foreclosure sale, Lender may bid for and purchase the Premises and, upon compliance with the terms of sale, may hold, retain and possess and dispose of such property in its own absolute right without further accountability.

Section 4.4 Application of Proceeds. The purchase money, proceeds and avails of any disposition of the Premises, or any part thereof, or any other sums collected by Lender pursuant to the Loan Documents, may be applied by Lender to the payment of the Obligations in such priority and proportions as Lender in its discretion shall deem proper.

Section 4.5 Waiver of Appraisal, Valuation, Stay, Extension, and Redemption Laws. Mortgagor agrees to the full extent permitted by law that in case of an Event of Default on its part hereunder, neither Mortgagor nor anyone claiming through or under it shall or will set up, claim or seek to take advantage of any appraisal, valuation, stay, extension or redemption laws now or hereafter in force, in order to prevent or hinder the enforcement or foreclosure of this Mortgage, or the absolute sale of the Premises or the final and absolute putting into possession thereof, immediately after such sale, of the purchasers thereat, and Mortgagor, for itself and all who may at any time claim through or under it, hereby waives, to the full extent that it may lawfully so do, the benefit of all such laws, and any and all right to have the assets comprising the Premises marshaled upon any foreclosure of the lien hereof and agrees that Lender or any court having jurisdiction to foreclose such lien may sell the Premises in parts or as an entirety.

Section 4.6 Suits to Protect the Premises. Lender shall have the power and authority to institute and maintain any suits and proceedings as Lender may deem advisable (a) to prevent any impairment of the Premises by any acts which may be unlawful or any violation of this Mortgage, (b) to preserve or protect its interest in the Premises, and (c) to restrain the enforcement of or compliance with any legislation or other governmental enactment, rule or order that may be unconstitutional or otherwise invalid, if the enforcement of or compliance with such enactment, rule or order might impair the security hereunder or be prejudicial to Lender's interest.

Section 4.7 Proofs of Claim. In the case of any receivership, insolvency, bankruptcy, reorganization, arrangement, adjustment, composition or other judicial proceedings affecting Mortgagor, any person, partnership or corporation guaranteeing or endorsing any of Mortgagor's obligations, its creditors or its property, Lender, to the extent permitted by law, shall be entitled to file such proofs of claim and other documents as may be necessary or advisable in order to have its claims allowed in such proceedings for the entire amount due and payable by Mortgagor under the Note, the Guaranty, this Mortgage and any other instrument securing the Note, at the date of the institution of such proceedings, and for any additional amounts which may become due and payable by Mortgagor after such date.

Section 4.8 Delay or Omission No Waiver. No delay or omission of Lender or of any holder of the Note or Guaranty to exercise any right, power or remedy accruing upon any Event of Default shall exhaust or impair any such right, power or remedy or shall be construed to waive any such Event of Default or to constitute acquiescence therein. Every right, power and remedy given to Lender may be exercised from time to time and as often as may be deemed expedient by Lender.

Section 4.9 No Waiver of One Default to Affect Another. No waiver of any Event of Default hereunder shall extend to or affect any subsequent or any other Event of Default then existing, or impair any rights, powers or remedies consequent thereon. No such act or omission shall preclude Lender from exercising any right, power or privilege herein granted or intended to be granted in case of any Event of Default then existing or of any subsequent Event of Default nor, except as otherwise expressly provided in an instrument or instruments executed by Lender, shall the lien of this Mortgage be altered thereby. In the event of the sale or transfer by operation of law or otherwise of all or any part of the Premises, Lender, without notice to any person, firm or corporation, is hereby authorized and empowered to deal with any such vendee or transferee with reference to the Premises or the indebtedness secured hereby, or with



With a Copy to:

Anastasi Jellum, P.A.  
14985 60<sup>th</sup> Street North  
Stillwater, Minnesota 55082  
Attn: President

c. Manner of Giving Notice. Notice shall be deemed given when: (i) personal service of the Notice is made on the party to be notified (but the party need not be at the address designated under section 5.2b), (ii) the Notice is mailed to the party to be notified by means of certified or registered U.S. mail, return receipt requested, postage prepaid, or (iii) the Notice is sent to the party to be notified by express courier such as "Federal Express" or such other similar carrier guaranteeing next day delivery. Refusal by a party to accept a Notice shall not affect the giving of the Notice.

Section 5.3 Imposition of Tax. In the event of the passage of any state, federal, municipal or other governmental law, order, rule or regulation, in any manner changing or modifying the laws now in force governing the taxation of debts secured by mortgages or the manner of collecting taxes so as to affect adversely Lender, Mortgagor will promptly pay any such tax on or before the due date thereof; and if Mortgagor fails to make such prompt payment or if any such state, federal, municipal or other governmental law, order, rule or regulation prohibits Mortgagor from making such payment or would penalize Lender if Mortgagor makes such payment, then the entire balance of the Loan shall become due and payable upon demand at the option of Lender.

Section 5.4 Invalidation of Provisions. Invalidation of any one or more of the provisions of this Mortgage shall in no way affect any of the other provisions hereof, which shall remain in full force and effect.

Section 5.5 Headings. The captions and headings herein are inserted only as a matter of convenience and for reference and in no way define, limit, or proscribe the scope of this Mortgage nor the intent of any provision hereof.

Section 5.6 Changes, etc. Neither this Mortgage nor any term hereof may be changed, waived, discharged or terminated orally, or by any action or inaction, but only by an instrument in writing signed by the party against which enforcement of the change, waiver, discharge or termination is sought. Any agreement hereafter made by Mortgagor and Lender relating to this Mortgage shall be superior to the rights of the holder of any intervening lien or encumbrance.

Section 5.7 Governing Law. This Mortgage is made by Mortgagor and accepted by Lender in the State of Indiana, with reference to the laws of such State, and shall be construed, interpreted, enforced and governed by and in accordance with such laws (excluding the principles thereof governing conflicts of law).

Section 5.8 Conflicts. In the event of any conflict between the terms and provisions hereof and the terms and conditions of the Loan Agreement, the provisions of the Loan Agreement shall control.

Section 5.9 Marshalling and Other Matters. Mortgagor hereby waives, to the extent permitted by law, the benefit of all Applicable Laws now or hereafter in force regarding appraisal, valuation, stay, extension, reinstatement and redemption and all rights of marshalling in the event of any sale hereunder of the Premises or any part thereof of any interest therein. Further, Mortgagor hereby expressly waives any and all rights of redemption from sale under any order or decree of foreclosure of this Mortgage on behalf of Mortgagor, and on behalf of each and every person acquiring any interest in or title to the Premises



subsequent to the date of this Mortgage and on behalf of all persons to the extent permitted by applicable law.

Section 5.10 Waiver of Notice. Mortgagor shall not be entitled to any notices of any nature whatsoever from Lender except with respect to matters for which this Mortgage specifically and expressly provides for the giving of notice by Lender to Mortgagor and except with respect to matters for which Lender is required by applicable law to give notice, and Mortgagor hereby expressly waives the right to receive any notice from Lender with respect to any matter for which this Mortgage does not specifically and expressly provide for the giving of notice by Lender to Mortgagor.

Section 5.11 Waiver of Statute of Limitations. Mortgagor hereby expressly waives and releases to the fullest extent permitted by law, the pleading of any statute of limitations as a defense to payment of the Note or Guaranty or performance of its Obligations.

Section 5.12 Waiver of Foreclosure Defense. Mortgagor hereby waives any defense Mortgagor might assert or have by reason of Lender's failure to make any tenant or lessee of the property a party defendant in any foreclosure proceeding or action instituted by Lender.

Section 5.13 Waiver of Counterclaim. Mortgagor hereby waives the right to assert a counterclaim, other than a mandatory or compulsory counterclaim, in any action or proceeding brought against it by Lender arising out of or in any way connected with any of the Loan Documents or the Guaranty.

**Section 6. INDIANA SPECIFIC PROVISIONS.**

Section 6.1 In the event of any inconsistencies between the terms and conditions of this Section and the other provisions of this Mortgage, the terms and conditions of this Section shall control and be binding.

Section 6.2 The Note, by its terms, absent earlier acceleration, shall mature twenty-five (25) years from the date of this Mortgage.

Section 6.3 The term "Obligations" as defined in this Mortgage shall include, without limitation, any judgment(s) or final decree(s) rendered to collect any money obligations of Mortgagor to Lender and/or to enforce the performance or collection of all covenants, agreements, other obligations and liabilities of the Mortgagor under this Mortgage or any or all of the Loan Documents. The obtaining of any judgment by Lender (other than a judgment foreclosing this Mortgage) and any levy of any execution under any such judgment upon the Premises shall not affect in any manner or to any extent the lien of this Mortgage upon the Premises or any part thereof, or any liens, powers, rights and remedies of Lender, but such liens, powers, rights and remedies shall continue unimpaired as before until the judgment or levy is satisfied.

Section 6.4 Neither Mortgagor nor, to the best of Mortgagor's knowledge, after diligent inquiry and investigation, any tenant of the Premises has received a notice of intention to hold a lien as may be imposed under Ind. Code 13-25-4-1 et seq.

Section 6.5 To the extent the laws of the State of Indiana limit (i) the availability of the exercise of any of the remedies set forth in this Mortgage, including without limitation the remedies involving a power of sale on the part of Lender and the right of Lender to exercise self-help in connection with the enforcement of the terms of this Mortgage, or (ii) the enforcement of waivers and indemnities made by Mortgagor, such remedies, waivers, or indemnities shall be exercisable or enforceable, any provisions in this Mortgage to the contrary notwithstanding, if, and to the extent, permitted by the laws in force at the time of the exercise of such remedies or the enforcement of such waivers or indemnities without regard to

whether such remedies, waivers or indemnities were enforceable at the time of the execution and delivery of this Mortgage.

Section 6.6 Nothing in this Mortgage or in the other Loan Documents is intended to constitute a waiver by Lender of, or agreement by Mortgagor to waive, the time limitations set forth in Ind. Code § 32-29-7-3 so as to constitute consideration for a waiver or release of a deficiency judgment, or otherwise result in a waiver or release under Ind. Code § 32-29-7-5 or any other provision of Applicable Indiana Law of a deficiency judgment, or of the right to seek a deficiency judgment against Mortgagor or any other person or entity liable for the Obligations or any part thereof, or a consent by Mortgagor or Lender to any such a waiver or release, which right to seek a deficiency judgment is hereby reserved, preserved and retained by Lender for its own behalf and its successors and assigns, subject to the terms of this Mortgage.

Section 6.7 Notwithstanding anything in this Mortgage or the Loan Documents to the contrary, Lender shall be entitled to all rights and remedies that a Lender would have under Indiana law or in equity including, but not by way of limitation, Ind. Code 32-30-10, Mortgage Foreclosure Actions, Ind. Code 32-30-5, Receiverships, and the UCC (such laws, as amended, modified and/or recodified from time to time are collectively referred to herein collectively as the "Applicable Indiana Law"). In the event of any inconsistency between the provisions of this Mortgage and the provisions of Applicable Indiana Law, the provisions of Applicable Indiana Law shall take precedence over the provisions of this Mortgage, but shall not invalidate or render unenforceable any other provisions of this Mortgage that can be construed in a manner consistent with Applicable Indiana Law. Any provision of this Mortgage shall grant to Lender any rights or remedies upon default of the Mortgagor which are more limited than the rights or remedies that would otherwise be vested in this Mortgage under Applicable Indiana Law in the absence of said provision, Lender shall be vested with the rights and remedies granted under Applicable Indiana Law. Notwithstanding any provision in this Mortgage relating to a power of sale or other provision for sale of the Premises upon default other than under a judicial proceeding, any sale of the Premises pursuant to this Mortgage will be made through a judicial proceeding, except as otherwise may be permitted under the UCC.

Section 6.8 Part of the Premises is or may become Fixtures. It is intended that, as to fixtures, this Mortgage shall be effective as a financing statement filed as a fixture filing from the date of the filing of this Mortgage for record with the Recorder of Lake County, Indiana. The information provided in this paragraph is provided in order that this Mortgage shall comply with the requirements of the UCC for a mortgage to be filed as a continuously perfected financing statement. The Mortgagor, a limited liability company organized under the laws of Indiana, is the "debtor" and its name and mailing address are set forth in the preamble of this Mortgage. The Lender is the "secured party" and its name and mailing address from which information concerning the security interest granted herein may be obtained are as set forth in the preamble of this Mortgage. A statement describing the portion of the Premises comprising the fixtures hereby secured is set forth in Article 1, Section 2 hereof. Mortgagor is record owner of the Premises. Mortgagor hereby acknowledges receipt of a copy of this Mortgage and that Lender, as secured party, has furnished a copy of this Mortgage as a financing statement, as required pursuant to Ind. Code 26-1-9.1-502(f).

Section 6.9 Notwithstanding anything contained in this Mortgage or the Other Loan Documents to the contrary, this Mortgage shall secure: (i) a maximum principal amount of EIGHT HUNDRED SIXTY THOUSAND and 00/100 DOLLARS (\$860,000.00), exclusive of any items described in (ii) below, including any additional advances made from time to time after the date hereof pursuant to the Loan Documents whether made as part of the Obligations secured hereby or made at the option of the Lender, (ii) all other amounts payable by Mortgagor, or advanced by Lender for the account, or on behalf, of Mortgagor, pursuant to the Loan Documents, including amounts advanced with respect to the Premises for the payment of taxes, assessments, insurance premiums and other costs and impositions incurred for the protection of the Premises to the same extent as if the future obligations and advances were made on the date of execution of this Mortgage; and (iii) future modifications, extensions, and renewals of any Loan



Documents or Obligations secured by this Mortgage. Pursuant to Ind. Code 32-29-1-10, the lien of this Mortgage with respect to any future advances, modifications, extensions, and renewals referred to herein and made from time to time shall have the same priority to which this Mortgage otherwise would be entitled as of the date this Mortgage is executed and recorded without regard to the fact that any such future advance, modification, extension, or renewal may occur after this Security Agreement is executed. The maximum principal amount is stated herein for the purpose of any Applicable Indiana Law pertaining to future advances and may be in excess of the permitted borrowing under the Note to cover expense, accrued interest, costs of collection and other costs, expenses and obligations, and shall not be is not deemed a commitment by Lender to make any future advances.

Section 6.10 It is the intention of the parties hereto that this Mortgage shall constitute a security agreement within the meaning of Applicable Indiana Law. If an Event of Default shall occur under this Mortgage, then in addition to having any other right or remedy available at law or in equity, Lender shall have the option pursuant to Applicable Indiana Law of either (i) proceeding under Applicable Indiana Law and exercising such rights and remedies as may be provided to a secured party by Applicable Indiana Law with respect to all or any portion of the personal property that is not real property (including, without limitation, taking possession of and selling such property) or (ii) treating such Personal Property as real property and proceeding with respect to both the real and personal property constituting the Premises in accordance with Lender's rights, powers and remedies with respect to the real property (in which event the default provisions of the UCC shall not apply).

Section 6.11 Without limiting the scope of the assignment of Rents and Profits contained in this Mortgage, the assignment of rents set forth herein shall constitute an assignment of rents as set forth in Ind. Code 32-21-4-2 and thereby creates, and Mortgagor hereby grants to Lender, a security interest in the Rents and Profits that will be perfected upon the recording of this Mortgage.

Section 6.12 Subject to the terms and provisions of this Mortgage, Mortgagor hereby irrevocably consents to the appointment of a receiver, which receiver, when duly appointed, shall have all of the powers and duties of receivers pursuant to Applicable Indiana Law.

Section 6.13 Upon payment and performance of the Obligations secured hereby, or otherwise in accordance with the provisions of the Note, the Guaranty and other Loan Documents, Lender, upon written request, and at the expense, of Mortgagor, will execute and deliver such proper instruments of release and satisfaction as may be reasonably be requested to evidence such release, and any such instrument, when duly executed by Lender and duly recorded in the place where this Mortgage is recorded, shall conclusively evidence the release of this Mortgage; provided, however, any of the terms and provisions of this Mortgage that are intended to survive, shall nevertheless survive the release or satisfaction of this Mortgage whether voluntarily granted by Lender, as a result of a judgment upon judicial foreclosure of this Mortgage or in the event a deed in lieu of foreclosure is granted by Mortgagor to Lender.

Section 6.14 Mortgagor expressly waives and relinquishes any and all rights and remedies which Mortgagor may have or be able to assert by reason of the laws of the State of Indiana pertaining to the rights and remedies of sureties.

Section 6.15 Mortgagor warrants that Mortgagor does business under no other names with respect to the Premises other than the trade name disclosed to Lender. Mortgagor shall immediately notify Lender in writing of any change in the name of and the use of any trade names by, Mortgagor and, upon request of Lender, shall execute any additional financing statements and other certificates required to reflect any change in name or trade names and shall execute and file any assumed name certificate required by applicable laws including, without limitation, Ind. Code 23-15-1-1.



Section 6.16 All costs incurred by Lender pursuant to this Mortgage, to the extent reimbursable under Applicable Indiana Law, whether or not enumerated in this Mortgage ("**Reimbursable Costs**"), shall be added to the Obligations secured by this Mortgage or by the judgment of foreclosure, which Reimbursable Costs may include, without limitation, all costs and expenses which may be paid or incurred by or on behalf of Lender in any proceeding to enforce this Mortgage or foreclose upon the Premises, all expenses of any environmental site assessments, environmental audits, environmental remediation costs, appraisals, surveys, engineering studies, wetlands delineations, flood plain studies, and any other similar testing or investigation deemed necessary or advisable by Lender incurred in preparation for, contemplation of or in connection with the enforcement of this Mortgage and/or the collection of the Obligations and for attorneys' fees, appraiser's fees, receiver's costs and expenses, insurance, taxes, outlays for documentary and expert evidence, expenses and costs for preservation of the Premises, stenographer's charges, publication costs and costs of procuring all abstracts of title, title searches and examination, guarantee policies, and similar data and assurances with respect to title as may deem to be reasonably necessary either to prosecute such suit or to evidence to bidders at any foreclosure sale which may be had pursuant to such decree the true condition of the title to or value of the Premises or for any other reasonable purpose. The amount of any such Reimbursable Costs which may be paid or incurred after the decree or judgment for sale is entered may be estimated and the amount of such estimate may be allowed and included as additional indebtedness secured hereby in the foreclosure judgment or decree for or sale. The phrases "attorneys fees", "legal fees" and "counsel fees" when used herein or in the other Loan Documents shall include any and all attorneys', paralegals' and law clerks' fees and disbursements, including, but not limited to, fees and disbursements at the pre-trial, trial and appellate levels incurred or paid by Lender in protecting its interest in the Premises, or any part thereof and enforcing its rights hereunder.

Section 6.17 **IT IS EXPRESSLY AGREED AND UNDERSTOOD BY MORTGAGOR THAT THIS SECURITY INSTRUMENT INCLUDES INDEMNIFICATION PROVISIONS WHICH, IN CERTAIN CIRCUMSTANCES, INCLUDE AN INDEMNIFICATION BY MORTGAGOR OF LENDER FROM CLAIMS OR LOSSES ARISING AS A RESULT OF LENDER'S OWN NEGLIGENCE.**

Section 6.18 **MORTGAGOR AND LENDER, BY ACCEPTANCE OF THIS MORTGAGE, HEREBY WAIVE, TO THE FULLEST EXTENT PERMITTED BY LAW, THE RIGHT TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM, WHETHER IN CONTRACT, TORT OR OTHERWISE, RELATING DIRECTLY OR INDIRECTLY TO THE LOAN, THE APPLICATION FOR THE LOAN, THE LOAN DOCUMENTS OR ANY ACTS OR OMISSIONS OF LENDER OR MORTGAGOR.**

Section 6.19 If both any leasehold estate and the fee estate for all or any portion of the Premises at any time become vested in one owner, this Security Interest and the lien created hereby shall not be merged, destroyed or terminated by application of the doctrine of merger and, in such event, the Lender shall continue to have and enjoy all of the rights and privileges of the Lender as to the separate estates. In addition, upon the foreclosure of the lien of this Security Interest, pursuant to the provisions hereof or Applicable Indiana Law, or upon any conveyance in lieu thereof, neither the fee estate, nor any leases, subleases, or sub-subleases then existing with respect to all or any portion of the Premises shall be merged, terminated or destroyed by application of the doctrine of merger, or as a result of such foreclosure or conveyance, unless in such case the Lender or any purchaser at a foreclosure sale shall elect in writing to the contrary. The provisions of this Section 6.20 are in addition to and without limitation on the non-merger provisions of Ind. Code §32-29-8-4(h) and other post-foreclosure rights, remedies, and provisions contained in Ind. Code §32-29-8-4

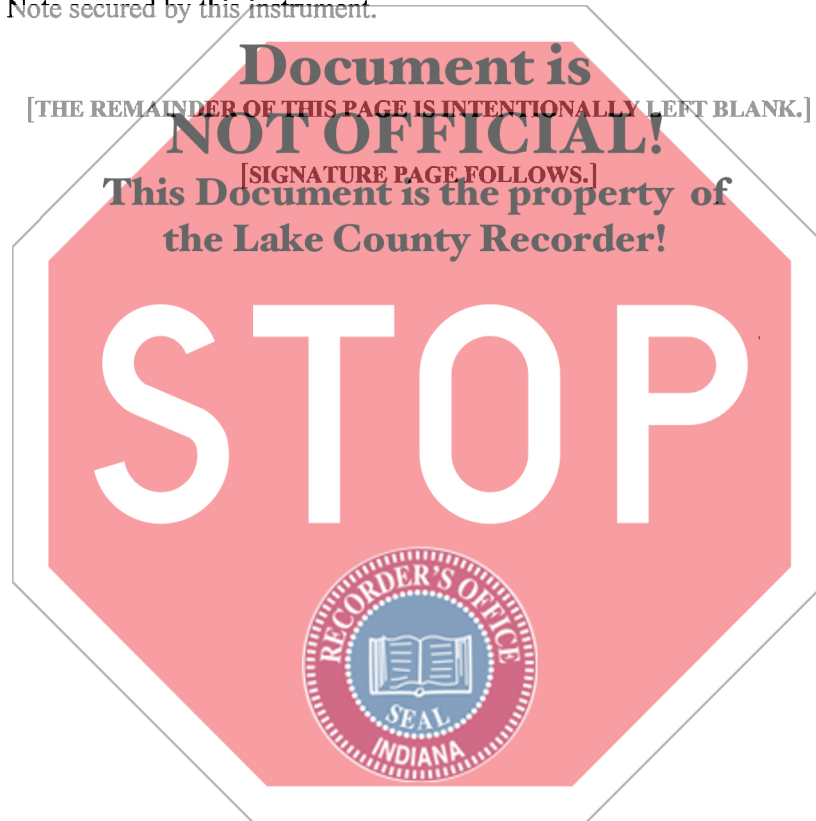
**Section 7. SMALL BUSINESS ADMINISTRATION PROVISION.** The Loan secured by this lien was made under a United States Small Business Administration ("SBA") nationwide program which

uses tax dollars to assist small business owners. If the United States is seeking to enforce this document, then under SBA regulations:

Section 7.1 When SBA is the holder of the Note, all documents evidencing or securing the Loan will be construed in accordance with federal law.

Section 7.2 Lender or SBA may use local or state procedures for purposes such as filing papers, recording documents, giving notice, foreclosing liens, and other purposes. By using these procedures, SBA does not waive any federal immunity from local or state control, penalty, tax or liability. The Mortgagor may not claim or assert against SBA any local or state law to deny any obligation of Mortgagor, or defeat any claim of SBA with respect to the Loan.

Section 7.3 Any clause in this document requiring arbitration is not enforceable when SBA is the holder of the Note secured by this instrument.



IN WITNESS WHEREOF, the undersigned has executed this Mortgage under seal as of the Effective Date.

**MORTGAGOR:**

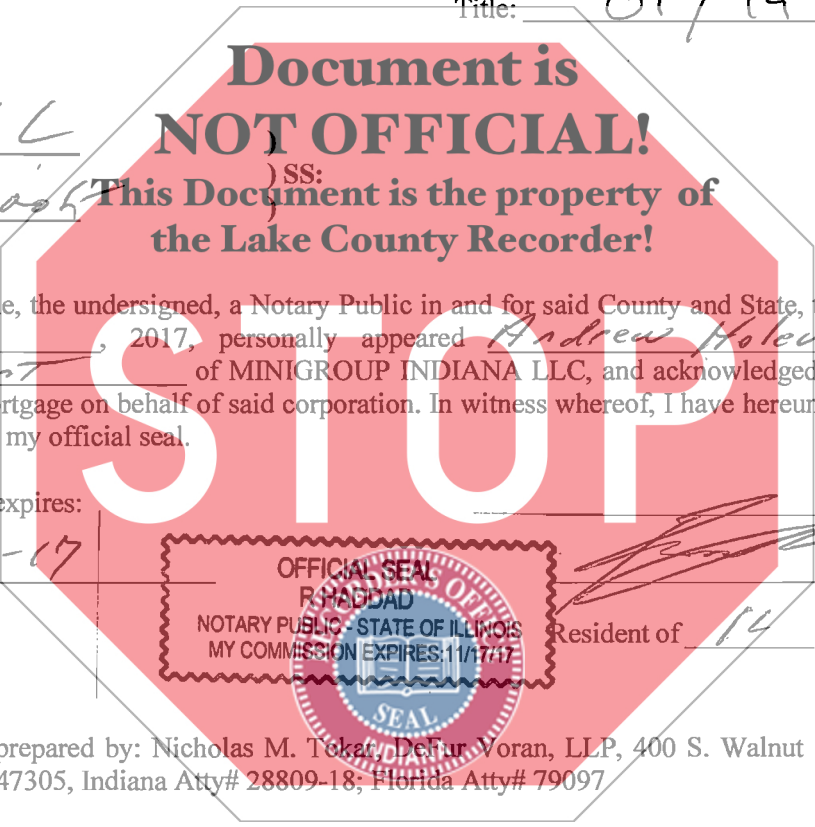
**MINIGROUP INDIANA LLC**, an Indiana limited liability company

By: Andrew Holevas

Printed: Andrew Holevas

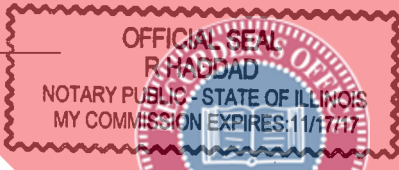
Title: 01/19/17

STATE OF IL  
COUNTY OF Cook



Before me, the undersigned, a Notary Public in and for said County and State, this 19 day of June, 2017, personally appeared Andrew Holevas, as the President of MINIGROUP INDIANA LLC, and acknowledged the execution of the foregoing Mortgage on behalf of said corporation. In witness whereof, I have hereunto subscribed my name and affixed my official seal.

My commission expires: 11-17-17



[Signature], Notary Public  
Resident of IL County, Cook

This instrument prepared by: Nicholas M. Tokar, DeFar Voran, LLP, 400 S. Walnut Street, Suite 200, Muncie, Indiana 47305, Indiana Atty# 28809-18; Florida Atty# 79097

After recording, return to: Byline Bank, 3639 N. Broadway Avenue, Suite 516, Chicago, Illinois 60613, Attention: Loan Operations Department

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



**EXHIBIT "A"**  
Legal Description of Land

The land referred to herein below is situated in the County of Lake, State of Indiana, and is described as follows:

Lots 38, 39, 40, 41 and 42 in Block 34 in Unit 10 of Woodmar, Hammond, as per plat thereof recorded in Plat Book 16, Page 35, in the Office of the Recorder of Lake County, Indiana.

Parcel ID Nos. 45-07-08-452-004.000-023

