

STATE OF INDIANA
LAKE COUNTY
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MICHAEL B. BROWN
RECORDER

Return To:

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Notre Dame Federal Credit Union
P.O. Box 7878
Notre Dame, IN 46556-7878
Attention: Nick Matthews

REAL ESTATE MORTGAGE

THIS REAL ESTATE MORTGAGE ("Mortgage") is made as of September 29, 2017 by Nicholas Herbst, Daniel Herbst, and Betty Serpe, jointly and severally ("Borrower"), in favor of **NOTRE DAME FEDERAL CREDIT UNION**, whose address is P.O. Box 7878, 1828 Moreau Drive, Notre Dame, IN 46656 ("NDFCU"). Capitalized terms used herein and not otherwise defined have the meanings given in the Loan Agreement (as defined below).

1. **Grant.** As security for full and complete payment of the Obligations owing, Borrower hereby **MORTGAGES AND WARRANTS** to NDFCU, and grants it a security interest in and lien upon, the following property and rights:

1.1 The real property located in Lake County, Indiana, commonly known as 1319 Stanton Ave, Whiting, IN 46394, and fully described in Exhibit A attached hereto and incorporated herein by this reference, now owned or hereafter acquired, including all easements, agreements, tenements, reversions, remainders, licenses, privileges, irrigation and water rights, water stock, timber, crops, oil and gas rights, royalties, minerals and mineral rights, development rights, or other rights belonging or in any way appurtenant thereto, including without limitation (i) any easement, right or license in, to or under any streets, ways, alleys, vaults, or strips of land adjoining such real property or any portion thereof, or in or to the air space over such real property or any land adjoining such real property, (ii) all rights of ingress and egress with respect to such real property or any land adjoining such real property, and (iii) all claims or demands of Borrower, either at law or in equity, in possession or expectancy, in or to such real property (all of the foregoing hereinafter collectively referred to as the "Land");

1.2 All buildings, structures, improvements, fixtures, equipment, and personal property now or hereafter built on or in, or affixed to, the Land, including but not limited to boilers, engines, motors, dynamos and generating equipment; computers, computer workstations and terminals used in the operation of building systems; telephone and other communications systems; piping and plumbing fixtures; fire extinguishing apparatus and equipment; gas and electric fixtures; irrigation systems and equipment; fire alarm, security and access control systems; elevators, escalators; furniture and furnishings of public spaces, halls and lobbies; incinerating systems and equipment; and shrubbery and plants (all of the foregoing hereinafter collectively referred to as the "Improvements"; the Land and Improvements are referred to collectively as the "Property"); all property mentioned in this subsection 1.2 is deemed part of the realty and not severable wholly or in part without material injury to the Property; and

1.3 All rents, issues and profits of the Property, all existing and future leases of the Property (including extensions, renewals and subleases) and all agreements for use and occupancy of the Property (all such leases and agreements whether written or oral are hereafter referred to as the "Leases"), and all guaranties of tenants' performance under the Leases, together with the immediate and continuing right to collect and receive all of the rents, income, receipts, revenues, issues, profits and other income of any nature now or hereafter due (including any income of any nature coming due during any redemption period) under the Leases or from or arising out of the Property including minimum rents, additional rents, percentage rents, parking or common area maintenance contributions, tax and insurance contributions, deficiency rents, forfeitures or liquidated damages following default in any Lease, all proceeds payable under any policy of insurance covering loss of rents or other income resulting from untenability caused by destruction or damage to the Property, all proceeds payable as a result of exercise of any option to purchase the Property, all proceeds derived from the termination or rejection of any Lease in a bankruptcy or other insolvency proceeding, and all proceeds from any rights and claims of any kind that Borrower may have against any tenant under the Leases or any occupants of the Property (all of the above are hereafter collectively referred to as the "Rents").

SS.
OK. 116788
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2. **Secured Obligations.** This Mortgage is given to secure the following (collectively, the "Obligations"):

2.1 Payment of the sum of ONE HUNDRED TWENTY FIVE THOUSAND DOLLARS (\$125,000.00) with interest thereon, late charges and other amounts due pursuant to that certain Loan and Security Agreement dated as of June 2, 2017 made by Borrower in favor of NDFCU (as amended, restated, modified or supplemented from time to time, the "Loan Agreement"). All amounts owing under the Loan Agreement are due and payable on May 30, 2019, as such maturity date may be extended from time to time;

2.2 Payment of any costs and expenses incurred or advances made by NDFCU pursuant to this Mortgage or any other documents executed by Borrower securing or relating to the Loan Agreement and/or the Collateral (as defined herein), whether executed prior to, contemporaneously with, or subsequent to this Mortgage to protect the Collateral or fulfill Borrower's obligations under the Loan Agreement, this Mortgage and the other agreements and instruments executed in connection therewith ("Loan Documents") or as a result of Borrower's default hereunder, together with interest thereon from the time such costs and expenses are incurred or advances made, at the default rate of interest set forth in the Loan Agreement, unless a different interest rate is agreed to in writing;

2.3 Payment of any further sums loaned by NDFCU to Borrower, or any of its successors or assigns, together with interest thereon at the rate set forth in the Loan Agreement (unless a different interest rate is specified in the Loan Documents or agreed to in writing) if the note or other writing evidencing the further loan states that it is secured by this Mortgage; and

2.4 Performance of each agreement, term and condition set forth or incorporated by reference herein, in the Loan Documents, or in the Loan Agreement, including, without limitation, performance of (i) all debts, liabilities, obligations, covenants and duties of Borrower arising under this Mortgage, in each case whether direct or indirect (including those acquired by assumption), absolute or contingent, due or to become due, now existing or hereafter arising and including interest and fees that accrue after the commencement by or against Borrower of any proceeding under any Debtor Relief Laws naming such person as the debtor in such proceeding, regardless of whether such interest and fees are allowed claims in such proceeding; and (ii) all debts, liabilities, obligations, covenants and duties arising under any environmental indemnity agreement executed by Borrower contemporaneously herewith.

3. **Security Agreement.** This Mortgage constitutes a security agreement under the Indiana Uniform Commercial Code ("UCC") between Borrower as debtor and NDFCU as secured party. Borrower grants a security interest to NDFCU in any of the Property or Rents that is personal property and also grants a security interest to NDFCU in Proceeds and Products of the foregoing. All terms defined in the UCC and used herein have the same definitions herein as specified therein.

The Property, Leases, Rents and the property described in this Section 3 are collectively referred to herein as the "Collateral."

4. **Borrower Covenants.** Borrower covenants and agrees:

4.1 To pay and perform all of the Obligations on or before the date such payment or performance is due in accordance with their terms.

4.2 Not to abandon the Collateral; to keep the Collateral in good condition and repair and not to commit or suffer waste; to refrain from impairing or diminishing the value of the security.

4.3 To comply with all requirements of federal, state and municipal laws and regulations, including those relating to all environmental laws, governing the Collateral and the use thereof.

4.4 That (a) during the period of Borrower's ownership or use of the Collateral no substance has been is or will be present, used, stored, deposited, treated, recycled or disposed of on, under, in or about the Property a form, quantity or manner which if known to be present on, under or about the Property would require clean-up, removal or some other remedial action ("Hazardous Substance") under any federal, state or local laws,

regulations, ordinances, codes or rules ("Environmental Laws"); and (b) that Borrower in the past has been, at the present is, and in the future will remain in compliance with all Environmental Laws.

4.5 To keep the Collateral free from statutory or common law liens of any kind, except the lien of taxes and assessments not yet due and payable, and pay all claims and demands of mechanics, materialmen, laborers and others which, if unpaid, might result in, or permit the creation of, a lien on the Property. Borrower will pay or cause to be paid before delinquency all Rents, any further encumbrances permitted by NDFCU, and any applicable interest, penalties or fees, including attorneys' fees, that may now or hereafter be levied, assessed or claimed in respect of the Collateral or any part thereof.

4.6 To promptly pay before delinquency all taxes and assessments, water, sewer and other utility rates, permit, inspection and license fees, and other governmental and quasi-governmental fees or charges, general and special, ordinary and extraordinary, foreseen and unforeseen, heretofore or hereafter assessed, levied or otherwise imposed against or upon or with respect to, or which may become a lien upon, all or any part of the Collateral or arising in respect of the occupancy, use or possession thereof, together with all penalties and interest for late payment or nonpayment.

4.7 To maintain such insurance on the Collateral as may be reasonably required from time to time by NDFCU, with premiums prepaid, providing replacement cost coverage and insuring against loss by fire and such other risks covered by extended coverage insurance, and such other perils and risks as NDFCU may reasonably require from time to time. Borrower also will maintain comprehensive general public liability insurance. All insurance will be with companies satisfactory to NDFCU and in such amounts and with such coverages as NDFCU may reasonably require, with lender's loss payable clauses in favor of and in form satisfactory to NDFCU.

5. **NDFCU's Action.** An action by NDFCU to obtain specific performance or injunctive relief or to recover damages under this Mortgage may be brought as an independent action without foreclosing the lien of this Mortgage, and in any such action or appeal therefrom, NDFCU may recover its reasonable costs and expenses, including, without limitation, reasonable costs and fees of attorneys (including the costs and fees of paralegals), accountants, appraisers, architects, engineers, environmental inspectors, consultants, expert witnesses, arbitrators, mediators, and court reporters; along with survey charges, fees for environmental studies and assessments and all additional expenses incurred by NDFCU with respect to environmental matters, outlays for accounting, documentary and expert evidence, publication costs, and costs of procuring all such abstracts of title, title searches and examinations, title insurance policies and similar data and assurances with respect to title as NDFCU may deem reasonably necessary either to prosecute such suit or to evidence the true condition of the title to, the value of, or the environmental condition of, the Property (collectively "Out-of-Pocket Expenses").

6. **NDFCU's Right to Protect Collateral.** If Borrower fails to make any payment or do any act agreed to and covenanted herein, under this Mortgage or the Loan Agreement, NDFCU, without any obligation to do so, without notice to or demand upon Borrower or any other party, and without releasing Borrower or any other party from any obligation under the Loan Agreement, may make the payment or cause the act to be performed in such manner and to such extent, and incur such expenses in connection therewith, as NDFCU may deem necessary in its absolute discretion to protect the Collateral. NDFCU is authorized to enter upon the Property for such purpose. Without limiting the foregoing, NDFCU may commence, appear in or defend any action or proceeding which may affect the Collateral or the rights or powers of NDFCU, and may pay, purchase, contest or compromise any encumbrance, charge or lien which in its judgment appears to be prior or superior to the lien of this Mortgage.

7. **Indemnity.** Borrower agrees to indemnify and hold harmless NDFCU against any and all losses, liabilities, suits, obligations, fines, damages, judgments, penalties, claims, charges, costs and expenses (including its Out-of-Pocket Expenses) which may be imposed on, incurred or paid by, or asserted against NDFCU by reason of, or in connection with, (i) any Event of Default or event which, but for the passage of time, the giving of notice or both, would constitute an Event of Default hereunder or under the Loan Agreement, (ii) NDFCU's good faith and commercially reasonable exercise of any of its rights and remedies, or the performance of any of its duties, hereunder or under the Loan Agreement, (iii) the construction, reconstruction or alteration of the Property, (iv) any negligence or willful misconduct of Borrower, or any negligence or willful misconduct of any lessee of the Property, or any of their respective agents, contractors, subcontractors, servants,

employees, licensees or invitees, (v) any accident, injury, death or damage to any person or property occurring in, on or about the Property or any street, drive, sidewalk, curb or passageway adjacent thereto, except for the willful misconduct or gross negligence of the indemnified person, or (vi) any claims under the Leases, including without limitation claims by tenants for security deposits or for rental payments more than one (1) month in advance and not delivered to NDFCU, or (vii) any failure of any party or its representatives to file any reports or returns. All amounts indemnified against hereunder, including reasonable attorneys' fees paid by NDFCU will bear interest at the rate applicable under the Loan Agreement after an Event of Default and will be payable by Borrower within ten (10) days after demand and receipt by Borrower of a statement from NDFCU setting forth in reasonable detail the amount and basis of the claim, and such amounts will bear interest (at the Default Rate) from and after the date such amounts are paid by NDFCU until paid in full by Borrower.

7.1 Borrower's obligations under this section will not be affected by the absence or unavailability of insurance or by the failure or refusal by any insurance carrier to perform any obligation on its part under any such policy of insurance. Borrower will resist or defend against any claim, action or proceeding made or brought against NDFCU which is subject to the indemnity set forth in this section, using attorneys for Borrower's insurance carrier or attorneys approved by NDFCU. In the alternative, NDFCU, in its discretion, may engage its own attorneys to resist or defend, or assist therein, and Borrower will pay, or, on demand, will reimburse NDFCU for the payment of, the reasonable attorneys' fees and disbursements, and any Out-of-Pocket Expenses incurred in connection therewith.

7.2 The foregoing indemnity will not apply with respect to any loss, liability, claim, damage, cost or expense covered under any indemnity agreement that is expressly excluded from the Obligations.

8. Leases and Rents.

8.1 **Leases.** Borrower will fully comply with all of the terms, conditions and provisions of the Leases, if any, so that the same will not become in default, and do all that is necessary to preserve all of the Leases in full force and effect. Borrower will, on demand, execute such further assignments to NDFCU of all Leases and Rents as NDFCU may require to confirm or protect NDFCU's security interest therein.

8.2 **Assignment of Rents and Leases; Borrower's Right to Collect.** Borrower hereby absolutely and irrevocably assigns to NDFCU all Borrower's interest in the Rents and Leases. This assignment will be subject to the terms and conditions of any separate assignment of leases and/or rents, whenever executed, in favor of NDFCU and covering the Property. Unless otherwise provided in any separate assignment of leases and/or rents, and so long as no Event of Default has occurred or is continuing, Borrower, either directly or through a rental agent selected by the NDFCU, may collect the Rents as they become due under a license which is hereby granted.

The collection of Rents will not cure or waive any default or modify or affect any notice of default required under the Loan Agreement. The rights and powers of NDFCU under this paragraph are contractual in nature and survive the foreclosure of this Mortgage and will continue and remain in full force and effect until all amounts due NDFCU hereunder, including any deficiency resulting from foreclosure sale, are paid in full, and will continue after the commencement of foreclosure and after foreclosure sale and until expiration of any applicable period of redemption, notwithstanding the sale of the Collateral to a purchaser other than NDFCU. NDFCU will not be liable to Borrower or anyone claiming under or through Borrower by reason of anything done or left undone by NDFCU hereunder, except for damage resulting from willful misconduct of NDFCU.

9. **Events of Default.** Time is of the essence of the Loan Agreement. All sums secured hereby will become immediately due and payable, at the option of NDFCU, without further demand or notice, after any of the following occur, each of which will be an "Event of Default":

9.1 Failure by Borrower to make (i) any payment of principal or interest under the Loan Agreement when due or (ii) any other payment (whether of expenses, fees or otherwise) required to be made under the Loan Agreement, this Mortgage, or any other Loan Document, within ten (10) days after such payment was due, whether by acceleration or otherwise, and such failure continues for ten (10) days after receipt of written notice thereof from NDFCU; or

9.2 If any proceedings be instituted or process issued (i) to enforce any other lien, charge, or encumbrance against the Property, except for any such proceeding which Borrower is contesting in good faith or (ii) against Borrower under any bankruptcy or insolvency laws, or (iii) to place the Property or any part thereof in the custody or control of any court through its receiver or other officer, and such proceedings are not dismissed or stayed on appeal or such process withdrawn within ten days, after written notice to Borrower; or

9.3 In the event the Borrower conveys title to any person or persons other than the Borrower, or if a beneficial interest in Borrower is sold or transferred without NDFCU's prior written consent; or

9.4 Borrower makes any assignment for the benefit of creditors, or is declared a bankrupt, or if by or with the consent of or at the instance of Borrower, proceedings to extend the time of payment of the Loan Agreement or to change the terms of this Mortgage be instituted under any bankruptcy or insolvency law; or

9.5 Except as otherwise provided in Subsection 9.1, Borrower breaches any term or covenant of this Mortgage, the Loan Agreement or any other instrument executed by Borrower to evidence or secure the loan and such default is not cured within 10 days after written notice thereof.

10. Appointment of Receiver. At any time after and during the continuance of an Event of Default, but during any period of redemption, NDFCU will be entitled to the appointment of a receiver for the Collateral. The receiver will have, in addition to all the rights and powers customarily given to and exercised by a receiver of real property appointed pursuant to an agreement in a mortgage after default in payment or performance of the Obligations, all the rights and powers granted to NDFCU by the Loan Documents. The receiver will be entitled to receive a reasonable fee for management of the Property. If Borrower is an occupant of the Property, NDFCU has the right to require Borrower to pay rent at fair market rates and the right to remove Borrower from Property if Borrower fails to pay rent.

11. Remedies. On the occurrence of any one or more Events of Default, NDFCU may (but will not be obligated to), in addition to any rights or remedies available to it hereunder, under the Loan Agreement, or under the Loan Documents, take such of the following actions personally or by its agents, or through NDFCU or a court-appointed receiver, with or without entry, and without notice, demand, presentment or protest, each of which may be pursued concurrently or otherwise, at such time and in such order as NDFCU may determine, in its sole discretion, without impairing or otherwise affecting its other rights or remedies:

11.1 declare the entire balance of the Obligations (including the entire principal balance of the Loan Agreement, all accrued and unpaid interest, and all other such sums secured hereby) to be immediately due and payable and upon any such declaration the entire unpaid balance of the Obligations will become and be immediately due and payable; or

11.2 institute a proceeding or proceedings for judicial foreclosure of this Mortgage under the laws of Indiana, and Borrower will pay all reasonable costs incurred by NDFCU in any suit, or appeal therefrom, brought by NDFCU to foreclose this Mortgage, including without limitation NDFCU's Out-of-Pocket Expenses; or

11.3 institute an action, suit or proceeding in equity for the specific performance of any of the provisions contained in the Loan Documents or for injunctive relief; or

11.4 take any other action or pursue any other right or remedy as NDFCU may have under applicable law, including without limitation, an action to obtain a deficiency judgment after completion of a judicial foreclosure.

The application of the proceeds of a foreclosure sale of Collateral will be governed by I.C. 32-30-10-14 or any successor statute, and if NDFCU elects to utilize the remedies available to it under the UCC with respect to Collateral described in Section 3, the application of the proceeds of such Collateral will be governed by the UCC pursuant to the provisions of I.C. 26-1-9.1-615 or any successor statute.

12. Waiver of Rights of Redemption. Borrower, on behalf of itself and each and every person claiming by, through or under Borrower, hereby waives any and all rights of redemption, statutory or otherwise, without

prejudice to NDFCU's right to any remedy, legal or equitable, which NDFCU may pursue to enforce payment or to effect collection of all or any part of the indebtedness secured by this Mortgage, and without prejudice to NDFCU's right to a deficiency judgment or any other appropriate relief in the event of foreclosure of this Mortgage.

13. No Exclusive Remedy. No remedy or right of NDFCU is exclusive, but will be in addition to every other remedy or right now, or hereafter, existing at law or in equity. No delay in exercising, or omission to exercise, any remedy or right, accruing on any Event of Default will impair any such remedy or right, or will be construed to be a waiver of any such default, or acquiescence therein, nor will it affect any subsequent default of the same or a different nature. Every such remedy or right may be exercised concurrently or independently, and when and as often as may be deemed expedient by NDFCU.

14. Additional NDFCU's Rights. Without affecting the liability of Borrower or any other person (except any person expressly released in writing) for payment or performance of any Obligations, and without affecting the rights of NDFCU with respect to any the Loan Agreement expressly released in writing, NDFCU may, at any time and from time to time, either before or after the maturity of the Loan Agreement, and without notice or consent:

14.1 Release any person liable for payment or performance of all or any of the Obligations,

14.2 Make any agreement extending the time or otherwise altering the terms of payment of all or any of the Obligations, or modifying or waiving any Obligations, or subordinating, modifying or otherwise dealing with the lien or charge hereof,

14.3 Exercise or refrain from exercising or waiving any right NDFCU may have,

14.4 Accept additional security of any kind, and/or

14.5 Release or otherwise deal with any property, real or personal, securing the Obligations including all or any part of the Property mortgaged hereby.

Upon full payment of all sums secured hereby at the time and in the manner provided, this conveyance will be null and void and a reconveyance or release of the Property will be made by NDFCU to Borrower.

15. Successors and Assigns. All provisions hereof inure to and bind the respective heirs, executors, administrators, successors, vendees and assigns of the parties hereto, and the word Borrower includes all persons claiming under or through Borrower and all persons liable for the payment of the Obligations or any part thereof, whether or not such persons executed the Loan Agreement or this Mortgage.

16. Gender; Number; Definition of "NDFCU" This Mortgage will be so construed that, wherever applicable, the use of the singular will include the plural number; the use of the plural number will include the singular number and the use of any gender will be applicable to all genders and will likewise be so construed as applicable to and including a corporation, partnership or other business entity. The term "NDFCU" means the holder and owner, including pledgees, of any indebtedness or any note evidencing any indebtedness secured hereby, whether or not named as NDFCU herein.

17. Invalidity. The invalidity or unenforceability of any term or provision hereof will not affect the validity or enforceability of any other term or provision hereof.

18. Usury. If performance of any obligation or payment of any amount under the Loan Agreement, when such performance or payment is due, constitutes a violation of any applicable usury laws, then the obligation to be performed or the payment to be made will be reduced so that in no event will any exaction be possible under the Loan Agreement that would constitute a violation of such usury laws; but the obligations will be performed and the payments will be made to the full extent possible without constituting a violation of such usury laws.

19. Notices. Any demand or notice made or to be given hereunder by NDFCU to Borrower will be effective on the earlier of (a) three (3) days after being mailed by registered or certified mail, return receipt requested, or

dispatched by public or private courier service, to the address of Borrower as set forth above or to the address at which NDFCU customarily or last communicated with Borrower or (b) when delivered personally to Borrower or Borrower's agent for receipt of such notices.

20. Appointment of Attorney-in-Fact. If Borrower is obligated to execute any document or instrument hereunder and fails or refuses to do so within ten (10) days after written demand by NDFCU, Borrower hereby appoints NDFCU its attorney-in-fact, which appointment is irrevocable and will be deemed to be coupled with an interest, with respect to the execution, acknowledgment, delivery and filing or recording for and in the name of Borrower of any of such documents or instruments.

21. Report of Real Estate Transaction. Borrower will make, on a timely basis, any reports or returns required under Section 6045(e) of the Internal Revenue Code of 1986 (and any similar reports or returns required by state or local law) relating to the Property, notwithstanding the fact that the primary reporting responsibility may fall on NDFCU, counsel for NDFCU, or any other party. Borrower's obligations under this section will be deemed to be satisfied if proper and timely reports and returns required under this section are filed by a title company or real estate broker involved in the real estate transaction relating to the Property, but nothing contained herein will be construed to require such returns or reports to be filed by NDFCU or counsel for NDFCU.

22. Controlling Document. In the event of any conflict or inconsistency between the terms and provisions contained in this Mortgage and those contained in any of the Loan Documents (except any separate assignment of leases and/or rents and any loan agreement, which will prevail over this Mortgage), the terms and provisions of this Mortgage will control.

23. Choice of Law; Venue; JURY TRIAL WAIVER. This Mortgage is governed by the internal laws of the State of Indiana, without application of conflicts of law principles. Mandatory, exclusive venue for any claim arising under or related to this Mortgage is to be laid in state or federal courts located in St. Joseph County, and nowhere else. MORTGAGOR WAIVES ITS RIGHT TO A JURY TRIAL OF ANY CLAIM OR CAUSE OF ACTION ARISING OUT OF THIS MORTGAGE OR ANY CONTEMPLATED TRANSACTION, INCLUDING CONTRACT, TORT, BREACH OF DUTY AND ALL OTHER CLAIMS. THIS WAIVER IS A MATERIAL INDUCEMENT FOR BOTH PARTIES TO ENTER INTO THIS AGREEMENT. EACH PARTY HAS REVIEWED THIS WAIVER WITH ITS COUNSEL.

24. Attorneys' Fees, Costs and Expenses. In any action or proceeding between Borrower and NDFCU arising out of the Loan Documents, the substantially prevailing party will be entitled to recover its reasonable attorneys' fees and other reasonable costs and expenses incurred, in addition to any other relief to which it may be entitled.

25. Commercial Loan. Borrower represents and warrants that the loans evidenced by the Loan Agreement are commercial loans transacted solely for the purpose of carrying on or acquiring Borrower's business and that no portion of the proceeds of the loan will be used for personal, family or household purposes.

26. No Offset. Borrower's obligation to make payments and perform all obligations, covenants and warranties under this Mortgage and under the Loan Agreement is absolute and unconditional and will not be affected by any circumstance, including without limitation any setoff, counterclaim, abatement, suspension, recoupment, deduction, defense or other right that Borrower or any guarantor may have or claim against NDFCU or any entity participating in making the loan secured hereby. The foregoing provisions of this section do not constitute a waiver of any claim which Borrower or any guarantor may have in damages or otherwise against NDFCU or any other person, or preclude Borrower from maintaining a separate action thereon. Borrower waives any right it may have at law or in equity to consolidate such separate action with any action or proceeding brought by NDFCU, or to assert such claim as a counterclaim in any action or proceeding brought by NDFCU, except for claims which, under applicable law, Borrower must make in such action or proceeding in order to preserve its right to make the claim.

27. Indiana Provisions. In the event of any inconsistencies between this Section 27 and the other provisions contained in this Mortgage, the terms and conditions of this Section 27 will control and be binding.

27.1 Additional Security Agreement Provisions. If an Event of Default occurs under this Mortgage, NDFCU, pursuant to the appropriate provisions of the UCC, will have an option to proceed with respect to both the Property and Collateral described in Section 3 in accordance with its rights, powers and remedies with respect to the Property, in which event the default provisions of the UCC will not apply. The parties agree that if NDFCU will elect to proceed with respect to the Collateral described in Section 3 separately from the Property, ten (10) days' notice of the sale will be reasonable notice. The reasonable expenses of retaking, holding, preparing for sale, selling and the like incurred by NDFCU will include, but not be limited to, reasonable attorney's fees and legal expenses incurred by NDFCU. Borrower agrees that, without the prior written consent of NDFCU, Borrower will not remove or permit to be removed any of the Collateral. Any and all replacements, substitutions and additions to the Collateral will be and become immediately subject to the security interest of this Mortgage and covered hereby. Borrower authorizes NDFCU to file financing statements covering the security interest of NDFCU in the Collateral.

27.2 No Limitation on Remedies. Each of the remedies set forth herein, including, without limitation, the right of NDFCU to exercise self-help in connection with the enforcement of the terms of this Mortgage, will be exercisable if, and to the extent, permitted by the laws of the State of Indiana in force at the time of the exercise of such remedies without regard to the enforceability of such remedies at the time of the execution and delivery of this Mortgage.

27.3 Valuation and Appraisal. All payments due under the Loan Agreement will be made without relief from valuation and appraisal laws.

27.4 No Waiver. Nothing herein is intended to constitute a waiver of Borrower's and NDFCU's rights under I.C. 32-29-7-5, it being agreed that the parties may mutually consent to such waiver as discussed therein in a separate written instrument.

27.5 Future Advances. Notwithstanding anything contained in this Mortgage or the other Loan Documents to the contrary, this Mortgage shall secure: (i) the Obligations, including any future obligations and advances made from time to time after the date hereof pursuant to the Loan Agreement and other Loan Documents up to the maximum amount of \$190,000.00 (whether made as part of the obligations secured hereby, made at the option of Lender, made after a reduction to a zero (0) or other balance, or made otherwise); (ii) all other amounts payable by Borrower, or advanced by Lender for the account, or on behalf, of Borrower or the Collateral, pursuant to the Loan Documents, including amounts advanced with respect to the Collateral for the payment of taxes, assessments, insurance premiums and other costs and impositions incurred for the protection of the Collateral 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 Obligations secured by this Mortgage. Pursuant to I.C. 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 Mortgage is executed.

[Signature Page Follows]

IN WITNESS WHEREOF, Borrower has executed this Mortgage and the NDFCU has accepted delivery of this instrument as of the day and year first above written.

BORROWER:

Nicholas Herbst

Nicholas Herbst

Daniel Herbst

Daniel Herbst

Betty Serpe

Betty Serpe

Document is NOT OFFICIAL!

This Document is the property of the Lake County Recorder!

STATE OF INDIANA

COUNTY OF *St Joseph*

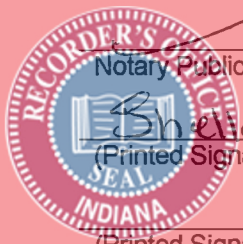
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Before me, a Notary Public in and for said County and State, personally appeared Nicholas Herbst, Daniel Herbst, and Betty Serpe, who acknowledged execution of the foregoing Real Estate Mortgage.

Witness my hand and Notarial Seal this 29th day of September, 2017.

My Commission Expires:

11/4/23



Notary Public Residing in St. Joseph County, Indiana

(Printed Signature)

(Printed Signature)



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

This instrument prepared by Matthew C. Deputy, LaDue Curran & Kuehn LLC, Suite 300, 100 E. Wayne St., South Bend, IN 46601

EXHIBIT A

Property Address: 1319 Stanton Avenue, Whiting, IN 46394

File No.: 17-35289

The North 40 feet of Lot 18 in Block 5, in Forsyth's Sheffield Subdivision of Block 6, part of Block 5 and part of Block 4, in the City of Hammond, as per plat thereof, recorded in Plat Book 15, page 30, in the Office of the Recorder of Lake County, Indiana.

The Property address and/or tax parcel identification number(s) listed are provided solely for informational purposes, without warranty as to accuracy or completeness and are not hereby insured.

