

STATE OF INDIANA  
LAKE COUNTY  
FILED FOR RECORD

2019 APR -8 PM 4:30

MICHAEL B. BROWN  
RECORDER

2019 020639

This document was prepared by and  
after recording deliver to:

Evan Boris  
2104 West Superior Street  
Chicago, Illinois 60612

CTW1902234

**THIS INSTRUMENT: (A) SECURES THE MAXIMUM PRINCIPAL AMOUNT OF TWICE THE FACE AMOUNT OF THE NOTE (AS DESCRIBED BELOW); (B) CONSTITUTES A CONTINUOUSLY PERFECTED UCC FIXTURE FINANCING STATEMENT FILED TO PERFECT A SECURITY INTEREST IN FIXTURES HEREIN GRANTED PURSUANT TO IND. CODE §26-1-9.1-502 AND §26-1-9.1-515 AND THE TERMS AND PROVISIONS HEREOF, AND IS TO BE FILED AND INDEXED IN THE REAL ESTATE RECORDS, AND ALSO TO BE INDEXED IN THE INDEX OF FIXTURE FINANCING STATEMENTS UNDER THE NAME OF THE MORTGAGOR, AS "DEBTOR", AND MORTGAGEE, AS "SECURED PARTY", AND THE ADDITIONAL INFORMATION SET FORTH HEREIN, IN THE OFFICE OF THE RECORDER OF LAKE COUNTY, INDIANA; AND (C) SECURES THE OBLIGATIONS UNDER THE "COSTS AND EXPENSES" PROVISION SET FORTH BELOW.**

**AMENDED AND RESTATED REAL ESTATE MORTGAGE**

Dated: as of April 1, 2019.

REFERENCE IS MADE to that certain Real Estate Mortgage, dated November 30, 2016 (the "**Original Mortgage**"), made by Robert Garbutt, as mortgagor in favor of Evan Boris, as mortgagee, recorded with the State of Indiana Lake County Recorder on December 7, 2016, as Document Number 2016-082992, as security for the performance of the obligations stated therein. Effective as of the date hereof, Mortgagor and Mortgagee hereby amend and restate the Original Mortgage in its entirety in accordance with the terms of this Amended and Restated Amended and Restated Residential Mortgage (this "**Mortgage**") which shall replace the Original Mortgage.

THIS INDENTURE WITNESSETH, that Robert Garbutt, 8601 Lakewood Avenue, Gary, Indiana 46403 ("**Mortgagor**"), MORTGAGES AND WARRANTS to Evan Boris, whose street address is 2104 West Superior Street, Chicago, Illinois 60612 ("**Mortgagee**"), the real estate described on Exhibit A attached hereto together with all rights, privileges, interests, easements, hereditaments, appurtenances, fixtures and improvements now or hereafter belonging, appertaining, or attached to, or used in conjunction with, the Mortgaged Premises, and all the rents, issues, income, proceeds and profits thereof (hereinafter referred to, collectively, as the "**Mortgaged Premises**").

This Mortgage is given to secure the performance of the provisions hereof and the payment of that certain Amended and Restated Promissory Note, dated as of the date hereof (as may be amended or restated, the "**Note**"), in the original principal amount of NINETY-FIVE THOUSAND AND 00/100 DOLLARS (\$95,000.00) (or so much that has been advanced) with interest, charges and fees as therein provided and with a final maturity date of March 31, 2024. Said principal and interest are payable as set forth in the Note. Capitalized terms used herein but not otherwise defined shall have the meanings assigned to such terms in the Note.

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Mortgagor covenants and agrees with Mortgagee that:

1. **Payment of Indebtedness.** Mortgagor shall pay when due all indebtedness secured by this Real Estate Mortgage, on the dates and in the amounts as provided in the Note or in this Mortgage, without relief from valuation and appraisal laws, and with attorneys' fees and expenses.

2. **No Liens.** Except as contemplated herein, Mortgagor shall not (a) mortgage or otherwise encumber the Mortgaged Premises in any manner whatsoever, or (b) permit any lien of mechanics or materialmen by, through or under Mortgagor or any party claiming under Mortgagor, to attach to and remain on the Mortgaged Premises or any part thereof for more than thirty (30) days after receiving notice thereof.

3. **Taxes and Assessments.** Mortgagor shall pay all general taxes, special taxes, assessments, water charges, sewer service charges and other charges levied or assessed against the Mortgaged Premises, or any part thereof, as and when due, and before penalties accrue, and upon Mortgagee's written request, Mortgagor shall furnish to Mortgagee duplicate receipts therefor. To prevent default hereunder, Mortgagor shall pay in full under protest, in the manner provided by statute, any tax, assessment or charge which Mortgagee may desire to protest.

4. **Repair of Mortgaged Premises; Insurance.** Mortgagor shall keep the Mortgaged Premises in good repair and shall not commit waste thereon. Mortgagor shall procure and maintain in effect at all time adequate insurance with insurance companies acceptable to Mortgagee against liability and loss, damage to or destruction of the Mortgaged Premises because of fire, windstorm, or other such hazards in such amounts and types as Mortgagee may reasonably require from time to time. Upon the written request of Mortgagee, Mortgagor shall deliver to Mortgagee proof of such insurance and copies of all such policies.

5. **Condemnation.** Mortgagor shall give notice to Mortgagee immediately upon Mortgagor's learning of the commencement of any action or proceeding to take all or any part of the Mortgaged Premises by exercise of the right of condemnation or eminent domain. Mortgagor shall not settle any such action or proceeding or agree to accept any award or payment without the prior written consent of Mortgagee, which consent shall not be unreasonably withheld, conditioned or delayed.

6. **Accrued Interest; Advances; Advancements to Protect Security.** This Mortgage also secures all interest accrued on (and all principal evidenced by) the Note in accordance with the terms of the Note. Mortgagee has no obligation to make future advances under the terms of the Note. In addition, Mortgagee may, at its option, advance and pay all sums necessary to protect and preserve the security intended to be given by this Mortgage or as otherwise deemed advisable by Mortgagee. All sums so advanced and paid by Mortgagee shall, at Mortgagee's sole election, (i) be payable upon demand or (ii) become a part of the indebtedness secured hereby (and added to the principal balance of the Note) and shall bear interest from the date or dates of payment at the interest rate set forth in the Note. Such sums may include, but are not limited to, insurance premiums, taxes, assessments, liens which may be or become prior and senior to this Mortgage as a lien on the Mortgaged Premises or proceedings which relate to this Mortgage or to the Mortgaged Premises. Mortgagee shall endeavor to deliver to Mortgagor written notice prior to making any such advances.

7. **Default by Mortgagor, Remedies of Mortgagee.** Upon default by Mortgagor in any payment provided for herein or in the Note, or in the performance of any covenant or agreement of Mortgagor hereunder or under the Note (including, without being limited to, the occurrence of an Event of Default (as defined in the Note)), or if Mortgagor shall abandon (or no longer reside full time at) the

Mortgaged Premises or if a trustee or receiver shall be appointed for Mortgagor or for any part of the Mortgaged Premises, except if said trustee is appointed in any bankruptcy action, then and in any such event, the entire indebtedness secured hereby shall become immediately due and payable at the option of Mortgagee, without notice, and this Mortgage may be foreclosed accordingly. Upon such foreclosure, Mortgagee may continue the abstract of the title to the Mortgaged Premises, or obtain other appropriate title evidence, and may add the cost thereof to the principal balance due, together with interest at the annual interest described in the Note (in the Section entitled Interest After Default). In addition, Mortgagee shall be permitted to exercise any and all other rights and remedies available hereunder, at law or in equity upon any default by Mortgagor.

8. **Non-Waiver, Remedies Cumulative.** Time is of the essence in the performance of obligations hereunder. No delay by Mortgagee in the exercise of any rights hereunder shall preclude the exercise thereof so long as Mortgagor is in default hereunder, and no failure of Mortgagee to exercise any rights hereunder shall preclude the exercise hereof in the event of subsequent default by Mortgagor hereunder. Mortgagee may enforce any one or more of the rights or remedies hereunder successively or concurrently.

9. **Extensions, Reductions, Renewals, Continued Liability of Mortgagor and Guarantor.** Mortgagee, at its option, may extend the time of payment of the indebtedness, or reduce the payments thereon, or accept a renewal note or notes therefor, without consent of any junior lien holder, and without consent of Mortgagor if Mortgagor has then parted with title to the Mortgaged Premises. No such extension, reduction or renewal shall affect the priority of this Mortgage or impair the security hereof in any manner whatsoever, or release, discharge or affect in any manner the personal liability of Mortgagor and any guarantor to Mortgagee. This Mortgage shall secure any notes or other evidence of indebtedness given in substitution for the Note.

10. **Due on Sale.** If all or any part of the Mortgaged Premises, or any interest therein, is sold, transferred, assigned or otherwise disposed of, or further encumbered by mortgage or otherwise (except in the ordinary course of business), without Mortgagee's prior written consent, then Mortgagee, at its option, may declare all sums secured by this Mortgage immediately due and payable. If Mortgagee exercises the option to accelerate payment of the indebtedness, all such indebtedness shall become due and payable within five (5) days after the mailing of a notice from Mortgagee to Mortgagor setting for the total sums due.

11. **Inspection.** Mortgagee shall have the right to inspect the Mortgage Premises at all reasonable times and access thereto shall be permitted for that purpose.

12. **Fixture Filing.** From the date of its recording, this Real Estate Mortgage shall be effective as a financing statement with respect to all goods constituting part of the Mortgaged Premises which are or are to become fixtures related to the real estate described herein.

13. **Costs, Taxes and Expenses.** Mortgagor agrees to pay, upon written demand by Mortgagee, all taxes, costs and expenses, including, but not limited to, recording fees, mortgage taxes, intangible taxes, lien search costs and reasonable out of pocket legal fees and expenses, incurred by Mortgagee in connection with the preparation, administration or enforcement of this Mortgage.

14. **General Agreement of Parties.** All rights and obligations hereunder shall extend to and be binding upon the several heirs, representatives, successors and assigns of the parties of this Mortgage. When applicable, use of the singular form of any word also shall mean or apply to the plural and the masculine form shall mean and apply to the feminine and neuter. The titles of the several paragraphs of this Mortgage are for convenience only and do not define, limit or construe the contents of such

paragraphs. All changes to this Mortgage must be in writing signed by Mortgagee and, if this Mortgage is to be recorded, shall not be effective until recorded.

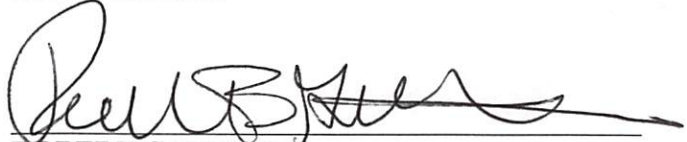
15. **Governing Law.** This Mortgage shall be governed by the laws of the state in which the Mortgaged Premises are located.

16. **Provisions Severable.** In the event any one or more of the provisions of this Mortgage for any reason shall be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision of this Mortgage, but this Mortgage shall be construed as if such invalid, illegal or unenforceable provisions has never been contained in this Mortgage.



IN WITNESS WHEREOF, Mortgagor has executed this Amended and Restated Real Estate Mortgage as of the date first written above.

MORTGAGOR:

  
ROBERT GARBUTT

**Redacting Statement.** Mortgagee affirms, under penalties for perjury, that it has taken reasonable care to redact each Social Security Number in this document, unless required by law.

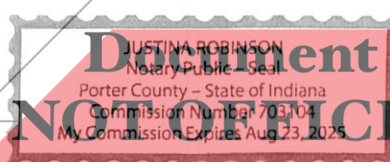


STATE OF INDIANA )  
 ) SS  
COUNTY OF LAKE PORTER )

I, JUSTINA ROBINSON, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Robert Garbutt, personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person, and acknowledged that ~~she~~ <sup>he</sup> signed and delivered the said instrument as ~~her~~ <sup>his</sup> own free and voluntary act, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 23rd day of March, 2019.

My Commission Expires:  
August 23, 2025



Justina Robinson  
Notary Public

JUSTINA ROBINSON  
Printed Name

This Document is the property of  
the Lake County Recorder!  
Resident of Porter County



STATE OF ILLINOIS )  
 ) SS  
COUNTY OF COOK )

I, Carmel M. Gutzwiller, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Evan Boris, personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person, and acknowledged that ~~she~~ <sup>he</sup> signed and delivered the said instrument as ~~her~~ <sup>his</sup> own free and voluntary act, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 20th day of March, 2019.

My Commission Expires:  
9/22/22



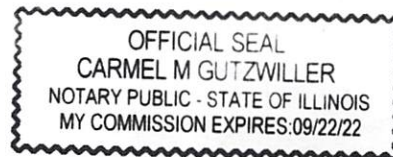
Carmel M. Gutzwiller  
Notary Public

Carmel M. Gutzwiller  
Printed Name

Resident of Cook County

After recording return to:

Evan Boris  
2104 West Superior Street  
Chicago, Illinois 60612



**EXHIBIT A**

**Legal Description**

Property Address: 8601 Lakewood Avenue, Gary, IN 46403  
File No.: 16-22816

Lot 18 in First Addition to Pottawatomi Park, in the City of Gary, as per plat thereof, recorded in Plat Book 34, page 73, in the Office of the Recorder of Lake County, Indiana.

Tax ID Number(s):  
State ID Only 45-05-33-327-009.000-004

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.

