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**THIS DOCUMENT PREPARED
BY AND WHEN RECORDED
MAIL TO:**

Lawrence J. Feller, Esq.
Horwood Marcus & Berk Chtd.
180 North LaSalle Street
Suite 3700
Chicago, Illinois 60601



Doc#: 0336510083
Eugene "Gene" Moore Fee: \$80.00
Cook County Recorder of Deeds
Date: 12/31/2003 02:29 PM Pg: 1 of 29

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

THIS MORTGAGE is made as of the 1st day of December, 2003 by **9521 ASSOCIATES, LLC**, an Illinois limited liability company ("Mortgagor") with a mailing address of 9521 W. Ainslie Avenue, Schiller Park, Illinois 60176, and **BANK ONE, NA** (as successor by merger to **AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO**, a national banking association), having its 133 West Grand Avenue, Bensenville, Illinois 60106, Attn: Andrew Salski ("Bank").

A. Mortgagor is a party to that certain Fifth Amendment to Loan Documents dated as of the date hereof by and among Bank, Mortgagor, and various affiliates of Mortgagor (collectively, the "Borrowers") which amends that certain Loan Agreement dated December 28, 2001, as amended by that certain First Amendment to Loan Documents dated December 31, 2002, as amended by that certain Second Amendment to Loan Documents dated January 1, 2003, as amended by that certain Third Amendment to Loan Documents dated May 13, 2003, as amended by that Fourth Amendment to Loan Documents dated as of October 21, 2003 (as amended, the "Loan Agreement") (all capitalized terms used herein but not otherwise defined shall have the meaning assigned to them in the Loan Agreement);

B. Pursuant to the Loan Agreement, Bank has made to Non-Real Estate Borrowers a revolving line of credit in the maximum principal amount of \$2,000,000.00 (the "Revolving Credit") and a term loan in the original principal amount of \$2,742,860.00 (the "Term Loan"). In addition, Bank has made to 9611 Assoc. a mortgage loan in the original principal amount of \$800,000.00 (the "Mortgage Loan");

C. The Revolving Credit is evidenced by that certain Fourth Amended and Restated Revolving Note dated the date hereof by Non-Real Estate Borrowers in favor of Bank in the maximum principal amount of \$2,000,000.00 (the "Revolving Note"), the Term Loan is evidenced by that certain First Amended and Restated Term Note dated January 1, 2003 by Non-Real Estate Borrowers in favor of Bank in the original principal amount of \$2,742,860.00 (the "Term Note"), the Mortgage Loan is evidenced by that certain Second Amended and Restated Mortgage Note dated the date hereof by 9611 Assoc. in favor of Bank in the original principal

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amount of \$800,000.00 (the "Mortgage Note", collectively with the Revolving Note, and the Term Note, the "Notes"). The Notes are secured by, among other things, that certain Security Agreement dated as of even date herewith by Mortgagor in favor of Bank, those certain Security Agreements, each dated December 28, 2001, by each of the Borrowers (excluding JJD and Mortgagor) in favor of Bank, that certain Security Agreement dated January 1, 2003, by JJD in favor of Bank, that certain First Amended and Restated Guaranty dated the date hereof by John J. Dombek III ("Guarantor"), the Bonds, the Letter of Credit, the Reimbursement Agreement, and all other documents securing borrowings under, or otherwise in connection with, the Loan Agreement (collectively, the "Loan Documents");

D. The Illinois Development Finance Authority (together with its successors and assigns, the "Issuer") has issued its Variable Rate Demand Industrial Development Revenue Bonds, Series 2003A (Wisconsin Tool Project), in the aggregate principal amount of \$4,150,000.00 ("Series A Bonds") and Variable Rate Demand Taxable Industrial Development Revenue Bonds, Series 2003B (Wisconsin Tool Project), in the aggregate principal amount of \$150,000.00 (Series B Bonds," together with the Series A Bonds, the "Bonds") pursuant to the Indenture (as defined in the Reimbursement Agreement) to provide funds for a loan by Issuer to Mortgagor to enable the Mortgagor to acquire, rehabilitate and equip an existing manufacturing facility located at 9521 West Ainslie Street, 9445-55 West Ainslie Street, and 9550 Kelvin Avenue, Schiller Park, Illinois ("Real Estate");

E. In order to assure timely payment of the principal of and interest on the Bonds in accordance with their terms, and to assure that moneys would be available to purchase Bonds tendered or deemed to be tendered by the holders thereof in accordance with the provisions of the Indenture, the Mortgagor has requested that the Bank issue an irrevocable, transferable, direct pay letter of credit (together with any amendments or supplements thereto and all substitutions or replacements thereof, the "Letter of Credit") in favor of Trustee; and

F. In connection with the issuance of the Letter of Credit, the Bank has required that the Mortgagor enter into that certain Reimbursement Agreement with Bank, dated as of the date hereof ("Reimbursement Agreement"), which Reimbursement Agreement outlines the obligations and liabilities of Mortgagor to Bank.

TO SECURE to Bank the repayment of the indebtedness evidenced by the Notes, with interest thereon; the Bonds, the Letter of Credit, the Reimbursement Agreement, the payment of all charges provided herein and all other sums, with interest thereon, advanced in accordance herewith to protect the security of this Mortgage; and the performance of the covenants and agreements contained herein, in the Loan Agreement, and in the Loan Documents, and all future advances and all other indebtedness of Mortgagor and Borrowers to Bank whether now or hereafter existing (collectively, the "Secured Indebtedness") and also in consideration of Ten Dollars (\$10.00), the receipt and sufficiency of which is hereby acknowledged, Mortgagor does hereby convey, grant, mortgage and warrant to Bank and its successors and assigns, forever, in all and singular with MORTGAGE COVENANTS, the Real Estate located in the County of Cook, State of Illinois and described on Exhibit A attached hereto, subject only to covenants, conditions, easements and restrictions set forth on Exhibit B, if any ("Permitted Encumbrances");

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TOGETHER WITH all buildings, structures, improvements, tenements, fixtures, easements, mineral, oil and gas rights, water rights, appurtenances thereunto belonging, title or reversion in any parcels, strips, streets and alleys adjoining the Real Estate, any land or vaults lying within any street, thoroughfare, or alley adjoining the Real Estate, and any privileges, licenses, and franchises pertaining thereunto, all of the foregoing now or hereafter acquired, all leasehold estates and all rents, issues, and profits thereof, for so long and during all such times as Mortgagor, its successors and assigns may be entitled thereto, all the estate, interest, right, title or other claim or demand which Mortgagor now has or may hereafter have or acquire with respect to (i): proceeds of insurance in effect with respect to the Property (as hereinafter defined) and (ii) any and all awards, claims for damages, settlements and other compensation made for or consequent upon the taking by condemnation, eminent domain or any like proceeding, or by any proceeding or purchase in lieu thereof, of the whole or any part of the Property, including, without limitation, any awards and compensation resulting from a change of grade of streets and awards and compensation for severance damages (which are pledged primarily and on a parity with the Real Estate and not secondarily), and all apparatus, equipment or articles now or hereafter located thereon used to supply heat, gas, air conditioning, water, light, power, refrigeration (whether single units or centrally controlled), and ventilation, and any other apparatus, equipment or articles used or useful in the operation of the property including all additions, substitutions and replacements thereof. All of the foregoing are declared to be a part of the Real Estate whether physically attached or not, and it is agreed that all similar apparatus, equipment, articles and fixtures hereafter placed on the Real Estate by Mortgagor or its successors or assigns shall be considered as constituting part of the Real Estate. (All of the foregoing, together with the Real Estate are hereinafter referred to as the "Property".)

To have and to hold the Property unto the Bank, its successors and assigns forever, for the purposes and uses set forth herein, free from all rights and benefits under any Homestead Exemption laws of the state in which the Property is located, which rights and benefits Mortgagor does hereby expressly release and waive.

Mortgagor and Bank covenant and agree as follows:

1. **Payment of Principal and Interest.** Mortgagor shall promptly pay or cause to be paid when due all Secured Indebtedness.

2. **Payment of Taxes.** Mortgagor shall pay all general and special real estate and property taxes and assessments on the Property when due. Mortgagor shall, upon written request, furnish to Bank duplicate receipts therefor within thirty (30) days following the date of payment. Mortgagor shall pay in full "under protest" any tax or assessment which Mortgagor may desire to contest, in the manner provided by law.

2.1 **Tax Deposits.** Upon the occurrence of an Event of Default (as defined herein), Mortgagor shall deposit with the Bank commencing on the first day of each month following such request or Event of Default and continuing on the first day of each month thereafter, a sum equal to all real estate taxes and assessments (general and special) next due upon or for the Property (the amount of such taxes next due to be based upon the Bank's reasonable estimate as to the amount of taxes and assessments to be levied and assessed) reduced by the amount, if any, then on deposit with the Bank divided by the number of months to elapse before one (1) month prior to

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the date when such taxes and assessments will become due and payable. Such deposits are to be held without any allowance for interest to Mortgagor and are to be used for the payment of taxes and assessments (general and special) on the Premises next due and payable when they become due. If the funds so deposited are insufficient to pay any such taxes or assessments (general or special) when the same become due and payable, the Mortgagor shall, within ten (10) days after demand therefore from the Bank, deposit such additional funds as may be necessary to pay such taxes and assessments (general and special) in full. If the funds so deposited exceed the amount required to pay such taxes and assessments (general and special) for any year the excess shall be applied to a subsequent deposit or deposits. Said deposits need not be kept separate and apart from any other funds of the Bank.

3. **Application of Payments.** All payments received by Bank under this Mortgage, the Note and all other documents given to Bank to further evidence, secure or guarantee the Secured Indebtedness shall be applied by Bank first to payments required from Mortgagor to Bank under Paragraph 2, then to any sums advanced by Bank pursuant to Paragraph 8 to protect the security of this Mortgage, then to interest payable on the Note which may be due, and then to principal payable on the Note (and if principal is due in installments, application shall be to such installments in the inverse order of their maturity). Any applications to principal of proceeds from insurance policies, as provided in Paragraph 6, or of condemnation awards, as provided in Paragraph 10, shall not extend or postpone the due date of any monthly installments of principal or interest, or change the amount of such installments or of the other charges or payments provided in the Note or other Loan Documents.

4. **Permitted Encumbrances.** Except for the Permitted Encumbrances, Mortgagor shall not, without the prior written consent of Bank, incur any additional indebtedness or create or permit to be created or to remain, any mortgage, pledge, lien, lease, hypothecation, encumbrance or charge on, or conditional sale or other title retention agreement, with respect to the Property or any part thereof or income therefrom, other than the other Loan Documents and the Permitted Encumbrances.

5. **Mechanics' Liens; Other Liens.** Mortgagor will not suffer or permit any mechanics' lien claims to be filed or otherwise asserted against the Property, and will promptly discharge the same if any claims for lien or any proceedings for the enforcement thereof are filed or commenced or will provide the Bank either (i) a bond or (ii) title insurance, acceptable to the Bank, which protects the Bank from any loss or damage it may sustain due to said mechanics lien(s). Except for the Permitted Encumbrances, Mortgagor shall not cause, create, suffer or otherwise permit to exist, any lien security interest, or other encumbrance against the Property or the other Collateral (as hereinafter defined).

6. Insurance.

6.1 Definitions. For purposes of this Paragraph 6:

"Premises" means all land, improvements and fixtures.

"Real Estate" means only the land.

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6.2 **Requirements.** Mortgagor, at its sole cost and expense, shall insure and keep insured the Premises against such perils and hazards, and in such amounts and with such limits, as Bank may from time to time require, and, in any event, including but not limited to:

(a) Insurance of the Premises against loss or damage by fire or other casualty on an "all-risk" form, including demolition and increased cost of construction, debris removal and pollution clean-up in the full replacement cost of the Premises (including increased cost of law and ordinance coverage), without deduction for foundations and footings (and without co-insurance).

(b) Insurance against loss or damage by flood or mud slide in compliance with the Flood Disaster Protection Act of 1973, as amended from time to time, if the Premises are situated in an area designated as a special flood hazard area, in amounts equal to the full replacement value of the Premises.

(c) Insurance on the Premises against loss or damage from an accident to and/or caused by boilers and machinery, including but not limited to: heating apparatus, pressure vessels, pressure pipes, electrical or air conditioning equipment on a blanket comprehensive coverage form, in such amount as Mortgagor shall deem advisable and as approved by Bank. Additional provisions providing coverage for removal of contaminated equipment and/or hazardous or toxic substances contained within such equipment to approved disposal sites shall be considered and obtained if required by Bank.

(d) Commercial general liability insurance covering Mortgagor ownership of and operations at the Premises including personal injury; employee benefits liability; products and completed operations liability; blanket contractual liability; advertising liability; automobile liability including owned, non-owned or hired vehicles; garage liability and garage keeper's legal liability; and having a limit of not less than One Million and 00/100 Dollars (\$1,000,000.00) on a per occurrence basis.

(e) At all time when renovations are occurring at the Premises, Contractor's Liability Insurance to a limit of not less than One Million and 00/100 Dollars (\$1,000,000.00) on a per occurrence basis covering the Contractor's construction operations at the Premises with the Mortgagor and the Bank as additional insureds.

(f) Such other insurance as may be reasonably requested by Bank.

6.3 **Policy Requirements.** All insurance shall: (i) be carried in companies with a Best's rating of A/X or better, or otherwise acceptable to Bank; (ii) in form and content acceptable to Bank; (iii) provide thirty (30) days' advance written notice to Bank before any cancellation, adverse material modification or notice of non-renewal; (iv) to the extent limits are not otherwise specified herein, contain deductibles which are in amounts acceptable to Bank; and (v) provide that no claims shall be paid thereunder without ten (10) days advance written notice to Bank. All physical damage policies and renewals shall contain a standard mortgage clause naming the Bank as

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mortgagee, which clause shall expressly state that any breach of any condition or warranty by Mortgagor shall not prejudice the rights of Bank under such insurance; and a loss payable clause in favor of the Bank for personal property, contents, inventory, equipment, loss of rents and business interruption. All liability policies and renewals shall name the Bank as an additional insured. No additional parties shall appear in the mortgage or loss payable clause without Bank's prior written consent. All deductibles shall be in amounts acceptable to Bank. In the event of the foreclosure of this Mortgage or any other transfer of title to the Premises in full or partial satisfaction of the Secured Indebtedness, all right, title and interest of Mortgagor in and to all insurance policies and renewals thereof then in force shall pass to the purchaser or grantee.

6.4 Delivery of Policies. Any notice pertaining to insurance and required pursuant to this Paragraph 6 shall be given in the manner provided in Paragraph 15 below at Bank's address stated below. The insurance shall be evidenced by the original policy or a true and certified copy of the original policy, or in the case of liability insurance, by evidence of insurance on an Acor 27 form. Mortgagor shall deliver originals of all policies and renewals, marked "paid", (or evidence satisfactory to Bank of the continuing coverage) to Bank at least thirty (30) days before the expiration of existing policies and, in any event, Mortgagor shall deliver originals of such policies or certificates to Bank at least fifteen (15) days before the expiration of existing policies. If Bank has not received satisfactory evidence of such renewal or substitute insurance in the time frame herein specified, Bank shall have the right, but not the obligation, to purchase such insurance for Bank's interest only. Any amounts so disbursed by Bank pursuant to this Paragraph shall be a part of the Secured Indebtedness and shall bear interest at the default interest rate provided in the Note ("Default Rate"). Nothing contained in this Paragraph 6 shall require Bank to incur any expense or take any action hereunder, and inaction by Bank shall never be considered a waiver of any right accruing to Bank on account of this Paragraph 6.

6.5 Separate Insurance. Mortgagor shall not carry any separate insurance on the Premises concurrent in kind or form with any insurance required hereunder or contributing in the event of loss without Bank's prior written consent, and any such policy shall have attached standard non-contributing mortgagee clause, with loss payable to Bank, and shall otherwise meet all other requirements set forth herein.

6.6 Compliance Certificate. At Bank's option, but not more often than annually, Mortgagor shall provide Bank with a report from an independent insurance consultant of regional or national prominence, acceptable to Bank, certifying that Mortgagor's insurance is in compliance with this Paragraph 6.

6.7 Notice of Casualty. Mortgagor shall give immediate notice of any loss to Bank. In case of loss covered by any of such policies and (i) if the amount of said loss is reasonably estimated to be less than \$25,000, then the Mortgagor may adjust, collect and compromise at its discretion all claims, or (ii) if the amount of the loss is reasonably estimated to be \$25,000 or more, then the Bank is authorized to adjust, collect and compromise in its discretion, all claims thereunder and in such case, Mortgagor covenants to sign upon demand, or Bank may sign or endorse on Mortgagor's behalf, all necessary proofs of loss, receipts, releases and other papers required by the insurance companies to be signed by Mortgagor. Mortgagor hereby irrevocably appoints Bank as its attorney-in-fact for the purposes set forth in the preceding sentence. Bank may deduct from such

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insurance proceeds any expenses incurred by Bank in the collection and settlement thereof, including, but not limited to, attorneys' and adjusters' fees and charges.

6.8 Application of Proceeds. If all or any part of the Premises shall be damaged or destroyed by fire or other casualty or shall be damaged or taken through the exercise of the power of eminent domain or other cause described in Paragraph 10, Mortgagor shall promptly and with all due diligence restore and repair the Premises. At Bank's election, to be exercised by written notice to Mortgagor within thirty (30) days following Bank's unrestricted receipt in cash or the equivalent thereof of the net insurance proceeds of the policies required to be maintained by Mortgagor hereunder award or other compensation (collectively, the "Proceeds"), the entire amount of the Proceeds shall either: (i) be applied to the Secured Indebtedness in such order and manner as Bank may elect (subject to the requirements of the Loan Documents) or (ii) be made available to Mortgagor on the terms and conditions set forth in this Paragraph to finance the cost of restoration or repair. Bank may require that all plans and specifications for such restoration or repair be submitted to and approved by Bank in writing prior to commencement of the work.

If the amount of the Proceeds to be made available to Mortgagor pursuant to this Paragraph is less than the cost of the restoration or repair as estimated by Bank at any time prior to completion thereof, Mortgagor shall cause to be deposited with Bank the amount of such deficiency within thirty (30) days of Bank's written request therefor (but in no event later than the commencement of the work) and Mortgagor's deposited funds shall be disbursed prior to the Proceeds. If Mortgagor is required to deposit funds under this Paragraph, the deposit of such funds shall be a condition precedent to Bank's obligation to disburse the Proceeds held by Bank hereunder and in the event Mortgagor fails to deposit such deficiency within said thirty (30) days, Bank may thereupon apply the Proceeds to the Secured Indebtedness. The amount of the Proceeds which is to be made available to Mortgagor, together with any deposits made by Mortgagor hereunder, shall be held by Bank to be disbursed from time to time to pay the cost of repair or restoration either, at Bank's option, to Mortgagor or directly to contractors, subcontractors, material suppliers and other persons entitled to payment in accordance with and subject to such conditions to disbursement as Bank may impose to assure that the work is fully completed in a good and workmanlike manner and paid for and that no liens or claims arise by reason thereof. Bank may require (i) evidence of the estimated cost of completion of such restoration or repair satisfactory to Bank and (ii) such architect's certificates, waivers of lien, contractors' sworn statements, title insurance endorsements, plats of survey and other evidence of cost, payment and performance acceptable to Bank. If Bank requires mechanics' and materialmen's lien waivers in advance of making disbursements, such waivers shall be deposited with an escrow trustee acceptable to Bank pursuant to a construction loan escrow agreement satisfactory to Bank. No payment made prior to final completion of the repair or restoration shall exceed ninety percent (90%) of the value of the work performed from time to time. Bank may commingle any such funds held by it with its other general funds. Bank shall not be obligated to pay interest in respect of any such funds held by it nor shall Mortgagor be entitled to a credit against any of the Secured Indebtedness except and to the extent the funds are applied thereto pursuant to this Paragraph. Without limitation of the foregoing, Bank shall have the right at all times to apply such funds to the cure of any Event of Default or the performance of any obligations of Mortgagor under the Loan Documents.

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6.9 **Insurance Deposits.** Upon the occurrence of an Event of Default, for the purpose of providing funds with which to pay premiums when due on all policies of liability, fire and other hazard insurance covering the Premises, Mortgagor shall deposit with the Bank on the first day of each month a sum equal to the Bank's estimate of the premiums that will next become due and payable on such policies reduced by the amount, if any, then on deposit with the Bank divided by the number of months to elapse before one (1) month prior to the date when such premiums become due and payable. No interest shall be allowed to Mortgagor on account of any deposit made hereunder and said deposit need not be kept separate and apart from any other funds of the Bank.

7. **Use, Preservation and Maintenance of Property.** Mortgagor shall not commit waste or permit impairment or deterioration of the Property. Mortgagor shall not allow store, treat or dispose of Hazardous Material as defined in Paragraph 27, nor permit the same to exist or be stored, treated or disposed of, from or upon the Property. Mortgagor shall promptly restore or rebuild any buildings or improvements now or hereafter on the Property which may become damaged or destroyed. Mortgagor shall comply with all requirements of law or municipal ordinances with respect to the use, operation, and maintenance of the Property, including all environmental, health and safety laws and regulations, and shall make no material alterations in the Property, except as required by law, without the prior written consent of Bank. Mortgagor shall not grant or permit any easements, licenses, covenants or declarations of use against the Property.

8. **Protection of Bank's Security.** If Mortgagor fails to perform any of the covenants and agreements contained in this Mortgage, the Note or the other Loan Documents, or if any action or proceeding is threatened or commenced which materially affects Bank's interest in the Property, then Bank, at Bank's option, upon notice to Mortgagor, may make such appearances, disburse such sums, including attorneys' fees, and take such action as it deems expedient or necessary to protect Bank's interest, including: (i) making repairs; (ii) paying, settling, or discharging tax liens, mechanics' or other liens, (iii) procuring insurance; and (iv) renting, operating and managing the Property and paying operating costs and expenses, including management fees, of every kind and nature in connection therewith, so that the Property shall be operational and usable for its intended purposes. Bank, in making such payments, may do so in accordance with any bill, statement, or estimate procured from the appropriate public office without inquiry into the accuracy of same or into the validity thereof.

Any amounts disbursed by Bank pursuant to this Paragraph 8 shall be part of the Secured Indebtedness and shall bear interest at the Default Rate. Nothing contained in this Paragraph 8 shall require Bank to incur any expense or take any action hereunder, and inaction by Bank shall never be considered a waiver of any right accruing to Bank on account of this Paragraph 8.

9. **Inspection of Property and Books and Records.** Mortgagor shall permit Bank and its representatives and agents to inspect the Property from time to time during normal business hours and as frequently as Bank requests. Mortgagor shall keep and maintain full and correct books and records showing in detail the income and expenses of the Property. From time to time, Mortgagor shall permit Bank or its agents to examine and copy such books and records at its offices or at the address identified above.

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10. **Condemnation.** The proceeds of any award or claim for damages, direct or consequential, in connection with any condemnation or other taking of the Property, or part thereof, or for conveyance in lieu of condemnation, are hereby assigned and shall be paid directly to Bank. Mortgagor hereby grants a security interest to Bank in and to such proceeds. Bank is authorized to collect such proceeds and, at Bank's sole option and discretion, to apply said proceeds either to restoration or repair of the Property or in payment of the Secured Indebtedness. In the event the Property is restored, Bank may pay the condemnation proceeds in accordance with its customary loan payment procedures, and may charge its customary fee for such services.

11. **Mortgagor Not Released; Forbearance by Bank Not a Waiver; Remedies Cumulative.** Extension or other modification granted by Bank to any successor in interest of Mortgagor of the time for payment of all or any part of the Secured Indebtedness shall not operate to release, in any manner, the liability of the Mortgagor. Any forbearance or inaction by Bank in exercising any right or remedy hereunder, or otherwise afforded by applicable law, shall not be a waiver of or preclude the exercise of any such right or remedy. Any acts performed by Bank to protect the security of this Mortgage, as authorized by Paragraph 8 or otherwise, shall not be a waiver of Bank's right to accelerate the maturity of the Secured Indebtedness. All remedies provided in this Mortgage are distinct and cumulative to any other right or remedy under this Mortgage or afforded by law or equity, and may be exercised concurrently, independently or successively. No consent or waiver by Bank to or of any breach or default by Mortgagor shall be deemed a consent or waiver to or of any other breach or default.

12. **Successors and Assigns Bound.** The covenants and agreements contained herein shall bind, and the rights hereunder shall inure to, the respective heirs, executors, legal representatives, successors and assigns of Bank and Mortgagor.

13. **Tax on Secured Indebtedness or Mortgage.** In the event of the passage, after the date of this Mortgage, of any law deducting from the value of land for the purposes of taxation, any lien thereon, or imposing upon Bank the obligation to pay the whole, or any part, of the taxes or assessments or charges or liens herein required to be paid by Mortgagor, or changing in any way the laws relating to the taxation of mortgages or debts as to affect the Mortgage or the Secured Indebtedness, the entire unpaid balance of the Secured Indebtedness shall, at the option of Bank, after ten (10) days written notice to Mortgagor, become due and payable; provided, however, that if, in the opinion of Bank's counsel, it shall be lawful for Mortgagor to pay such taxes, assessments or charges, or to reimburse Bank therefore, then there shall be no such acceleration of the time for payment of the unpaid balance of the Secured Indebtedness if a mutually satisfactory agreement for reimbursement, in writing, is executed by Mortgagor and delivered to Bank within the aforesaid period.

14. **Strict Performance.** Any failure by Bank to insist upon strict performance by Mortgagor of any of the terms and provisions of this Mortgage or of the other Loan Documents or of the Note shall not be deemed to be a waiver of any of the terms or provisions of this Mortgage or of the other Loan Documents or the Note, and Bank shall have the right thereafter to insist upon strict performance by Mortgagor or the Guarantor (as defined in the Loan Documents) or any and all of them.

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15. **Notice.** Except for any notice required under applicable law to be given in another manner, all communications provided for herein shall be in writing and shall be deemed to have been given or made when delivered personally, three days after deposited in the United States mail (certified mail, postage prepaid) or one day after deposited with a nationally recognized overnight courier (delivery prepaid), or upon receipt of a confirmation of a facsimile transmission, addressed as follows:

To Bank: Andrew Salski
Bank One, N.A.
133 West Grand Avenue
Bensenville, Illinois 60106
Telecopier Number: 630-350-3363

With a copy to: Lawrence J. Feller, Esq.
Horwood Marcus & Berk Chartered
180 North LaSalle Street, Suite 3700
Chicago, Illinois 60601
Telecopier Number: 312-606-3232

To Mortgagor: 9521 Associates LLC
9521 Ainslie Street
Schiller Park, Illinois 60176
Telecopier Number: 847-678-3135

With a copy to: Scott A. Sinar, Esq.
Robbins Saloman & Patt, Ltd.
25 East Washington Street
Suite 1000
Chicago, Illinois 60602
Telecopier Number: 312-782-6690

16. **Governing Law; Venue; Invalidity of Certain Provisions.**

(a) The validity, enforcement and interpretation of this Mortgage shall for all purposes be governed by and construed in accordance with the laws of the State of Illinois, without reference to the conflicts of law principles of that State, and applicable United States federal law, and is intended to be performed in accordance with, and only to the extent permitted by, such laws. Mortgagor hereby irrevocably submits generally and unconditionally to the exclusive jurisdiction of any local court, or any United States federal court, sitting in the State of Illinois over any suit, action or proceeding arising out of or relating to this Mortgage. Mortgagor hereby irrevocable waives, to the fullest extent permitted by law, any objection that Mortgagor may now or hereafter have to the laying of venue in any such court and any claim that any such court is an inconvenient forum. Mortgagor hereby agrees and consents that, in addition to any methods of service of process provided for under applicable law, all services of process in any such suit, action or proceeding in any local court, or any United States federal court, sitting in the State of

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Illinois, may be made by certified or registered mail, return receipt requested, directed to Mortgagor at its address stated herein, and service so made shall be complete five (5) business days after the same shall have been so mailed. Nothing herein shall affect the right of Bank to serve process in any manner permitted by law or limit the right of Bank to bring proceedings against Mortgagor in any other court or jurisdiction. This Mortgage shall be construed and enforced according to the laws of the State of Illinois.

(b) The whole or partial invalidity, illegality or unenforceability of any provision hereof at any time, whether under the terms of then applicable law or otherwise, shall not affect (i) in the case of partial invalidity, illegality or unenforceability, the validity, legality or enforceability of such provision at such time except to the extent of such partial invalidity, illegality or unenforceability; or (ii) the validity, legality or enforceability of such provision at any other time or of any other provision hereof at that or any other time.

17. **Prohibitions on Transfer of the Property or of an Interest in Mortgagor.** It shall be an Event of Default (as hereinafter defined): (a) if Mortgagor shall create, effect or consent to or shall suffer or permit any conveyance, sale (including an installment sale), assignment, transfer, lien, pledge, hypothecate, mortgage, security interest, or other encumbrance or alienation, whether by operation of law, voluntarily or otherwise, of the Property or any part thereof or interest therein without the prior written consent of Bank; or (b) upon the sale of partnership interests of Mortgagor or a merger or consolidation of Mortgagor such that John J. Dombek, Jr. and John J. Dombek III no longer hold a controlling interest in Mortgagor after such sale, merger or consolidation (each of the foregoing is referred to as a "Prohibited Transfer").

18. **Event of Default.** Each of the following shall constitute an event of default ("Event of Default") under this Mortgage:

(a) Mortgagor's failure to pay any installment of principal or interest or any other amount required under the Letter of Credit, the Reimbursement Agreement, this Mortgage or any other Loan Document when due and payable, whether at maturity or by acceleration or otherwise under the Letter of Credit, the Reimbursement Agreement, this Mortgage, or any other Loan Document;

(b) Mortgagor's failure to perform or observe any other covenant, agreement, representation, warranty or other provision contained in the Letter of Credit, the Reimbursement Agreement, this Mortgage (other than an Event of Default described elsewhere in this Paragraph 18) or any other document or instrument evidencing, guarantying or securing the Secured Indebtedness, and such failure continues for more than thirty (30) days following written notice thereof given by Bank to Mortgagor, unless such Event of Default is not capable of being cured within said thirty (30) days, Mortgagor commences to cure such Event of Default within said thirty (30) days and thereafter Mortgagor diligently prosecutes the cure of such Event of Default, in which event Mortgagor shall have such additional time as is reasonably necessary, not to exceed thirty (30) days, to cure such Event of Default; provided, however, that such thirty (30) day cure period shall not apply to the other subparagraphs of this Paragraph 18;

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(c) the occurrence of any breach of any representation or warranty contained in this Mortgage, the Reimbursement Agreement, or any other Loan Document;

(d) the occurrence of a Prohibited Transfer;

(e) the entry by a court having jurisdiction of a decree or order for relief in respect of Mortgagor in any involuntary case brought under any bankruptcy, insolvency, debtor relief, or similar law; or if Mortgagor, or any person in control of Mortgagor, shall: (i) file a voluntary petition in bankruptcy, insolvency, debtor relief or for arrangement, reorganization or other relief under the Federal Bankruptcy Act or any similar state or federal law; (ii) consent to or suffer the appointment of or taking possession by a receiver, liquidator, or trustee (or similar official) of the Mortgagor or for any part of the Property or any substantial part of the Mortgagor's other property; (iii) make any assignment for the benefit of Mortgagor's creditors; or (iv) fail generally to pay Mortgagor's debts as they become due;

(f) the attachment, seizure, or levy of all or a substantial part of Mortgagor's assets;

(g) the dissolution or termination of existence of Mortgagor, voluntarily or involuntarily, or the amendment or modification in any respect of the Operating Agreement of Mortgagor that would or may adversely affect Mortgagor's performance of its obligations under the Letter of Credit, the Reimbursement Agreement, this Mortgage or the other Loan Documents; or

(h) with respect to that certain Lease dated October 21, 2003, by and between Mortgagor as Lessor and Wisconsin Tool and Stamping Company, an Illinois corporation ("Tenant") as Lessee ("Lease"), (i) any termination of the Lease prior to the Maturity Date of the Bonds, by any party thereto for any reason, or (ii) a sale of the assets or the stock of Tenant or a merger or consolidation of Tenant such that John J. Dombek, Jr. and John J. Dombek III no longer hold a controlling interest in Tenant after such sale, merger or consolidation; or

(i) a Event of Default under the Loan Agreement or any of the documents evidencing and securing the Revolving Credit, the Term Loan and the 9611 Mortgage Loan.

19. **Acceleration; Remedies.** Upon the occurrence of an Event of Default, Bank, at Bank's option, may declare all sums secured by this Mortgage and the other Loan Documents to be immediately due and payable without further demand and may foreclose this Mortgage by judicial proceeding. Bank shall be entitled to collect in such proceeding all expenses of foreclosure, including, but not limited to, attorneys' fees and costs including abstracts and title reports, all of which shall become a part of the secured indebtedness and immediately due and payable, with interest at the Default Rate. The proceeds of any foreclosure sale of the Property shall be applied as follows: first, to all costs, expenses and fees incident to the foreclosure proceedings; second, as set forth in Paragraph 3 of this Mortgage; and third, any balance to Mortgagor.

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20. **Assignment of Leases and Rents.** In order to further secure payment of the Secured Indebtedness and the observance, performance and discharge of the Obligations, Mortgagor hereby absolutely and irrevocably assigns and transfers to Bank and grants Bank a security interest in all of Mortgagor's right, title and interest in and to the Leases listed on Exhibit C and all present and future leases affecting the Property (collectively, "Leases") and all rents, income, receipts, revenues, issues, avails and profits from or arising out of the Property (collectively, "Rents"), subject only to the Permitted Encumbrances. Mortgagor hereby appoints Bank its true and lawful attorney-in-fact, with the right, at Bank's option at any time, to demand, receive and enforce payment, to give receipts, releases and satisfactions, and to sue, either in Mortgagor's or Bank's name, for all Rents. Notwithstanding the foregoing assignment of Leases and Rents, so long as no Event of Default has occurred which remains uncured, Mortgagor shall have a license to collect Rents (such license to be deemed revoked upon the occurrence of an Event of Default) provided that the existence or exercise of such right of Mortgagor shall not operate to subordinate this assignment to any subsequent assignment, in whole or in part, by Mortgagor, and any subsequent assignment by Mortgagor shall be subject to the rights of the Bank hereunder. This Assignment shall not be deemed or construed to constitute Bank as a mortgagee in possession nor obligate Bank to take any action or to incur expenses or perform or discharge any obligation, duty or liability. Exercise of any rights under this Paragraph and the application of the Rents to the Secured Indebtedness shall not cure or waive any Event of Default.

If Mortgagor, as Lessor, shall neglect or refuse to perform and keep all of the covenants and agreements contained in the Lease or Leases, then Bank may perform and comply with any such Lease covenants and agreements. All related costs and expenses incurred by the Bank shall become a part of the Secured Indebtedness and shall be due and payable upon demand by Bank with interest thereon accruing thereafter at the Default Rate.

21. **Appointment of Receiver.** Upon acceleration under Paragraphs 17, 18 or 19 or abandonment of the Property, and without further notice to Mortgagor, Bank shall be entitled to have a receiver appointed by a court to enter upon, take possession of and manage the Property and to collect the Rents including those past due. The receiver shall have the power to collect the Rents from the time of acceleration through the pendency of any foreclosure proceeding and during the full statutory period of redemption, if any. All Rents collected by the receiver shall be applied as the appointing court may direct and, in the absence of such direction, first to payment of the costs and expenses of the management of the Property and collection of rents, including, but not limited to, receiver's fees, premiums on receiver's bonds and attorneys' fees, and then as provided in Paragraph 3. The receiver shall be liable to account only for those Rents actually received.

22. **Release.** Upon the sale of the Property to a bona fide purchaser, the payment of all obligations of the Reimbursement and the Letter of Credit has been terminated, and the payment of all the proceeds from the sale of Property (after reasonable and customary closing fees) to the Term Note, with any and all proceeds remaining after the payment in full of the Term Note to the Revolving Note, Bank shall release this Mortgage. Mortgagor shall be responsible for recording the release, including all related costs of recordation.

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23. **Security Agreement.** Without limiting any other provisions of this Mortgage, this Mortgage constitutes a Security Agreement under the Illinois Uniform Commercial Code, 810 ILCS 5/1-101 et seq., as in effect from time to time (herein called the "Code") with respect to all fixtures, appliances, equipment, furniture and personal property of every nature, and all replacements, substitutions, accessions, extensions, additions, improvements, betterments and renewals to any of the foregoing, and all proceeds thereof, now or hereafter located on the Property as set forth in the description of the Property above (as those terms are defined in the Code), including but not limited to the air-conditioning, heating, gas, water, power, light, and ventilation systems which are presently located at the Property, and with respect to all funds and other sums which may be deposited with Bank pursuant hereto (all for the purposes of this paragraph called "Collateral"), and Mortgagor hereby grants to Bank a security interest in such Collateral. All of the terms, provisions, conditions and agreements contained in this Mortgage pertain and apply to the Collateral as fully and to the same extent as to any other property comprising the Property. This Mortgage is a self-operative security agreement but Mortgagor agrees to execute and deliver on demand security agreements, financing statements, control agreements and other instruments as Bank may request in order to perfect its security interest or to impose the lien hereof more specifically upon any of such property and authorizes Bank to execute and file the same on behalf of Mortgagor. Bank shall have all the rights and remedies in addition to those specified herein of a secured party under the Code. Any Code requirement for reasonable notice shall be met if such notice is delivered as provided herein at least ten (10) days prior to the time of any sale, disposition, or other event or matter giving rise to the notice (which period of time and method of notice is agreed to be commercially reasonable).

24. **Collateral Protection Act.** Pursuant to the requirements of the Illinois Collateral Protection Act, Mortgagor is hereby notified as follows.

Unless the Mortgagor provides the Bank with evidence of the insurance coverage required by this Mortgage or any of the other Loan Documents, Bank may purchase insurance at Mortgagor's expense to protect Bank's interest in the Property or any other collateral for the Secured Indebtedness. This insurance may, but need not protect Mortgagor's interests. The coverage the Bank purchases may not pay any claim that Mortgagor makes or any claim that is made against Mortgagor in connection with the Property or any other collateral for the Secured Indebtedness. Mortgagor may later cancel any insurance purchased by Bank but only after providing Bank with evidence that Mortgagor has obtained insurance as required by this Mortgage. If Bank purchases insurance for the Property or any other collateral for the Secured Indebtedness, Mortgagor will be responsible for the costs of that insurance, including interest in any other charges that Bank may lawfully impose in connection with the placement of the insurance, until the effective date of the cancellation or expiration of the insurance. The costs of the insurance may be added to the total outstanding indebtedness. The costs of the insurance may be more than the cost of insurance that Mortgagor may be able to obtain on its own.

25. **Additional Advances.** This Mortgage is given, to secure not only presently existing Secured Indebtedness under the Loan Documents, but also future advances, whether such advances are obligatory or to be made at the option of the Bank or otherwise, to the same extent as if such future advances were made on the date of the execution of this Mortgage, although there may be no

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advance made at the time of execution of this Mortgage and although there may be no indebtedness secured hereby outstanding at the time any advance is made. The lien of this Mortgage will be valid as to the Secured Indebtedness, including future advances, from the time of its filing for record in the recorder's office of the county in which the Property is located. The total amount of indebtedness secured hereby may increase or decrease from time to time, but the total unpaid principal balance of indebtedness secured hereby (including disbursements that the Bank, may, but is not obligated to, make under this Mortgage, the Loan Documents, or any other document with respect thereto) at any one time outstanding may be substantially less but shall not exceed two times the principal amount of the Note, plus interest thereon, and any disbursements made for payment of taxes, special assessments, or insurance on the Property and interest on such disbursements, and all disbursements by Bank pursuant to 735 ILCS 5/15-1302(b)(5) (all such Secured Indebtedness being hereinafter referred to as the maximum amount secured hereby). This Mortgage will be valid and have priority to the extent of the maximum amount secured hereby over all subsequent liens and encumbrances, including statutory liens, excepting solely taxes and assessments levied on the Property given priority by law.

26. **Business Loan.** Borrower hereby represents and warrants that: (a) the proceeds of this loan will be used for the purposes specified in 815 ILCS 205/4(1)(a) or (c) of the Illinois Compiled Statutes, as amended; (b) this loan constitutes a "business loan" within the purview of that Section; (c) this loan is a transaction exempt from the Truth in Lending Act, 15 U.S.C. 1601, et seq.; and (d) the proceeds of the Secured Indebtedness will not be used for the purchase of registered equity securities within the purview of Regulation "U" issued by the Board of Governors of the Federal Reserve System.

27. **Environmental Compliance.**

27.1 **Definitions.** For purposes of this Paragraph:

(a) "Premises" means: The Real Estate including improvements presently and hereafter situated thereon or thereunder, construction material used in such improvements, surface and subsurface soil and water, areas leased to tenants, and all business, uses and operations thereon.

(b) "Environmental Laws" means (i) any present or future federal statute, law, code, rule, regulation, ordinance, order, standard, permit, license, guidance document or requirement (including consent decrees, judicial decisions and administrative orders) together with all related amendments, implementing regulations and reauthorizations, pertaining to the protection, preservation, conservation or regulation of the environment, including, but not limited to: the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. Section 9601 *et seq.* ("CERCLA"); the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901 *et seq.* ("RCRA"); the Toxic Substances Control Act, 15 U.S.C. Section 2601 *et seq.* ("TOSCA"); the Clean Air Act, 42 U.S.C. Section 7401 *et seq.*; and the Clean Water Act, 33 U.S.C. Section 1251 *et seq.*; and (ii) any present or future state or local statute, law, code, rule, regulation, ordinance, order, standard, permit, license or requirement (including consent decrees, judicial decisions and administrative orders) together with all related amendments, implementing regulations and

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reauthorizations, pertaining to the protection, preservation, conservation or regulation of the environment.

(c) "Hazardous Material" means (but shall not include materials and supplies stored and used in compliance with Environmental Laws):

- (i) "hazardous substances" as defined by CERCLA;
- (ii) "hazardous wastes", as defined by RCRA;
- (iii) "hazardous substances", as defined by the Clean Water Act;
- (iv) any item which is banned or otherwise regulated pursuant to TOSCA;
- (v) any item which is regulated by the Federal Insecticide, Fungicide and Rodenticide Act, 7 U.S.C. 135 *et seq.*;
- (vi) any item which triggers any thresholds regulated by or invoking any provision of the Emergency Planning and Community Right-To-Know Act, 42 U.S.C. 11001 *et seq.*;
- (vii) any hazardous, dangerous or toxic chemical, material, waste, pollutant, contaminant or substance ("pollutant") within the meaning of any Environmental Law prohibiting, limiting or otherwise regulating the use, exposure, release, emission, discharge, generation, manufacture, sale, transport, handling, storage, treatment, reuse, presence, disposal or recycling of such pollutant;
- (viii) any petroleum, crude oil or fraction thereof;
- (ix) any radioactive material, including any source, special nuclear or by-product material as defined at 42 U.S.C. Section 2011 *et seq.*, and amendments thereto and reauthorizations thereof;
- (x) asbestos-containing materials in any form or condition; and
- (xi) polychlorinated biphenyls ("PCBs") in any form or condition.

(d) "Environmental Actions" means:

- (i) any notice of violation, complaint, claim, citation, demand, inquiry, report, action, assertion of potential responsibility, lien, encumbrance, or proceeding regarding the Premises, whether formal or informal, absolute or contingent, matured or unmatured, brought or issued by any governmental unit, agency, or body, or any person or entity respecting: (a) Environmental Laws; (b) the environmental condition of the Premises, or any portion thereof, or any property near the Premises, including actual or alleged damage or injury to humans, public health, wildlife, biota, air, surface or subsurface soil or water, or other natural resources; or (c) the use, exposure, release, emission, discharge, generation, manufacture, sale, transport, handling, storage,

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treatment, reuse, presence, disposal or recycling of Hazardous Material either on the Premises or off-site.

(ii) any violation or claim of violation by Mortgagor of any Environmental Laws whether or not involving the Premises;

(iii) any lien for damages caused by, or the recovery of any costs incurred by any person or governmental entity for the investigation, remediation or cleanup of any release or threatened release of Hazardous Material; or

(iv) the destruction or loss of use of property, or the injury, illness or death of any officer, director, employee, agent, representative, tenant or invitee of Mortgagor or any other person alleged to be or possibly to be, arising from or caused by the environmental condition of the Premises or the release, emission or discharge of Hazardous Materials from the Premises.

27.2 **Representations and Warranties.** Mortgagor hereby represents and warrants to Bank that:

(a) **Compliance.** To the best of Mortgagor's knowledge based on all appropriate and thorough inquiry and except as described in Exhibit D hereto, the Premises and Mortgagor have been and are currently in compliance with all Environmental Laws. There have been, to the best of Mortgagor's knowledge based on all appropriate and thorough inquiry, no past, and there are no pending or threatened, Environmental Actions to which Mortgagor is a party or which relate to the Premises. All required governmental permits and licenses are in effect, and Mortgagor is in compliance therewith. Mortgagor has not received any notice of any Environmental Action respecting Mortgagor, the Premises or any off-site facility to which has been sent any Hazardous Material for off-site treatment, recycling, reclamation, reuse, handling, storage, sale or disposal.

(b) **Absence of Hazardous Material.** No use, exposure, release, emission, discharge, generation, manufacture, sale, handling, reuse, presence, storage, treatment, transport, recycling or disposal of Hazardous Material has, to the best of Mortgagor's knowledge based on all appropriate and thorough inquiry, occurred or is occurring on or from the Premises except in compliance with Environmental Laws and as described in Exhibit E hereto, ("Disclosed Material"). The term "released" shall include but not be limited to any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment (including the abandonment or discarding of barrels, containers and other receptacles containing any Hazardous Material). To the best of Mortgagor's knowledge based on all appropriate and thorough inquiry, all Hazardous Material used, treated, stored, transported to or from, generated or handled on the Premises has been disposed of on or off the Premises in a lawful manner. To the best of Mortgagor's knowledge based on all appropriate and thorough inquiry, no environmental, public health or safety hazards currently exist with respect to the Premises. To the best of Mortgagor's knowledge based on all appropriate and thorough inquiry, no underground storage tanks (including but not limited to petroleum or heating oil storage tanks) are present on or under the Premises, or have been on or under the Property except as has been disclosed in writing to Bank ("Disclosed Tanks").

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27.3 **Mortgagor's Covenants.** Mortgagor hereby covenants and agrees with Bank as follows:

(a) **Compliance.** The Premises and Mortgagor shall comply with all Environmental Laws. All required governmental permits and licenses shall be obtained and maintained, and Mortgagor shall comply therewith. All Hazardous Material on the Premises will be disposed of in a lawful manner without giving rise to liability under any Environmental Laws. Mortgagor will satisfy all requirements of applicable Environmental Laws for the registration, operation, maintenance, closure and removal of all underground storage tanks on the Premises, if any. Without limiting the foregoing, all Hazardous Material shall be handled in compliance with all applicable Environmental Laws.

(b) **Absence of Hazardous Material.** Other than Disclosed Material, no Hazardous Material shall be introduced to or used, exposed, released, emitted, discharged, generated, manufactured, sold, transported, handled, stored, treated, reused, presented, disposed of or recycled on the Premises without thirty (30) days' prior written notice to Bank.

(c) **Environmental Actions and Right to Consent.** Mortgagor shall immediately notify Bank of all Environmental Actions and provide copies of all written notices, complaints, correspondence and other documents relating thereto within two (2) business days of receipt, and Mortgagor shall keep Bank informed of all responses thereto. Mortgagor shall promptly cure and have dismissed with prejudice all Environmental Actions in a manner satisfactory to Bank and Mortgagor shall keep the Premises free of any encumbrance arising from any judgment, liability or lien imposed pursuant to any Environmental Actions. Notwithstanding the foregoing sentence, Mortgagor may, diligently, in good faith and by appropriate legal proceedings, contest such proceedings provided: (i) Mortgagor first furnishes to Bank such deposits or other collateral as Bank, in its sole discretion, deems sufficient to fully protect Bank's interests; (ii) such contest shall have the effect of preventing any threatened or pending sale or forfeiture of all or any portion of the Premises or the loss or impairment of Bank's lien and security interests in and to the Premises; and (iii) such contest will not cause Bank to incur any liability, in Bank's sole judgment. Mortgagor shall permit Bank, at Bank's option, to appear in and to be represented in any such contest and shall pay upon demand all expenses incurred by Bank in so doing, including attorneys' fees.

(d) **Future Environmental Audits.** Mortgagor shall provide such information and certifications which Bank may reasonably request from time to time to monitor Mortgagor's compliance with this Article for the sole purpose of protecting Bank's security interest. To protect its security interest, Bank shall have the right, but not the obligation, at any time upon reasonable prior notice and without unreasonable interference with any tenant's business to enter upon the Premises, take samples, review Mortgagor's books and records, interview Mortgagor's employees and officers, and conduct such other activities as Bank, at its sole discretion, deems appropriate. Mortgagor shall cooperate fully in the conduct of such an audit. If Bank decides to conduct such an audit because of: (i) an Environmental Action; (ii) Bank's considering taking possession of or title to the Premises after an Event of Default by Mortgagor; (iii) a material change in the use of the Premises, which in Bank's opinion, increases the risk to its security interest due to an Environmental Action; or (iv) the introduction of Hazardous Material other than Disclosed Material to the Premises

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other than as permitted by this Agreement; then Mortgagor shall pay upon demand all costs and expenses connected with such audit, which, until paid, shall become additional indebtedness secured by the Loan Documents and shall bear interest at the Default Rate. Nothing in this Article shall give or be construed as giving Bank the right to direct or control Mortgagor's actions in complying with Environmental Laws.

(e) **Event of Default and Opportunity to Cure.** If Mortgagor fails to comply with any of its covenants contained in this Section within thirty (30) days after notice by Bank to Mortgagor, Bank may, at its option, declare an Event of Default. If, however, the noncompliance cannot, in Bank's reasonable determination, be corrected within such thirty (30) day period, and if Mortgagor has promptly commenced and diligently pursues action to cure such noncompliance to Bank's reasonable satisfaction, then Mortgagor shall have such additional time as is reasonably necessary to correct such noncompliance, provided Mortgagor continues to diligently pursue corrective action, but in no event more than a total of sixty (60) days after the initial notice of noncompliance by Bank.

(f) **Governmental Actions.** There are no pending or, to the best of Mortgagor's knowledge, threatened: (i) action, or proceedings from any governmental agency or any other entity regarding the condition or use of the Property, or regarding any environmental, health or safety law; or (ii) "superliens" or similar governmental actions or proceedings that could impair the value of the Property, or the priority of the lien of this Mortgage or any of the other Loan Documents (collectively "Environmental Proceedings"). Mortgagor will promptly notify Bank of any notices, or other knowledge obtained by Mortgagor hereafter of any pending or threatened Environmental Proceedings, and Mortgagor will promptly cure and have dismissed with prejudice any such Environmental Proceedings to the satisfaction of Bank.

(g) **Fees; Costs.** Any fees, costs and expenses imposed upon or incurred by Bank on account of any breach of this Paragraph shall be immediately due and payable by Mortgagor to Bank upon demand, and shall (together with interest thereon at the Default Rate accruing from the date such fees, costs and expenses are so imposed upon or incurred by Bank) become part of the Secured Indebtedness. Mortgagor shall keep, save and protect, defend, indemnify and hold Bank harmless from and against any and all claims, loss, cost, damage, liability or expense, including reasonable attorneys' fees, sustained or incurred by Bank by reason of any Environmental Proceedings or the breach or default by Mortgagor of any representation, warranty or covenant contained in this Paragraph.

27.4 **Bank's Right to Rely.** Bank is entitled to rely upon Mortgagor's representations, warranties and covenants contained in this Article despite any independent investigations by Bank or its consultants. The Mortgagor shall take all necessary actions to determine for itself, and to remain aware of, the environmental condition of the Premises. Mortgagor shall have no right to rely upon any independent environmental investigations or findings made by Bank or its consultants unless otherwise stated in writing therein and agreed to in writing by Bank.

27.5 **Indemnification.** The term "Bank's Environmental Liability" shall mean any and all losses, liabilities, obligations, penalties, claims, fines, lost profits, demands, litigation,

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defenses, costs, judgments, suits, proceedings, damages (including consequential, punitive and exemplary damages), disbursements or expenses of any kind or nature whatsoever (including reasonable attorneys' fees at trial and appellate levels and experts' fees and disbursements and expenses incurred in investigating, defending against, settling or prosecuting any suit, litigation, claim or proceeding) which may at any time be either directly or indirectly imposed upon, incurred by or asserted or awarded against Bank or any of Bank's parent and subsidiary corporations and their affiliates, shareholders, directors, officers, employees, and agents (collectively Bank's "Affiliates") in connection with or arising from:

- (a) any Hazardous Material used, exposed, emitted, released, discharged, generated, manufactured, sold, transported, handled, stored, treated, reused, presented, disposed of or recycled on, in or under all or any portion of the Premises, or any surrounding areas;
- (b) any misrepresentation, inaccuracy or breach of any warranty, covenant or agreement contained or referred to in this Article;
- (c) any violation, liability or claim of violation or liability, under any Environmental Laws;
- (d) the imposition of any lien for damages caused by, or the recovery of any costs incurred for the cleanup of, any release or threatened release of Hazardous Material; or
- (e) any Environmental Actions.

Mortgagor shall indemnify, defend (at trial and appellate levels and with counsel, experts and consultants acceptable to Bank and at Mortgagor's sole cost) and hold Bank and its Affiliates free and harmless from and against Bank's Environmental Liability (collectively, "Mortgagor's Indemnification Obligations"). Mortgagor's Indemnification Obligations shall survive in perpetuity with respect to any Bank's Environmental Liability.

Mortgagor and its successors and assigns hereby waive, release and agree not to make any claim or bring any cost recovery action against Bank under or with respect to any Environmental Laws. Mortgagor's obligation to Bank under this indemnity shall likewise be without regard to fault on the part of Mortgagor or Bank with respect to the violation or condition which results in liability to Bank.

28. **Compliance with Illinois Mortgage Foreclosure Law.** If any provision in this Mortgage shall be inconsistent with any provision of the Illinois Mortgage Foreclosure Law (735 ILCS 5/15-1101 et. seq. of the Illinois Compiled Statutes) (the "Act") the provisions of the Act shall take precedence over the Mortgage provisions, but shall not invalidate or render unenforceable any other Mortgage provision that can be construed in a manner consistent with the Act. If any Mortgage provision shall grant to Bank any rights or remedies upon Mortgagor's default which are more limited than the rights that would otherwise be vested in Bank under the Act in the absence of such provision, Bank shall be vested with the rights granted in the Act to the full extent permitted by law. Without limiting the generality of the foregoing, all expenses incurred by Bank to the extent reimbursable under Sections 15-1510 and 15-1512 of the Act, whether incurred before or after any

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decree or judgment of foreclosure, and whether or not enumerated in Paragraph 19 of this Mortgage, shall be added to the Secured Indebtedness secured by this Mortgage or by the judgment of foreclosure.

29. **Interpretation.** This Mortgage shall be construed pursuant to the laws of the State of Illinois. The headings of sections and paragraphs in this Note are for convenience only and shall not be construed in any way to limit or define the content, scope, or intent of the provisions. The use of singular and plural nouns, and masculine, feminine, and neuter pronouns, shall be fully interchangeable, where the context so requires. If any provision of this Mortgage, or any paragraph, sentence, clause, phrase or word, or the application thereof, in any circumstances, is adjudicated to be invalid, the validity of the remainder of this Mortgage shall be construed as if such invalid part were never included. Time is of the essence of the payment and performance of this Mortgage. This Mortgage may be executed in counterparts which, when taken together, shall constitute a whole.


30. **Waiver of Right of Redemption.** To the full extent permitted by law, Mortgagor hereby covenants and agrees that it will not at any time insist upon or plead, or in any manner whatsoever claim or take any advantage of, any stay, exemption or extension law or any so-called "Moratorium Law" now or at any time hereafter in force, nor claim, take or insist upon any benefit or advantage of or from any law now or hereafter in force providing for the valuation or appraisal of the Property, or any part thereof, prior to any sale or sales thereof to be made pursuant to any provisions herein contained, or any decree, judgment or order of any court of competent jurisdiction; or after such sale or sales claim or exercise any rights under any statute now or hereafter in force to redeem the property so sold, or any part thereof, or relating to the marshalling thereof, upon foreclosure sale or other enforcement hereof. To the full extent permitted by law, Mortgagor hereby expressly waives any and all rights of redemption, on its own behalf, on behalf of all persons claiming or having an interest (direct or indirect) by, through or under Mortgagor and on behalf of each and every person acquiring any interest in or title to the Property subsequent to the date hereof, it being the intent hereof that any and all such right of redemption of Mortgagor, and of all other persons, are and shall be deemed to be hereby waived to the full extent permitted by applicable law. To the full extent permitted by law, Mortgagor agrees that it will not, by involving or utilizing any applicable law or laws or otherwise, hinder, delay or impede the exercise of any right, power or remedy herein or otherwise granted or delegated to Bank, but will suffer and permit the exercise of every such right, power and remedy as though no such law or laws have been or will have been made or enacted. To the full extent permitted by law, Mortgagor hereby agrees that no action for the enforcement of the lien or any provision hereof shall be subject to any defense which would not be good and valid in an action at law upon the Note.

31. **WAIVER OF JURY TRIAL.** TO THE EXTENT NOT PROHIBITED BY LAW, MORTGAGOR DOES HEREBY WAIVE ANY RIGHT TO A TRIAL JURY IN ANY ACTION OR PROCEEDING TO ENFORCE OR DEFEND ANY RIGHTS OF THE BANK UNDER THIS MORTGAGE, THE NOTE, OR ANY OF THE LOAN DOCUMENTS, OR RELATING THERETO OR ARISING THEREFROM AND AGREE THAT ANY SUCH ACTION OR PROCEEDING SHALL BE TRIED BEFORE A COURT AND NOT BEFORE A JURY.

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IN WITNESS WHEREOF, Mortgagor has executed this Mortgage.

9521 ASSOCIATES, LLC, an Illinois limited liability company

By: 
Name: JOHN J. DOMASK JR
Its: MANAGER

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STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

I, the undersigned, a Notary Public, in and for the County and State aforesaid, DO HEREBY CERTIFY, that John J. Dambek, Jr. personally known to me to be the Manager of 9521 Associates, LLC, an Illinois limited company, appeared before me this day in person and acknowledged that as such duly authorized Manager of the company, he signed and delivered the said instrument as his free and voluntary act, and as the free and voluntary act and deed of said company, for the uses and purposes therein set forth.

Given under my hand and official seal this 29th day of December, 2003.

Sharon L. Westbrook

Notary Public



My commission expires: _____

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EXHIBIT A LEGAL DESCRIPTION

PARCEL 1:

THE WEST 220 FEET (EXCEPT THE WEST 40 FEET OF THE NORTH 20 FEET) OF THE EAST 745 FEET OF LOT 2 IN O'HARE INDUSTRIAL CENTER, A SUBDIVISION OF PART OF THE NORTH ½ OF ROBINSON'S RESERVE IN TOWNSHIP 40 NORTH, RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PARCEL 2:

LOT 3 (EXCEPT THAT PORTION BEGINNING AT THE NORTHWEST CORNER OF SAID LOT 3; THENCE SOUTH 89 DEGREES 46 MINUTES 06 SECONDS EAST (ASSUMED BEARING) ALONG THE NORTH LINE OF SAID LOT 3 A DISTANCE OF 19.45 FEET; THENCE SOUTH 00 DEGREES 05 MINUTES 18 SECONDS WEST, A DISTANCE OF 178.31 FEET TO A POINT ON THE SOUTH LINE OF SAID LOT 3 A DISTANCE OF 18.66 FEET TO THE SOUTHWEST CORNER OF SAID LOT; THENCE NORTH 00 DEGREES 09 MINUTES 55 SECONDS WEST ALONG THE WEST LINE OF SAID LOT 3, A DISTANCE OF 178.56 FEET TO THE POINT OF BEGINNING, ALL BEING IN KELVIN PARK, A SUBDIVISION IN THE NORTH SECTION OF ROBINSON'S RESERVE IN TOWNSHIP 40 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

ALSO

LOTS 4, 5, 6 AND 7 IN KELVIN PARK, A SUBDIVISION IN THE NORTH SECTION OF ROBINSON'S RESERVE IN TOWNSHIP 40 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PARCEL 3:

LOT 2 (EXCEPT THE EAST 745 FEET THEREOF AND EXCEPT THE WEST 40 FEET OF THE EAST 785 FEET OF THE NORTH 20 FEET THEREOF) IN O'HARE INDUSTRIAL CENTER, A SUBDIVISION OF PART OF THE NORTH ½ OF ROBINSON'S RESERVATION IN TOWNSHIP 40, RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PARCEL 4:

EASEMENT FOR THE BENEFIT OF PARCELS 1 AND 3 FOR PRIVATE ROAD FOR INGRESS AND EGRESS TO AND FROM RIVER ROAD AND FOR INSTALLATIONS, USE AND MAINTENANCE OF UNDERGROUND UTILITIES OVER AND UNDER THE FOLLOWING DESCRIBED PREMISES:

1. THE SOUTH 40 FEET OF THE EAST 1105 FEET OF LOT 3 IN O'HARE INDUSTRIAL CENTER AFORESAID.

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2. THE SOUTH 60 FEET OF THE WEST 80 FEET OF THE EAST 1185 FEET OF LOT 3 IN O'HARE INDUSTRIAL CENTER AFORESAID.

3. THE NORTH 20 FEET OF THE WEST 80 FEET OF THE EAST 785 FEET OF LOT 2 IN O'HARE INDUSTRIAL CENTER AFORESAID, CREATED AND GRANTED BY DEED FROM LASALLE NATIONAL BANK, AS TRUSTEE UNDER TRUST AGREEMENT DATED AUGUST 25, 1955 AND KNOWN AS TRUST NUMBER 18197 TO UNIMATIC MACHINE PRODUCTS, INC., DATED MARCH 8, 1957 AND RECORDED MARCH 13, 1957 AS DOCUMENT 16848108.

EASEMENT FOR BENEFIT OF PARCEL 3 FOR INSTALLATION, MAINTENANCE AND USE OF UNDERGROUND SEWER FACILITIES AS CREATED BY GRANT DATED NOVEMBER 1, 1956 AND RECORDED NOVEMBER 29, 1956 AS DOCUMENT 16767886 AND CONVEYED BY DEED FROM LASALLE NATIONAL BANK, A NATIONAL BANKING ASSOCIATION, AS TRUSTEE UNDER TRUST NUMBER 18197, TO UNIMATIC MACHINE PRODUCTS INC., DATED MARCH 8, 1957 AND RECORDED MARCH 13, 1957 AS DOCUMENT 16848108 OVER THE NORTH 22 FEET OF THE SOUTH 62 FEET OF THE EAST 700 FEET OF LOT 3 IN O'HARE INDUSTRIAL CENTER AFORESAID.

PARCEL 6:

EASEMENT FOR THE BENEFIT OF PARCEL 3 FOR PUBLIC UTILITY PURPOSES AS RESERVED IN THE DEEDS RECORDED AS DOCUMENTS 16560115, 16590506, 16625871 AND 16830801 AND GRANTED BY THE DEED FROM LASALLE NATIONAL BANK, A NATIONAL BANKING ASSOCIATION, AS TRUSTEE UNDER TRUST NUMBER 18197 TO UNIMATIC MACHINE PRODUCTS INC., DATED MARCH 8, 1957 AND RECORDED MARCH 13, 1957 AS DOCUMENT 16848108 OVER AND UNDER THE SOUTH 10 FEET OF LOT 1 AND SOUTH 10 FEET OF THE EAST 745 FEET OF LOT 2 IN O'HARE INDUSTRIAL CENTER AFORESAID, ALL IN COOK COUNTY, ILLINOIS.

PARCEL 7:

LOTS 1, 2 AND THAT PORTION OF LOT 3 BEGINNING AT THE NORTHWEST CORNER OF SAID LOT 3; THENCE SOUTH 89 DEGREES 46 MINUTES 06 SECONDS EAST (ASSUMED BEARING) ALONG THE NORTH LINE OF SAID LOT 3 A DISTANCE OF 19.45 FEET; THENCE SOUTH 00 DEGREES 05 MINUTES 18 SECONDS WEST, A DISTANCE OF 178.31 FEET TO A POINT ON THE SOUTH LINE OF SAID LOT 3; THENCE SOUTH 89 DEGREES 28 MINUTES 41 SECONDS WEST ALONG THE SOUTH LINE OF SAID LOT 3 A DISTANCE OF 18.66 FEET TO THE SOUTHWEST CORNER OF SAID LOT; THENCE NORTH 00 DEGREES 09 MINUTES 55 SECONDS WEST ALONG THE WEST LINE OF SAID LOT 3, A DISTANCE OF 178.56 FEET TO THE POINT OF BEGINNING, ALL BEING IN KELVIN PARK, A SUBDIVISION IN THE NORTH SECTION OF ROBINSON'S RESERVE IN TOWNSHIP 40 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

P.I.No. 12-10-302-048/049
12-10-312-001/002/003/004/005/006/007

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EXHIBIT B

PERMITTED ENCUMBRANCES

1. General Real Estate Taxes for the year 2003.
2. Schedule B exceptions B, E, F, G, H, I, J, K, L, M, N, O, P and Q listed in the Tigor Title Insurance Company Commitment for Title Insurance Number 2000 000534300 with an effective date of December 30, 2003

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EXHIBIT C

IDENTIFIED LEASES

1. Lease dated October 21, 2003 with Wisconsin Tool and Stamping Company as Tenant and 9521 Associates, LLC, an Illinois limited liability company as Landlord.

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EXHIBIT D

COMPLIANCE EXCEPTIONS

All matters set forth in that certain Environmental Site Assessment of the property prepared by August Mack Environmental Inc Job Number JD325.10.

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EXHIBIT E

DISCLOSED MATERIALS

All matters set forth in that certain Environmental Site Assessment of the property prepared by August Mack Environmental Inc Job Number JD325.10.

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