

# UNOFFICIAL COPY



Doc#: 0515932198  
Eugene "Gene" Moore Fee: \$40.50  
Cook County Recorder of Deeds  
Date: 06/08/2005 03:05 PM Pg: 1 of 9

## **MORTGAGE (with Assignment of Leases)**

THIS AGREEMENT, made May 31, 2005, between Kapco, LLC having an address of 11120 S. Ridgeland Avenue, Worth, Illinois 60482 (herein referred to as "Mortgagor"), and Chicago Truck Drivers, Helpers and Warehouse Workers Union (Independent) Pension Fund, having an address of 1645 W. Jackson St., Suite 500 Chicago, IL 60612 (herein referred to as "Mortgagee").

WITNESSETH:

THAT WHEREAS the Mortgagor has executed a two promissory notes dated May 31, 2005 (herein referred to as the "Note") in the total principal sum of FOUR HUNDRED THIRTY SEVEN FIVE HUNDRED THIRTY SEVEN DOLLARS (\$437,537) in and by which note the Mortgagor promises to pay the said principal sum and interest at the rate and in installments as provided in the Note, with a final payment of the balance due upon the earlier: of the sale of the property securing this Mortgage or on the 17th day of January, 2007. The obligation secured hereunder is the maximum principal obligation under the terms of a settlement agreement between the parties.

NOW, THEREFORE, the Mortgagor, in order to secure the payment of the said principal sum of money and said interest in accordance with the terms, provisions and limitations of this mortgage, and the performance of the covenants and agreements herein contained by the Mortgagor to be performed, and also in consideration of the sum of One Dollar in hand paid, the receipt whereof is hereby acknowledged, does by these presents CONVEY AND WARRANT unto the Mortgagee, and the Mortgagee's successors and assigns, the following described Real Estate and all of their estate, right, title and interest therein, situate, lying and being in the COUNTY OF COOK, IN AND STATE OF ILLINOIS, to wit:

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## PARCEL 1:

ALL THAT PART OF THE EAST 1/2 OF THE NORTHEAST 1/4 OF SECTION 19, TOWNSHIP 37 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN TOWNSHIP OF WORTH, LYING SOUTH OF MORGAN AVENUE AND WEST OF RIDGELAND AVENUE AND BOUNDED AND DESCRIBED AS FOLLOWS: COMMENCING ON THE SOUTHWEST CORNER OF MORGAN AVENUE (NOW 111TH) AND RIDGELAND AVENUE IN SAID TOWN OF WORTH, THENCE WESTERLY ALONG THE SOUTH LINE OF MORGAN AVENUE 120.40 FEET, THENCE SOUTH AND PARALLEL TO THE WEST LINE OF RIDGELAND AVENUE 97.75 FEET, THENCE EAST AND PARALLEL TO THE SOUTH LINE OF MORGAN AVENUE 120.40 FEET MORE OR LESS TO THE WEST LINE OF RIDGELAND AVENUE, THENCE NORTH ALONG THE WEST LINE OF RIDGELAND AVENUE 97.75 FEET TO THE POINT OF BEGINNING, IN COOK COUNTY, ILLINOIS.

(EXCEPT THAT PART OF THE SOUTH 97.75 FEET OF THE NORTH 130.75 FEET OF THE WEST 165.82 FEET OF THE EAST 198.82 FEET OF THE EAST 1/2 OF THE NORTHEAST 1/4 OF SECTION 19, TOWNSHIP 37 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS: THE NORTH 17.0 FEET THEREOF, ALSO THE EAST 17.0 FEET OF THE SOUTH 80.75 FEET THEREOF, ALSO, THAT PART THEREOF LYING NORTHEASTERLY OF A LINE DRAWN FROM A POINT ON THE SOUTH LINE OF THE NORTH 17.0 FEET AFORESAID A DISTANCE OF 55.0 FEET WEST OF THE EAST LINE THEREOF TO A POINT ON THE WEST LINE OF THE EAST 17.0 FEET AFORESAID A DISTANCE OF 60.75 FEET NORTH OF THE SOUTH LINE THEREOF, IN COOK COUNTY, ILLINOIS, CONTAINING 0.1049 ACRES, MORE OR LESS, OF WHICH 0.0647 ACRES, MORE OR LESS LIE WITHIN THE EXISTING RIGHT OF WAY

## ALSO

THE EAST 45.42 FEET OF THE WEST 155.42 FEET OF THE EAST 308.82 FEET OF THE SOUTH 97.75 FEET OF THE NORTH 130.75 FEET OF THE NORTHEAST 1/4 OF THE NORTHEAST 1/4 OF SECTION 19, TOWNSHIP 37 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS

24-19-209-052-0000

## PARCEL 2:

THE EAST 308.82 FEET (EXCEPT THE SOUTH 29.56 FEET) OF THE NORTH 4 ACRES OF THE EAST 15 ACRES OF THE NORTHWEST 1/4 OF THE NORTHEAST 1/4 OF SECTION 19, TOWNSHIP 37 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, (EXCEPT THE SOUTH 29.56 FEET) OF THE NORTH 4 ACRES OF THE EAST 15 ACRES OF THE NORTHWEST 1/4 OF THE NORTHEAST 1/4 OF SECTION 19, TOWNSHIP 37 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL

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MERIDIAN, (EXCEPT THE EAST 308.82 FEET OF THE NORTH 130.75 FEET OF SAID NORTH 4 ACRES, ALL IN COOK COUNTY, ILLINOIS

PERMANENT INDEX NUMBER: 24-19-209-028-0000

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THE NORTH 4 ACRES (EXCEPT THE WEST 53 FEET) OF THE EAST 15 ACRES OF THE NORTHEAST 1/4 OF THE NORTHEAST 1/4 OF SECTION 19, TOWNSHIP 37 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN (EXCEPT THE EAST 308.82 FEET OF SAID NORTH 4 ACRES) IN COOK COUNTY, ILLINOIS

PERMANENT INDEX NUMBER: 24-19-209-035-0000

Address of Real Estate: 11120 South Ridgeland Avenue, Worth, Illinois and 6435 West 115<sup>th</sup> Street, Worth, Illinois (the "Properties")

TOGETHER with all improvements, tenements, easements, fixtures, and appurtenances thereto belonging, and all rents, issues and profits thereof for so long and during all such times as Mortgagor may be entitled thereto (which are pledged primarily and on a parity with said real estate and not secondarily) and all apparatus, equipment or articles now or hereafter therein or thereon used to supply heat, gas, air conditioning, water, light, power, refrigeration (whether single units or centrally controlled), and ventilation, including (without restricting the foregoing), screens, window shades, storm doors and windows, floor coverings, and/or beds, awnings, stoves and water heaters. All of the foregoing are declared to be a part of said real estate whether physically attached thereto or not, and it is agreed that all similar apparatus, equipment or articles hereafter placed in the premises by Mortgagor or its successors or assigns shall be considered as constituting part of the real estate.

TO HAVE AND TO HOLD the premises unto the Mortgagee, and the Mortgagee=s successors and assigns, forever, for the purposes, and upon the uses herein set forth, free from all rights and benefits under and by virtue of the Homestead Exemption Laws of the

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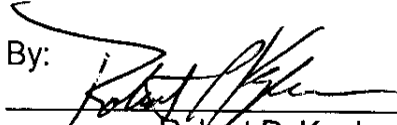
State of Illinois, which said rights and benefits the Mortgagor does hereby expressly release and waive.

The name of a record owner is: Kapco, LLC

**This mortgage consists of 8 pages. The covenants, conditions and provisions appearing on pages 4 through 8 are incorporated herein by reference and are a part hereof and shall be binding on Mortgagor, its, heirs, successors and assigns.**

Witness the hand and seal of Mortgagor the day and year first above written.

Kapco, LLC

By:   
Robert P. Kaplan

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Robert P. Kaplan is personally known to me to be the same person whose name subscribed to the foregoing instrument, appeared before me this day in person, and acknowledged that he signed, sealed and delivered the said instrument as his free and voluntary act.

Given under my hand and official seal, this \_\_\_\_\_ day of May 2005.

\_\_\_\_\_  
NOTARY PUBLIC

THE COVENANTS, CONDITIONS AND PROVISIONS REFERRED TO ON PAGE 2.

1. Mortgagor shall (1) promptly repair, restore or rebuild any buildings or improvements now or hereafter on the premises which may become damaged or be destroyed; (2) keep said premises in good condition and repair, without waste, and free from mechanic's or other liens or claims for lien not expressly subordinated to the lien thereof; (3) pay when due any indebtedness which may be secured by a lien or charge on

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the premises superior to the lien hereof, and upon request exhibit satisfactory evidence of the discharge of such prior lien to the Mortgagee; (4) complete within a reasonable time any building or buildings now or at any time in process of erection upon said premises; (5) comply with all requirements of law or municipal ordinances with respect to the premises and the use thereof; (6) make no material alterations in said premises except as required by law or municipal ordinance.

2. Mortgagor shall pay before any penalty attaches all general taxes, and shall pay special taxes, special assessments, water charges, sewer service charges, and other charges against the premises when due, and shall, upon written request, furnish to the Mortgagee duplicate receipts therefor. To prevent default hereunder Mortgagor shall pay in full under protest, in the manner provided by statute, any tax or assessment which Mortgagor may desire to contest.

3. In the event of the enactment after this date of any law of Illinois deducting from the value of land for the purpose of taxation any lien thereon, or imposing upon the Mortgagee the payment of 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 secured by mortgages or the mortgagee's interest in the property, or the manner of collection of taxes, so as to affect this mortgage or the debt secured hereby or the holder thereof, then and in any such event, the Mortgagor, upon demand by the Mortgagee, shall pay such taxes or assessments, or reimburse the Mortgagee therefor; provided, however, that if in the opinion of counsel for the Mortgagee (a) it might be unlawful to require Mortgagor to make such payment or (b) the making of such payment might result in the imposition of interest beyond the maximum amount permitted by law, then and in such event, the Mortgagee may elect, by notice in writing given to Mortgagor, to declare all of the indebtedness secured hereby to be and become due and payable sixty (60) days from the giving of such notice.

4. If, by the laws of the United States of America or of any state having jurisdiction in the premises, any tax is due or becomes due in respect of the issuance of the Note hereby secured, the Mortgagor covenants and agrees to pay such tax in the manner required by any such law. The Mortgagor further covenants to hold harmless and agrees to indemnify the Mortgagee, and the Mortgagees successors or assigns, against any liability incurred by reason of the imposition of any tax on the issuance of the Note secured hereby.

5. At such time as the Mortgagor is not in default either under the terms of the Note secured hereby or under the terms of this mortgage, the Mortgagor shall have such privilege of making prepayments on the principal of said Note (in addition to the required payments) as may be provided in said Note.

6. Mortgagor shall keep all buildings and improvements now or hereafter situated on said premises insured against loss or damage by fire, lightning and windstorm under

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policies providing for payment by the insurance companies of moneys sufficient either to pay the cost of replacing or repairing the same or to pay in full the indebtedness secured hereby, all in companies satisfactory to the Mortgagee, under insurance policies payable, in case of loss or damage, to Mortgagee, such rights to be evidenced by the standard mortgage clause to be attached to each policy, and shall deliver all policies, including additional and renewal policies, to the Mortgagee, and in case of insurance about to expire, shall deliver renewal policies not less than ten days prior to the respective dates of expiration.

7. In case of default therein, Mortgagee may, but need not, make any payment or perform any act hereinbefore required of Mortgagor in any form and manner deemed expedient, and may, but need not, make full or partial payments of principal or interest on prior encumbrances, if any, and purchase, discharge, compromise or settle any tax lien or other prior lien or title or claim thereof, or redeem from any tax sale or forfeiture affecting said premises or contest any tax or assessment. All moneys paid for any of the purposes herein authorized and all expenses paid or incurred in connection therewith, including attorney's fees, and any other moneys advanced by Mortgagee to protect the mortgaged premises and the lien hereof, shall be so much additional indebtedness secured hereby and shall become immediately due and payable without notice and with interest thereon at the highest rate now permitted by Illinois law. Inaction of Mortgagee shall never be considered as a waiver of any right accruing to the Mortgagee on account of any default hereunder on the part of the Mortgagor.

8. The Mortgagee making any payment hereby authorized relating to taxes or assessments, may do so according to any bill, statement or estimate procured from the appropriate public office without inquiry into the accuracy of such bill, statement or estimate or into the validity of any tax, assessment, sale, forfeiture, tax lien or title or claim thereof.

9. Mortgagor shall pay each item of indebtedness herein mentioned, both principal and interest, when due according to the terms hereof. At the option of the Mortgagee and without notice to Mortgagor, all unpaid indebtedness secured by this mortgage shall, notwithstanding anything in the Note or in this mortgage to the contrary, become due and payable (a) immediately in the case of default in making payment of any installment of principal or interest on the Note, or (b) when default shall occur and continue for three days in the performance of any other agreement of the Mortgagor herein contained.

10. When the indebtedness hereby shall become due whether by acceleration or otherwise, Mortgagee shall have the right to foreclose the lien hereof. In any suit to foreclose the lien hereof, there shall be allowed and included as additional indebtedness in the decree for sale all expenditures and expenses which may be paid or incurred by or on behalf of Mortgagee for attorneys' fees, appraiser's fees, outlays for documentary and expert evidence, stenographers' charges, publication costs and costs (which may be estimated as to items to be expended after entry of the decree) of procuring all such abstracts of title, title searches, and examinations, title insurance policies, Torrens

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certificates, and similar data and assurances with respect to title as Mortgagee may deem to be reasonably necessary either to prosecute such suit or to evidence to bidders at any sale which may be had pursuant to such decree the true condition of the title to or the value of the premises. All expenditures and expenses of the nature in this paragraph mentioned shall become so much additional indebtedness secured hereby and immediately due and payable, with interest thereon at the highest rate now permitted by Illinois law, when paid or incurred by Mortgagee in connection with (a) any proceeding, including probate and bankruptcy proceedings, to which the Mortgagee shall be a party, either as plaintiff, claimant or defendant, by reason of this mortgage or any indebtedness hereby secured; or (b) preparations for the commencement of any suit for the foreclosure hereof after accrual of such right to foreclose whether or not actually commenced; or (c) preparations for the defense of any actual or threatened suit or proceeding which might affect the premises or the security hereof.

11. The proceeds of any foreclosure sale of the premises shall be distributed and applied in the following order of priority: First, on account of all costs and expenses incident to the foreclosure proceedings, including all such items as are mentioned in the preceding paragraph hereof; second, all other items which under the terms hereof constitute secured indebtedness additional to that evidenced by the Note, with interest thereon as herein provided; third, all principal and interest remaining unpaid on the Note; fourth, any overage to Mortgagor, its heirs, legal representatives or assigns, as their rights may appear.

12. Upon or any time after the filing of a complaint to foreclose this mortgage the court in which such complaint is filed may appoint receiver of said premises. Such appointment may be made either before or after the sale, without notice, without regard to the solvency or insolvency of Mortgagor at the time of application for such receiver and without regard to the then value of the premises or whether the same shall be then occupied as a homestead or not, and the Mortgagee may be appointed as such receiver. Such receiver shall have power to collect the rents, issues and profits of said premises during the pendency of such foreclosure suit and, in case of a sale and a deficiency, during the full statutory period of redemption, whether there be redemption or not, as well as during any further times when Mortgagor, except for the intervention of such receiver, would be entitled to collect such rents, issues and profits, and all other powers which may be necessary or are usual in such cases for the protection, possession, control, management and operation of the premises during the whole of said period. The Court from time to time may authorize the receiver to apply the net income in his hands in payment in whole or in part of: (1) The indebtedness secured hereby, or by any decree foreclosing this mortgage, or any tax, special assessment or other lien which may be or become superior to the lien hereof or of such decree, provided such application is made prior to foreclosure sale; (2) the deficiency in case of a sale and deficiency.

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13. No action for the enforcement of the lien or of any provision hereof shall be subject to any defense which would not be good and available to the party interposing same in an action at law upon the Note hereby secured.

14. The Mortgagee shall have the right to inspect the premises at all reasonable times and access thereto shall be permitted for that purpose.

15. The Mortgagor shall periodically deposit with the Mortgagee such sums as the Mortgagee may reasonably require for payment of taxes and assessments on the premises. No such deposit shall bear any interest.

16. If the payment of said indebtedness or any part thereof be extended or varied or if any part of the security be released, all persons now or at any time hereafter liable thereof or, or interested in said premises, shall be held to assent to such extension, variation or release, and their liability and the lien and all provisions hereof shall continue in full force, the right of recourse against all such persons being expressly reserved by the Mortgagee, notwithstanding such extension, variation or release.

17. Mortgagee shall release this mortgage and lien thereof by proper instrument upon payment and discharge of all indebtedness secured hereby and payment of a reasonable fee to Mortgagee for the execution of such release.

18. This mortgage and all provisions hereof, shall extend to and be binding upon Mortgagor and all persons claiming under or through Mortgagor, and the word Mortgagor when used herein shall include all such persons and all persons liable for the payment of the indebtedness or any part thereof, whether or not such persons shall have executed the Note or this mortgage. The word Mortgagee when used herein shall include the successors and assigns of the Mortgagee named herein and the holder or holders, from time to time, of the Note secured hereby.

19. Upon Mortgagee's request after default, Mortgagor shall assign to Mortgagee all leases of the premises and all security deposits made in connection with leases of the premises. Upon the assignment, Mortgagee shall have the right to modify, extend or terminate the existing leases and to execute new leases, in Mortgagee's sole discretion.

20. Mortgagor absolutely and unconditionally assigns and transfers to Mortgagee all the rents and revenues ("Rents") of the premises, regardless of to whom the Rents of the premises are payable. Mortgagor authorizes Mortgagee or Mortgagee's agents to collect the Rents, and agrees that each tenant of the premises shall pay the Rents to Mortgagee or Mortgagee's agents. However, Mortgagor shall receive the Rents until (i) Mortgagor has defaulted and Mortgagee has given Mortgagor notice of default pursuant to the Note and (ii) Mortgagee has given notice to the tenant(s) that the Rents are to be paid to Mortgagee or Mortgagee's agent. This assignment of Rents constitutes an absolute assignment and not an assignment for additional security only. If Mortgagor has defaulted



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and Mortgagee gives notice of default to Mortgagor: (i) all Rents received by Mortgagor shall be held by Mortgagor as trustee for the benefit of Mortgagee only, to be applied to the sums secured by the Mortgage; (ii) Mortgagee be entitled to collect and receive all of the Rents of the premises; (iii) Mortgagor agrees that each tenant of the premises shall pay all Rents due and unpaid to Mortgagee or Mortgagee's agents upon Mortgagee's written demand to the tenant; (iv) unless applicable law provides otherwise, all Rents collected by Mortgagee or Mortgagee's agents shall be applied first to the costs of taking control of and managing the premises and collecting the Rents, including, but not limited to, attorneys' fees, receiver's fees, premiums on receiver's bonds, repair and maintenance costs, insurance premiums, taxes, assessments and other charges on the premises, and then to the sums secured by the Mortgage; (v) Mortgagee, Mortgagee's agents or any judicially appointed receiver shall be liable to account for only those Rents actually received; and (vi) Mortgagee shall be entitled to have a receiver appointed to take possession of and manage the premises and collect the Rents and profits derived from the premises without any showing as to the inadequacy of the premises as security. If the Rents of the premises are not sufficient to cover the costs of taking control of and managing the premises and of collecting the Rents any funds expended by Mortgagee for such purposes shall become indebtedness of Mortgagor to Mortgagee secured by the Mortgage. Mortgagor represents and warrants that Mortgagor has not executed any prior assignment of the Rents and has not performed, and will not perform, any act that would prevent Mortgagee from exercising its rights under this paragraph. Mortgagee, or Mortgagee's agents or a judicially appointed receiver, shall not be required to enter upon, take control of or maintain the premises before or after giving notice of default to Mortgagor. However, Mortgagee, or Mortgagee's agents or a judicially appointed receiver, may do so at any time when a default occurs. Any application of Rents shall not cure or waive any default or invalidate any other right or remedy of Mortgagee. This assignment of Rents of the premises shall terminate when all the sums secured by the Mortgage are paid in full.

This instrument was prepared by and mail recorded mortgage to:

Thomas J. Angell, Esq.  
Jacobs, Burns, et al.  
122 S. Michigan Avenue, Suite 1720  
Chicago, Illinois 60603-6145  
(312) 372-1646