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Eugene "Gene" Moore RHSP Fee:\$10.00
Cook County Recorder of Deeds
Date: 09/19/2005 09:00 AM Pg: 1 of 16

**THIS INSTRUMENT WAS
PREPARED BY
AND AFTER RECORDING
RETURN TO:**

Robert I. Wertheimer, Esq.
Robert I. Wertheimer, P.C.
707 Skokie Boulevard
Suite 555
Northbrook, Illinois 60062

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**SUBORDINATION, NON-DISTURBANCE
AND ATTORNMENT AGREEMENT**

This **SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT** ("Agreement") is made as of this 19 day of August, 2005 by and among **PARK RIDGE COMMUNITY BANK**, a state banking association ("Lender"), **CHADDICK DRIVE, LLC**, an Illinois limited liability company ("Landlord"), and **SPECTRUM MANUFACTURING, INC.**, a Nevada corporation ("Tenant").

RECITALS

WHEREAS, Landlord and Tenant are parties to that certain Multi-Tenant Industrial Building Lease ("Lease") dated July 29, 2005 whereby Landlord has leased to Tenant certain premises (hereinafter referred to as "Premises") located upon that certain parcel of land in Cook County, Illinois, described in Exhibit A attached hereto and made a part hereof ("Property").

WHEREAS, Lender has made a loan to Landlord in the aggregate principal amount of One Million One Hundred Ninety Two Thousand Dollars and no/100 (\$1,192,000.00) ("Loan"). The Loan is evidenced by a Promissory Note ("Note") dated

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January 27, 1997, a Modification of Promissory Note dated October 16, 1998, and a Modification Agreement dated June 1, 2003 and is secured by that certain Real Property Mortgage and Assignment of Rents ("Mortgage") dated January 27, 1997, recorded on February 5, 1997, in the Office of the Recorder of Deeds of Cook County, Illinois, as Document Nos. 97084920 and 97084921, respectively, which Mortgage constitutes a first lien upon the Property.

WHEREAS, the Loan is conditioned on Tenant's specific and unconditional subordination of the Lease to the lien of the Mortgage such that the Mortgage at all times remains a lien on the Property, prior and superior to all the rights of Tenant under the Lease, and Tenant's agreement to attorn to Lender if Lender obtains possession of the Property by foreclosure or deed in lieu of foreclosure. Tenant is willing to do so in consideration of the benefits to Tenant from the Loan and the Lease and Lender's agreement not to disturb Tenant's possession of the Premises under the Lease.

AGREEMENTS

NOW, THEREFORE, in consideration of the mutual entry into this Agreement by the parties hereto, and for other good and valuable considerations, the receipt and adequacy of which are hereby acknowledged by each party hereto, and anything contained in the provisions of the Lease to the contrary notwithstanding, the parties hereto, intending to be legally bound, hereby agree as follows:

1. **Subordination**. Tenant hereby intentionally and unconditionally subordinates the Lease and all of Tenant's right, title and interest thereunder and in and to the Property to the lien of the Mortgage and all of Lender's rights thereunder, including any and all renewals, modifications, consolidations, replacements, increases and extensions thereof and agrees that the Mortgage and any and all renewals, modifications and extensions thereof shall unconditionally be and at all times remain in lien on the Property prior and superior to the Lease. Without limiting the generality of the foregoing, such subordination shall include all rights of Tenant in connection with any insurance or condemnation proceeds with respect to the Premises or Property.
2. **Acknowledgment by Tenant**. This Agreement is and shall be the sole and only agreement with regard to the subordination of the Lease to the lien of the Mortgage and shall supersede and cancel, but only insofar as would affect the priority between the Mortgage and the Lease, any prior agreement as to such subordination, including, without limitation, those provisions, if any, contained in the Lease which provide for the subordination of the Lease to a deed or deeds of trust or to a mortgage or mortgages.

Tenant further acknowledges that incorporated into and made part of the Mortgage is an assignment of the Lease and rents by Landlord to Lender, and agrees that from and after the date hereof, unless Lender has first consented thereto expressly and in writing, Tenant shall: (a) pay no rent or installment thereof under the Lease more than thirty (30) days before its due date; (b) except as may be expressly permitted by the provisions of the Lease, pay such rent when due, without any deduction or set-off whatsoever; (c) except

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as may be expressly permitted by the provisions of the Lease, not cancel, terminate or surrender its leasehold estate or consent to the modification of the terms of the Lease or to Landlord's termination thereof, (d) except as may be expressly permitted by the provisions of the Lease, not enter into any agreement with Landlord which grants any concession with respect to the Lease or which reduces the rent, additional rent, percentage rent or any other amount called for thereunder; and (e) not, without delivering prior written notice to Lender, assert any counterclaims against Landlord.

3. **Nondisturbance.** Lender agrees that Tenant's possession of the Premises shall not be disturbed by Lender during the term of the Lease, and Lender shall not join Tenant in any action or proceeding for the purpose of terminating the Lease, except upon the occurrence of a default by Tenant under the Lease and the continuance of such default beyond any cure period given to Tenant under the Lease.

4. **Effect of Foreclosure.**

(a) If any foreclosure proceeding is brought under the provisions of the Mortgage, such proceeding shall not operate to terminate the Lease or Tenant's rights thereunder, including the right to quiet enjoyment of the Premises (except that such proceeding shall operate to terminate any option to purchase, or other right to purchase any or all of the Premises held by Tenant under the provisions of the Lease), and Lender, for itself and its successors and assigns, shall perform, or cause to be performed, all of Landlord's obligations under the Lease, except those obligations of Landlord which are personal to Landlord or impossible for Lender to perform during the period in which Lender or its successors and assigns (as the case may be) is a mortgagee-in-possession or holds title to the Premises, Lender shall require any purchaser from Lender at such proceeding to agree to perform all of Landlord's obligations under the Lease, except those obligations of Landlord which are personal to Landlord or impossible for the purchaser to perform, and Lender, for itself and its successors and assigns, shall not terminate the Lease or Tenant's rights thereunder or otherwise disturb Tenant in its possession of the Premises; provided that, Tenant continues to pay the rent and otherwise to perform all of its obligations hereunder and under the Lease and that Tenant is not in default; but neither Lender nor any purchaser at such foreclosure shall be:

(i) liable for any breach, act or omission of Landlord or any other person under the Lease, including, without limitation, any delay in delivering the Premises for occupancy and any failure to complete construction of the Landlord's Work (as defined in the Lease) occurring prior to Lender's or such purchaser's acquisition of Landlord's interest in and possession of the Premises, and if later, the completion of construction of the Landlord's Work and delivery of the Premises for occupancy by Tenant.

(ii) subject to any offset or defense which Tenant may have against Landlord or any other person under the Lease, provided such offset or defense arises prior to Lender's or such purchaser's acquisition of Landlord's interest in and possession of the Premises, and if later, the completion of construction of the Landlord's Work and delivery of the Premises for occupancy by Tenant.

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(iii) required or obligated to credit Tenant with any payment of rent or additional rent, percentage rent or any other amount paid or made by Tenant to Landlord or any other person for a period beyond the month during which such foreclosure proceeding is ratified.

(iv) bound by any amendment or modification of the Lease made without Lender's express written consent thereto, except as permitted under the Lease.

(v) bound by any notice given by Tenant to Landlord pursuant to the provisions of the Lease or otherwise, unless and until a copy of it is given to Lender.

(vi) bound to or liable for refund of all or any part of any security deposit or other payment made under the Lease, unless both (a) Landlord has actually delivered it and it has actually been received in cash by Lender or such purchaser, as the case may be, and (b) it has been specifically identified and accepted by Lender or such purchaser, as the case may be, as such and for such purpose; in the event of receipt of security deposit, Lender's obligations with respect thereto shall be limited to the amount of such security deposit actually received by Lender, and Lender shall be entitled to all rights, privileges and benefits of Landlord set forth in the Lease with respect thereto, and

(b) Tenant shall not, without first obtaining Lender's express written consent thereto, subordinate the Lease or any of Tenant's right, title and interest in and to the Premises thereunder to the lien of any mortgage, deed of trust, other security agreement or other instrument, if any other person would thereby acquire the absolute or conditional right thereunder or at law or in equity, by foreclosure, execution of any lien or otherwise, to terminate the Lease or any of Tenant's right, title or interest in and to the Premises thereunder, or the foreclosure of such lien could result in such termination as a matter of law.

(c) Tenant hereby agrees, for itself and its successors and assigns in interest under the Lease, to:

(i) attorn to Lender whenever Lender is in possession of the Premises so as to establish direct privity of estate and contract between Lender and Tenant with the same force and effect and relative priority in time and right as though the Lease was originally made directly between Lender and Tenant; Tenant will thereafter make all payments directly to Lender (provided Lender has previously notified Tenant in writing of Lender's possession of the Premises and of any change in Lender's mailing address) and will waive as against Lender only any defaults of Landlord (whether curable or non-curable) which occurred prior to Lender gaining right of possession to the Premises and becoming substitute landlord; Tenant waives all joinder and/or service of any and all foreclosure actions by Lender under the Mortgage upon the Premises or the Property and of any actions at law by Lender to gain possession of the Premises or the Property; it shall not be necessary, except as required by law, for Lender to name Tenant as a party to enforce its rights under the Mortgage or to prosecute any action at law to gain possession

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of the Premises or the Property and, unless required by law, Lender agrees not to name Tenant in any such proceeding; if the interests of Landlord under the Lease shall be transferred by reason of foreclosure to any party other than Lender (hereinafter referred to as a "Transferee"), then Tenant hereby covenants and agrees to make full and complete attornment to such Transferee as substitute landlord, upon the same terms and conditions as provided for herein in the case of attornment to Lender, and

(ii) execute and deliver to Lender, within ten (10) days of its receipt of a written request therefor from Lender or Trustees, an appropriate agreement of attornment thereunder confirming that Tenant is and then remains bound under all of the terms, covenants and conditions of the Lease.

5. Election by Lender. If Lender, pursuant to the Mortgage, elects to require Tenant to pay to Lender the rent and other charges payable by Tenant under the provisions of the Lease, then (unless and until Lender cancels such election by written notice to Tenant):

(a) Tenant agrees, except to the extent prohibited by law or legal proceedings, to make rental payments upon written demand by Lender stating that an event of default has occurred under the Mortgage;

(b) Tenant shall be similarly bound to Lender and shall similarly attorn to Lender as its landlord upon the terms set forth in the provisions of this Agreement; and

(c) Lender shall accept such attornment, upon the terms set forth in the provisions of this Agreement, and provided that, at the time of such election, all of the rent payable under the Lease is current and Tenant has performed all of the obligations theretofore imposed on Tenant hereunder and under the Lease.

6. Landlord's Defaults. Tenant agrees to give Lender, by registered or certified mail, return receipt requested, a copy of any notice of default served upon Landlord. Tenant further agrees that if Landlord shall have failed to cure such default within the time period provided for in the Lease, then Tenant shall give an additional written notice sent by registered or certified mail, return receipt requested, to Lender stating Landlord's failure to cure such default, except such additional notice shall not be required if Lender is a mortgagee-in-possession or holds title to the Premises. Lender, following its receipt of such additional notice, shall have the right but not the obligation to cure any such default within (a) thirty (30) business days for any monetary default, or (b) sixty (60) days for any other default, unless the cure shall reasonably require a longer period, in which case Lender shall proceed promptly with due diligence to cure such default, in which event the Lease shall not be terminated or any of Landlord's rights thereunder or in connection therewith forfeited or adversely affected while such cure is being so diligently pursued. It is specifically agreed that Tenant shall not, as to Lender, be entitled to require cure of any default which is personal to Landlord, and therefore not susceptible of cure by Lender, and that no such uncured default shall entitle Tenant to exercise any rights under the Lease with respect to Lender, including, without limitation, any rights of set

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off, offset, rent abatement or termination, but that the Lease shall remain in force and effect as between Lender and Tenant except with respect to the provisions personal to Landlord. All payments so made, and all things so done and performed, by Lender shall be as effective to prevent Landlord's rights from being forfeited or adversely affected because of such default as if it had been done and performed by Landlord. Notwithstanding anything to the contrary in this Agreement, in the event of any default that is personal to Landlord during a period in which Landlord is in possession of the Premises, Tenant shall provide Lender written notice of such default, however, Lender's cure periods as set forth herein shall not be applicable to such defaults.

7. **Estoppel Certifications.** Tenant hereby certifies and represents to Lender as provided below.

(a) The Lease constitutes the entire agreement between Landlord and Tenant relating to the premises and the Property.

(b) The Lease is in full force and effect, and has not been amended, modified, or assigned by Tenant, either orally or in writing.

(c) No payments to become due under the Lease have been paid more than one (1) month in advance of the due date.

(d) Tenant has no present claim, offset or defense under the Lease, and Tenant has no knowledge of any uncured breach or default by Landlord or Tenant under the Lease or of any event or condition which, with the giving of notice or the passage of time or both, would constitute a breach or default under the lease.

(e) Tenant has no knowledge of any prior sale, transfer, assignment, hypothecation or pledge of Landlord's interest under the Lease or of the rents due under the Lease.

(f) Except as otherwise provided in the Lease, Tenant has made no agreements with Landlord concerning free rent, partial rent, rebate of rental payments, setoff, or any other type of rental concession.

8. **Limitation on Lender's Liability.** Landlord and Tenant hereby jointly and severally agree for the benefit and reliance of Lender as follows:

(a) neither this Agreement, the Mortgage, nor anything to the contrary in the Lease or in any modifications or amendments thereto shall, prior to Lender's taking of possession of the Premises, operate to give rise to or create any responsibility or liability for the control, care, management or repair of the Premises upon Lender, or impose responsibility for the carrying out by Lender of any of the covenants, terms and conditions of the Lease or of any modification or amendment, or make Lender responsible or liable for any waste committed on the Premises by any party whatsoever, or for any dangerous or defective condition of the Premises, or for any negligence in the

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management, upkeep, repair or control of the Premises resulting in loss, injury or death to any lessee, licensee, invitee, guest, employee, agent or stranger; notwithstanding anything to the contrary in the Lease, Lender, its successors and assigns or a Transferee, shall be responsible for performance of only those covenants and obligations of the Lease accruing after Lender's taking possession of the Premises or the Property, and if after Lender's taking possession of the Premises or the Property, the completion of construction of the Landlord's Work and delivery of the Premises for occupancy by Tenant, and

(b) in the event Lender gains title to the Premises or the Property and becomes substitute landlord, it is agreed that Lender may assign or otherwise transfer its interest as substitute landlord without notice to, the consent of, or assumption of any liability to any other party hereto.

9. Notices. Any notice, demand, consent, approval, request or other communication or document to be provided hereunder to a party hereto shall be (a) in writing and (b) deemed to have been provided (i) forty eight (48) hours after being sent as certified or registered mail in the United States mail, postage prepaid, return receipt requested, to the address of such party set forth below or to such other address in the United States of America as such party may designate from time to time by notice to the other, or (ii) (if such party's receipt thereof is acknowledged in writing) upon its hand or other actual delivery to such party:

If to Lender, at:

Park Ridge Community Bank
626 Tolcott Road
Park Ridge, IL 60068
Attention: Timothy J. Coyne, Vice President
Fax:(847) 384-9245

If to Landlord, at:

Chaddick Drive, LLC,
an Illinois limited liability company
C/o Robert I. Wertheimer, P.C.
707 Skokie Boulevard, Suite 555
Northbrook, IL 60062
Attention: George H. Hoelter and Robert F. Hoelter
Fax:(847) 480-5282

with a copy to:

Robert I. Wertheimer, P.C.
707 Skokie Boulevard, Suite 555
Northbrook, IL 60062-2840

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Attention: Robert I. Wertheimer, Esq.
 Tel: (847) 480-5280
 Fax: (847) 480-5282
 Email: riw@wertheimerlaw.com

and if to Tenant:

SPECTRUM MANUFACTURING, INC.,
 a Nevada corporation
 140 E. Hintz Road
 Wheeling, IL 60090
 Attn: Cary Goldberg
 Tel: (847) 325-9666 (Direct)
 Tel: (847) 520-1553
 Fax: (847) 520-2564
 Email: Cary.Goldberg@Accellent.com

and a copy to:

Melissa R. Kaufman, Esq.
 Hogan & Hartson, LLP
 One Tabor Center
 1200 17th Street, Suite 1500
 Denver, Colorado 80202-5840
 Tel: (303) 454-2483
 Fax: (303) 899-7333
 E-mail: mrkaufman@hhlaw.com

10. Miscellaneous Provisions.

(a) **Effectiveness.** This Agreement shall become effective on execution and delivery by each party hereto.

(b) **Complete Understanding.** This Agreement represents the complete understanding among the parties hereto as to the subject matter hereof, and supersedes all prior negotiations, representations, guaranties, warranties, promises, statements or agreements, either written or oral, among them as to the same.

(c) **Amendment.** This Agreement may be amended by and only by an instrument executed and delivered by each party hereto.

(d) **Waiver.** No party hereto shall be deemed to have waived the exercise of any right, which it holds hereunder, unless such waiver is made expressly and in writing (and no delay or omission by any party hereto in exercising any such right shall be deemed a waiver of its future exercise). No such waiver made as to any instance

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involving the exercise of any such right shall be deemed a waiver as to any other such instance, or any other such right.

(e) **Applicable Law.** This Agreement shall be given effect and construed by application of the laws of the State of Illinois.

(f) **Headings.** The headings of the sections, subsections, paragraphs and subparagraphs hereof are provided herein for and only for convenience of reference and shall not be considered in construing their contents.

(g) **Exhibits.** Each writing or plat referred to herein as being attached hereto as an exhibit or otherwise designated herein as an exhibit hereto is hereby made a part hereof.

(h) **Binding Effect.** The provisions of this Agreement shall be real covenants running with the Property binding upon and inure to the benefit of the parties hereto and their respective heirs, personal representatives, successors and assigns hereunder, including, without limitation, any person who shall obtain directly or by assignment or conveyance any interest in the Mortgage, any certificate of purchase following foreclosure of the Mortgage, any certificate of redemption following such foreclosure, or any interest in the Premises, whether through foreclosure or otherwise. Furthermore, the provisions of this Agreement shall be binding upon any guarantor of Tenant's obligations under the Lease.

(i) **Severability.** No determination by any court, governmental body or otherwise that any provision of this Agreement or any amendment hereof is invalid or unenforceable in any instance shall affect the validity or enforceability of any other such provision, or such provision in any circumstance not controlled by such determination. Each such provision shall be valid and enforceable to the fullest extent allowed by, and shall be construed wherever possible as being consistent with, applicable law.

(j) **Counterparts.** This instrument may be executed in multiple counterparts, all of which shall be deemed originals, including facsimile copies, and with the same effect as if all parties hereto had signed the same document. All of such counterparts, including facsimile copies, shall be construed together and shall constitute one instrument, but in making proof, it shall be necessary to produce only one such counterpart.

(k) **Construction.** All references made in the neuter, masculine or feminine gender shall be deemed to have been made in all such genders. In the singular or plural number shall be deemed to have been made, respectively, in the plural or singular number as well. To any section, subsection, paragraph or subparagraph shall, unless therein expressly indicated to the contrary, be deemed to have been made to such section, subsection, paragraph or subparagraph of this Agreement.

11. **Definitions.**

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(a) "person" means a natural person, a trustee, a corporation, a partnership and any other form of legal entity;

(b) "foreclosure" and "foreclosure sale" shall be deemed to include the acquisition of Landlord's estate in the Premises by voluntary deed, assignment or other disposition or transfer in lieu of foreclosure;

(c) "Lender" means the person hereinabove named as such and its successors and assigns, any present or future holder of any promissory note secured by the Mortgage, and any person who succeeds to Landlord's interest in the Premises by, through or under a foreclosure including, without limitation, any receiver appointed by or for Lender in any action to take possession of the Premises or the Property; and

(d) "Landlord" or "Tenant" means each person hereinabove so named and its respective successors and assigns.

NOTICE: THIS SUBORDINATION AGREEMENT RESULTS IN YOUR LEASE BECOMING SUBJECT TO AND OF LOWER PRIORITY THAN THE LIEN OF THE MORTGAGE (DEFINED ABOVE). IT IS RECOMMENDED THAT, PRIOR TO THE EXECUTION OF THIS AGREEMENT, THE PARTIES CONSULT WITH THEIR ATTORNEYS WITH RESPECT HERETO.

[SIGNATURES ON FOLLOWING PAGE]

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IN WITNESS WHEREOF, each party hereto has executed this Agreement or caused it to be executed on its behalf by its duly authorized representatives, the day and year first above written.

LENDER:

PARK RIDGE COMMUNITY BANK,
a state banking association

By: E.T. CARTER

Print Name: E.T. CARTER

Its: CHAIRMAN

Dated: AUG 19, 2005

TENANT:

SPECTRUM MANUFACTURING,
INC., a Nevada corporation

By: Stew Fischer

Print Name: Stew Fischer

Its: CFO

Dated: August 12, 2005

CONSENTED AND AGREED TO:

LANDLORD:

CHADDICK DRIVE, LLC, an Illinois
limited liability company

By: Its Members

George H. Hoelter Revocable Trust,
dated August 1, 2003

George H. Hoelter, Trustee

Dated: _____, 2005

Property of Cook County Clerk's Office

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IN WITNESS WHEREOF, each party hereto has executed this Agreement or caused it to be executed on its behalf by its duly authorized representatives, the day and year first above written.

LENDER:

PARK RIDGE COMMUNITY BANK,
a state banking association

By: _____

Print Name: _____

Its: _____

Dated: _____, 2005

TENANT:

SPECTRUM MANUFACTURING,
INC., a Nevada corporation

By: _____

Print Name: Stew Fischer

Its: CFO

Dated: _____, 2005

CONSENTED AND AGREED TO:

LANDLORD:

CHADDICK DRIVE, LLC, an Illinois
limited liability company

By: Its Members

George H. Hoelter Revocable Trust,
dated August 1, 2003

George H. Hoelter TRUSTEE
George H. Hoelter, Trustee

Dated: Aug 9, 2005

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Robert F. Hoelter Revocable Trust,
dated August 1, 2003

Robert F. Hoelter, TRUSTEE

Robert F. Hoelter, Trustee

Dated: Aug 9, 2005

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ACKNOWLEDGEMENT

STATE OF ILLINOIS)) SS.
COUNTY OF COOK)

Before me, a Notary Public in and for said County and State, **DO HEREBY CERTIFY** that **ROBERT F. HOELTER**, trustee of the Robert F. Hoelter Revocable Trust, dated August 1, 2003 and **GEORGE H. HOELTER**, trustee of the George H. Hoelter Revocable Trust, dated August 1, 2003 personally known to me to be the same persons whose name are subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that, in their capacity as members of **CHADDICK DRIVE, LLC**, an Illinois limited liability company, and being duly authorized, they signed and delivered said instrument as their free and voluntary act and as the free and voluntary act and deed to said limited liability company, for the uses and purposes therein set forth.

WITNESS my hand and Notarial Seal this 9th day of August 2005.



Inez L. Cichon
Notary Public
My Commission Expires: 10/6/07
My County of Residence: cook

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EXHIBIT A LEGAL DESCRIPTION

LOTS 2, 3, 4, 5 AND 6 IN PALWAUKEE BUSINESS CENTER UNIT ONE, BEING A SUBDIVISION IN THE SOUTH EAST ¼ OF SECTION 11, TOWNSHIP 42 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED JULY 18, 1985 AS DOCUMENT 85106828, IN COOK COUNTY, ILLINOIS.

COMMON ADDRESS:

686-690 CHADDICK DRIVE
WHEELING, ILLINOIS 60090

P.I.N.:

03-11-402-001 and
03-11-402-006

Property of Cook County Clerk's Office