



Doc#: 0602403072 Fee: \$70.00
Eugene "Gene" Moore RHSP Fee: \$10.00
Cook County Recorder of Deeds
Date: 01/24/2008 12:02 PM Pg: 1 of 24

A POWER OF SALE HAS BEEN GRANTED IN THIS MORTGAGE. A POWER OF SALE MAY ALLOW THE MORTGAGEE TO TAKE THE MORTGAGED PREMISES AND SELL IT WITHOUT GOING TO COURT IN A FORECLOSURE ACTION UPON DEFAULT BY THE MORTGAGOR UNDER THIS MORTGAGE

CONTINUING COLLATERAL MORTGAGE

This Continuing Collateral Mortgage ("Mortgage") is made January 4, 2006 by Lakeshore Distribution, LLC, a Michigan limited liability company (individually and collectively if more than one party "Mortgagor"), located at 12225 Stephens Road, Warren, Michigan 48089, to Comerica Bank, a Michigan banking corporation ("Mortgagee"), located at 500 Woodward Avenue, Detroit, Michigan 48226.

THIS IS A FUTURE ADVANCE MORTGAGE.


This Mortgage is made to secure all of the following (individually and collectively the "Indebtedness"):

- (i) Payment in the sum of NINE MILLION NINE HUNDRED ONE THOUSAND DOLLARS (\$9,901,000) lawful money of the United States, together with interest, costs and all other sums on that amount, to be paid according to certain note(s) of even date herewith to Mortgagee made as of the date of this Mortgage by the Mortgagor, and any and all extensions, renewals, modifications, substitutions or replacements of the above mentioned note(s). This reference to a particular dollar amount does not in any way limit the dollar amount secured by this Mortgage.
- (ii) The performance of the covenants in this Mortgage and the repayment of all sums expended by the Mortgagee in connection with performance of those covenants.

As security for the purposes stated above and elsewhere in this Mortgage, the Mortgagor mortgages and warrants to the Mortgagee, its successors and assigns, the lands, premises and property in the County of Cook, in the State of Illinois, described as follows:

Legal Description:

See Exhibit "A" attached hereto and incorporated herein by this reference.

Tax Lot and Block: 15-17-200-019-0000 

Commonly Known As: 200 N. Mannheim Road, Hillside, Illinois.

First American Title
Order # _____

DEC NCS-194061-HV
FATCO Troy, MI 1 of 2
Troy_391941_3

27

UNOFFICIAL COPY

Together with:

- (a) all related easements, rights-of-way, licenses and privileges;
- (b) all buildings and improvements now or later situated under, upon or over the above described land or any part of it;
- (c) all the tenements, hereditaments, appurtenances, reversions and remainders belonging or pertaining to the above described land and also all other estate, right, title, and interest of the Mortgagor in and to the above described land;
- (d) all the rents, issues, profits, license fees, revenues, charges, accounts and general intangibles arising from the above described land, or relating to any business conducted by the Mortgagor on it, under present or future leases, licenses or otherwise, which are specifically assigned and transferred to the Mortgagee;
- (e) all right, title and interest of the Mortgagor in and to the land lying in the bed of any street, road, avenue, alley or walkway, opened or proposed or vacated, adjoining the above described land;
- (f) all of Mortgagor's interest in all machinery, apparatus, equipment, goods, fittings, fixtures, and articles of personal property of every kind and nature (other than Household Goods, as defined by 12 CFR 227.12, as amended from time to time, unless such good(s) were purchased with the proceeds of any loan or other extension of credit secured by this Mortgage), now or later located in or upon the above described land and used or useable in connection with any present or future operation of the land or any building or buildings now or later on the land and now owned or later acquired by the Mortgagor (individually and collectively the "equipment") including, without limit, all lighting, heating, cooling, ventilating, air-conditioning, incinerating, refrigerating, plumbing, sprinkling, communicating and electrical systems, and the related machinery, appliances, fixtures and equipment, and all of the right, title and interest of the Mortgagor in and to any equipment which may be subjected to any title retention or security agreement superior in lien to the lien of this Mortgage. It is understood and agreed that all equipment is part and parcel of the mortgaged premises and appropriated to the use of the said real estate and, whether affixed or annexed or not, shall for the purposes of this Mortgage, unless the Mortgagee shall otherwise elect, be deemed conclusively to be real estate and mortgaged under this Mortgage; and
- (g) any and all awards or payments, including without limit interest on them, and the right to receive them, which may be made with respect to the mortgaged premises as a result of (i) the exercise of the right of eminent domain, (ii) the alteration of the grade of any street, (iii) any loss of or damage to any building or other improvement on the above described land, (iv) any other injury to or decrease in the value of the mortgaged premises, (v) any refund due on account of the



UNOFFICIAL COPY

payment of real estate taxes, assessments or other charges levied against or imposed upon the mortgaged premises or (vi) any refund of utility deposits or right to any tenant deposit. The reasonable attorneys fees, costs and disbursements incurred by the Mortgagee in connection with the collection of these awards or payments shall be additional Indebtedness secured by this Mortgage. The Mortgagor agrees to execute and deliver, from time to time, further instruments as may be requested by the Mortgagee to confirm the assignment to the Mortgagee of these awards and payments.

Notwithstanding the foregoing and subject to the terms of this Mortgage, awards, insurance premium rebates and payments described in (g) above or Section 4 of this Mortgage shall be paid to and retained by Mortgagor unless there has occurred and is continuing an Event of Default (as defined herein).

Any reference in this Mortgage to the "mortgaged premises" shall, unless the context requires otherwise, be deemed to include and apply to the above described land, buildings, improvements, equipment, rents, issues, profits, leases, easements, tenements, hereditaments, and appurtenances, awards, payments and all other rights, privileges and interests described above. Notwithstanding the foregoing, this Mortgage shall not secure that part of the Indebtedness, if any, which constitutes a consumer loan, other than a loan (which is a consumer loan) made at the same time as this Mortgage and referenced in clause (i) on page one above or otherwise referenced as being secured by this Mortgage (and all extensions, renewals, modifications or replacements thereof). TO HAVE AND TO HOLD the mortgaged premises, with all the privileges and appurtenances to the same belonging, and the possession and right of possession thereof, unto Mortgagee and its successors and assigns forever. The Mortgagor, on a continuing basis, warrants, covenants and agrees to and with the Mortgagee, which covenants, warranties and agreements, to the extent permitted by law, shall be deemed to run with the land, as follows:

1. The Mortgagor will pay to the Mortgagee all Indebtedness according to the terms of the relevant instruments or agreements evidencing it, and the Mortgagor agrees that this Mortgage is a continuing mortgage securing the payment of the Indebtedness.
2. The Mortgagor has good and indefeasible title to the entire mortgaged premises in fee simple and with good right and full power to sell, mortgage and convey it; the mortgaged premises are free and clear of all easements, restrictions, liens, leases and encumbrances whether now existing or later created, except those matters listed on attached Exhibit "B" (if any) to which this Mortgage is expressly subject, and the Mortgagor will warrant and defend the mortgaged premises against all other claims and demands whatsoever. The Mortgagee shall have the right, at its option (upon written notice, stating the reason therefor) and at such time or times as it, in its sole reasonable discretion, deems necessary, to take whatever action it may deem necessary to defend or uphold the lien of this Mortgage or otherwise enforce any of the rights of the Mortgagee under this Mortgage or any obligation secured by this Mortgage including, without limit, the right to institute appropriate legal proceedings for these purposes.
3. The Mortgagor shall pay when due, and before any interest, collection fees or penalties accrue or default occurs, all taxes, assessments, encumbrances, liens, mortgages, water or

UNOFFICIAL COPY

sewer charges and other charges and impositions levied, assessed or existing with respect to the mortgaged premises or any part of it, including without limitation, any mortgage registration tax ("Impositions"), and will deliver to the Mortgagee without demand official receipts showing these payments and Mortgagor shall have the right to contest such Impositions in good faith by appropriate proceedings diligently pursued and provided that the mortgaged premises are not subject to any imminent risk of loss or forfeiture. If the Mortgagor fails to pay these taxes, assessments, encumbrances, liens, mortgages, charges and impositions when due, or, if being contested as provided herein, after any permitted period of contest, or if the Mortgagor fails to pay all interest, collection fees and penalties accrued on them, the Mortgagee, at its sole option, may (but is not obligated to) pay them and the monies paid shall be a lien upon the mortgaged premises added to the amount secured by this Mortgage and payable immediately by the Mortgagor to the Mortgagee, with interest at the highest rate charged by the Mortgagee on any of the Indebtedness (but not to exceed the maximum interest rate permitted by applicable law).

At the sole option of the Mortgagee (which option may only be exercised following the occurrence of an Event of Default, the Mortgagor shall pay to the Mortgagee in advance on the first day of each month a pro rata portion (as determined by the Mortgagee) of all taxes, assessments, liens, encumbrances, mortgages, and other charges levied, assessed or existing on the mortgaged premises. In the event that sufficient funds have been deposited with the Mortgagee to cover the amount of these taxes, assessments, liens, encumbrances, mortgages, and other charges when they become due and payable, the Mortgagee shall pay them. In the event that sufficient funds have not been deposited to cover the amount of these taxes, assessments, liens, encumbrances, mortgages and other charges at least thirty (30) days prior to the time when they become due and payable, the Mortgagor shall immediately upon request by the Mortgagee pay the amount of the deficiency to the Mortgagee. The Mortgagee shall not be required to keep in a separate account or to pay the Mortgagor any interest or earnings whatever on the funds held by the Mortgagee for the payment of taxes, assessments, liens, encumbrances, mortgages, or other charges pursuant to this paragraph or for the payment of insurance premiums under paragraph (4) below, or on any other funds deposited with the Mortgagee in connection with this Mortgage. If an event of default occurs under this Mortgage, any funds then remaining on deposit with the Mortgagee may be applied against the Indebtedness immediately upon or at any time after the event of default occurs, and without notice to the Mortgagor. Further, the Mortgagee may make payments from any funds on deposit with the Mortgagee for taxes, assessments, liens, encumbrances, mortgages, or other charges on or with respect to the mortgaged premises notwithstanding that subsequent owners of the premises may benefit as a result. The Mortgagor shall not, and nothing in this Mortgage shall be construed to give the Mortgagor the right to, mortgage or pledge the mortgaged premises or any part of it as security for any other indebtedness or obligations. Nothing in this paragraph shall be considered a consent by the Mortgagee to any lien, mortgage or encumbrance on the mortgaged premises unless set forth on attached Exhibit "B", if any.

4. The Mortgagor shall keep the buildings and all other improvements now or later existing on the mortgaged premises constantly insured for the benefit of the Mortgagee against

UNOFFICIAL COPY

fire and other hazards and risks, including without limit vandalism and malicious mischief, as the Mortgagee may reasonably require and shall further provide flood insurance (if the mortgaged premises are situated in an area which is considered a flood risk area by the United States Department of Housing and Urban Development, and in which flood insurance has been made available under the National Flood Insurance Act of 1968, as amended), public liability and any other insurance as the Mortgagee may require from time to time, all in amounts and in forms and with companies as are satisfactory to the Mortgagee. The Mortgagor shall deliver to the Mortgagee the policies evidencing the required insurance with premiums fully paid for one year in advance (unless at the time it is Mortgagor's practice to pay only monthly in advance and in such case, paid at least one month in advance) and with standard mortgagee clauses (making all loss payable to the Mortgagee) satisfactory to the Mortgagee. Renewals of the required insurance (together with evidence of premium prepayment for one year in advance) shall be delivered to the Mortgagee at least thirty (30) days before the expiration of any existing policies. All policies and renewals shall provide that they may not be canceled or amended without giving the Mortgagee thirty (30) days prior written notice of cancellation or amendment. All policies and renewals shall be held by, and are pledged to, the Mortgagee, along with all insurance premium rebates, as additional security for the Indebtedness. Should the Mortgagor fail to insure or fail to pay the premiums on any required insurance or fail to deliver the policies or renewals of them as provided above, the Mortgagee may (but is not obligated to) have the insurance issued or renewed (and pay the premiums on it for the account of the Mortgagor) in amounts and with companies and at premiums as the Mortgagee deems appropriate. If the Mortgagee elects to have insurance issued or renewed to insure the Mortgagee's interest, the Mortgagee shall have no duty or obligation of any kind to also insure the Mortgagor's interest or to notify the Mortgagor of the Mortgagee's actions. Any premiums or other sums paid by the Mortgagee for insurance as provided above shall be a lien upon the mortgaged premises added to the amount secured by this Mortgage and payable immediately, with interest on those sums at the highest rate charged by the Mortgagee on any of the Indebtedness (but not to exceed the maximum interest rate permitted by applicable law). In the event of loss or damage, the proceeds of all required insurance shall be paid to the Mortgagee alone. No loss or damage shall itself reduce the Indebtedness. The Mortgagee and any of its employees is each irrevocably appointed attorney-in-fact for the Mortgagor and is authorized (after the occurrence of an Event of Default or if Mortgagor promptly after request by Mortgagee fails to adjust and compromise losses) to adjust and compromise each loss without the consent of the Mortgagor, to collect, receive and receipt for the insurance proceeds in the name of the Mortgagee and the Mortgagor and to endorse the Mortgagor's name upon any check in payment of the loss. The proceeds shall be applied first toward reimbursement of all costs and expenses of the Mortgagee in collecting the proceeds (including, without limit, court costs and reasonable attorneys' fees), and then, subject to the provisions of paragraph 43, toward payment of the Indebtedness or any portion of it, whether or not then due or payable and in whatever order of maturity as the Mortgagee may elect, or the Mortgagee, at its option, may apply the insurance proceeds, or any part of them, to the repair or rebuilding of the mortgaged premises. Application of proceeds by the Mortgagee toward later maturing installments of the Indebtedness shall not excuse the

UNOFFICIAL COPY

Mortgagor from making the regularly scheduled installment payments nor shall such application extend or reduce the amount of any of these payments. Application of proceeds by the Mortgagee toward payment of the Indebtedness shall constitute an acceleration and prepayment and shall subject the Mortgagor to any applicable prepayment premium or formula. In the event of a foreclosure of this Mortgage, or the giving of a deed in lieu of foreclosure, the purchaser or grantee of the mortgaged premises shall succeed to all of the rights of the Mortgagor under said insurance policies including, without limit, any right to unearned premiums and to receive the proceeds. At the sole option of the Mortgagee, (which option may only be exercised following the occurrence of an Event of Default), the Mortgagor shall pay to the Mortgagee in advance on the first day of each month the equivalent of one-twelfth (1/12th) of the annual premiums (as estimated by the Mortgagee) due on the required insurance, but with an initial payment which together with subsequent monthly payments will be sufficient to pay the estimated annual premiums as provided in this paragraph. In the event that sufficient funds have been deposited with the Mortgagee to cover the amount of the insurance premiums for required insurance when the premiums become due and payable, the Mortgagee shall pay the premiums. In the event that sufficient funds have not been deposited with the Mortgagee to pay the insurance premiums at least thirty (30) days prior to the time when they become due and payable, the Mortgagor shall immediately upon request pay the amount of this deficiency to the Mortgagee.

5. The Mortgagor shall promptly repair, restore, replace or rebuild each part of the mortgaged premises which may be damaged or destroyed by fire or other casualty or which may be affected by any eminent domain proceedings, unless insurance proceeds or eminent domain award is applied to payment of the Indebtedness.
6. The Mortgagor shall abstain from commission of waste upon the mortgaged premises, keep the buildings, improvements and equipment on the mortgaged premises in good repair, and promptly comply with all laws, regulations and requirements of all governmental bodies affecting the mortgaged premises. If the Mortgagee determines that the mortgaged premises, or any part of it, requires inspection, testing, appraisal, repair, care, alteration or attention of any kind or nature, not provided to the Mortgagee's satisfaction by the Mortgagor, the Mortgagee may (but is not obligated to) upon five (5) business days notice (which notice shall not be required in the case of an emergency) enter or cause entry to be made upon the mortgaged premises, and inspect, test, appraise, repair, alter or maintain the mortgaged premises as the Mortgagee may deem necessary, and the Mortgagor shall reimburse the Mortgagee upon demand for all resulting costs and expenses incurred by the Mortgagee; provided that the right to inspect and take such other actions may not be exercised prior to the occurrence of an Event of Default. The Mortgagee may pay sums of money as the Mortgagee deems reasonably essential for the preservation of the mortgaged premises, and these sums shall be additional Indebtedness secured by this Mortgage, shall be payable by the Mortgagor to the Mortgagee upon demand, and shall bear interest at the highest rate charged by the Mortgagee to the Mortgagor on any of the Indebtedness (but not to exceed the maximum interest rate under applicable law). The failure of Mortgagor to pay when due and payable any taxes or assessments assessed against the mortgaged premises, or any installment of them, or any premiums payable with respect to any insurance policy covering the mortgaged premises,



UNOFFICIAL COPY

shall constitute waste (although the meaning of "waste" shall not be limited to this nonpayment). The Mortgagor consents to the appointment of a receiver should the Mortgagee seek this relief. The Mortgagor shall give Mortgagee prompt notice of any material alterations, additions or improvements of any type to the mortgaged premises.

7. The Mortgagor shall pay (before the same become liens, encumbrances or charges against the mortgaged premises) any and all obligations, liabilities or debts for repairs or improvements to the mortgaged premises or for any other goods, services, or utilities furnished to the mortgaged premises, provided, however no such payment need be made during any time when Mortgagor is contesting such items in good faith by appropriate proceedings diligently pursued and provided the mortgaged premises are not subject to imminent risk of loss. The Mortgagor shall not mortgage or pledge the mortgaged premises or any part of it as security for any other indebtedness or obligations.

8. In the event the mortgaged premises, or any part of it, is taken under power of eminent domain, or by condemnation, the entire proceeds of the award shall be paid directly to the Mortgagee and applied toward reimbursement of all the Mortgagee's costs and expenses incurred in connection with collecting the award (including, without limit, court costs and reasonable attorneys' fees), and, subject to the provisions of paragraph 43, the balance applied upon the Indebtedness whether or not then due or payable in whatever manner the Mortgagee deems advisable. Application by the Mortgagee of any condemnation award or portion of it toward the last maturing installments of the Indebtedness shall not excuse the Mortgagor from making the regularly scheduled payments nor extend or reduce the amount of these payments. Application of any condemnation award by the Mortgagee toward payment of the Indebtedness shall constitute an acceleration and a prepayment and shall subject the Mortgagor to any applicable prepayment premium or formula. The Mortgagee or any of its employees is irrevocably appointed attorney-in-fact and is duly authorized and empowered to receive, receipt for, discharge and satisfy any condemnation award and judgment, whether joint or several, on behalf of the Mortgagor, his legal representatives and assigns. This receipt, discharge and satisfaction shall be as legally effective and binding as if given directly by the Mortgagor; provided, however, that the Mortgagee shall not be liable for failure to collect any condemnation award, regardless of the cause of such failure.

9. The Indebtedness secured by this Mortgage shall become due and payable immediately, without notice, at the option of the Mortgagee, if the Mortgagor shall convey, assign or transfer the mortgaged premises or any part of it by deed, land contract or other instrument to any person or entity other than an entity which is wholly owned by Mortgagor and which takes the mortgaged premises subject to this Mortgage, or if title to the mortgaged premises or any part of it shall become vested in any other person or party in any manner whatsoever or if there is any disposition (through one or more transactions) of legal or beneficial title to a controlling interest of the Mortgagor. In the event ownership of the mortgaged premises or any part of it becomes vested in a person or persons other than the Mortgagor (with or without the prior written approval of the Mortgagee), the Mortgagee may (but shall not be obligated to) deal with and may enter into any contract or agreement with the successor or successors in interest with reference to this Mortgage in the same manner as with the Mortgagor, without in any manner

UNOFFICIAL COPY

vitiating, discharging or otherwise affecting the lien of this Mortgage or the Mortgagor's liability under this Mortgage or upon the Indebtedness.

10. This Mortgage shall, as to any equipment, fixtures, accounts, general intangibles and other personal property covered by it, be deemed to grant a security interest in the equipment, fixtures, accounts, general intangibles and other personal property pursuant to the Uniform Commercial Code. The Mortgagor agrees, upon request of the Mortgagee from time to time, to promptly furnish a list of personal property owned by the Mortgagor and subject to this Mortgage and, upon request by the Mortgagee, to immediately execute, deliver and/or file any mortgage and any amendments to this Mortgage, any separate security agreement and any financing statements to include specifically this list of personal property. Upon the occurrence of any Event of Default, the Mortgagee shall have all of the rights and remedies of a secured party under the Uniform Commercial Code or otherwise provided by law or by this Mortgage including, without limit, the right to require the Mortgagor to assemble the personal property and make it available to the Mortgagee at a place to be designated by the Mortgagee which is reasonably convenient to both parties, the right to take possession of the personal property with or without demand and with or without process of law and the right to sell and dispose of it and distribute the proceeds according to law. The Mortgagor agrees that any requirement of reasonable notice shall be met if the Mortgagee sends notice to the Mortgagor at least ten (10) days prior to the date of sale, disposition or other event giving rise to the required notice. The Mortgagor agrees that the proceeds of any disposition of the personal property may be applied by the Mortgagee first to the Mortgagee's reasonable expenses in connection with the disposition including, without limit, reasonable attorneys' fees and legal expenses (based on time and charges), and then to payment of the Indebtedness. Mortgagee agrees to provide Mortgagor with a detailed billing of any expenses with respect to which reimbursement is sought.
11. As additional security for the payment of the Indebtedness and performance of this Mortgage, the Mortgagor assigns to the Mortgagee all its right, title and interest in and to all written and oral leases and occupancy agreements, now or later existing, covering the mortgaged premises or any part of it (but without an assumption by the Mortgagee of liabilities of the Mortgagor under any of these leases or occupancy agreements by virtue of this assignment), and the Mortgagor assigns to the Mortgagee the rents, issues and profits of the mortgaged premises. If an Event of Default occurs, the Mortgagee may receive and collect the rents, issues and profits personally or through a receiver so long as the Event of Default exists and during the pendency of any foreclosure proceedings and during any redemption period. The Mortgagor agrees to consent to the appointment of a receiver if this is believed necessary or desirable by the Mortgagee to enforce its rights under this Mortgage. The Mortgagee shall at no time have any obligation whatever to attempt to collect rent or other amounts from any tenant or occupier of the mortgaged premises notwithstanding that such tenants and occupiers may not be paying rent or other amounts to either the Mortgagor or to the Mortgagee. Further, the Mortgagee shall at no time have any obligation whatever to enforce any other obligations owed by tenants or occupiers of the mortgaged premises to the Mortgagor. No action taken by the Mortgagee under this Mortgage shall make the Mortgagee a "mortgagee in possession." The Mortgagor shall at no time collect advance rent under any lease or occupancy



UNOFFICIAL COPY

agreement pertaining to the mortgaged premises or any part of it in excess of one month (other than as a security deposit) and the Mortgagee shall not be bound in any respect by any rent prepayment made or received in violation of this prohibition. As additional security for the Indebtedness, the Mortgagor assigns to the Mortgagee all of the Mortgagor's rights and interest in all licenses and permits affecting the mortgaged premises. This assignment shall not be construed as a consent by the Mortgagee to any license or permit so assigned, or to impose upon Mortgagee any obligations with respect to any license or permit. The Mortgagor shall not cancel or amend any of the licenses and permits assigned (nor permit any of them to terminate if they are necessary or desirable for the operation of the mortgaged premises) without first obtaining the written approval of the Mortgagee. This paragraph shall not be applicable to any license or permit that terminates if it is assigned without the consent of another party (other than the Mortgagor) or its issuer, unless this consent has been obtained or this assignment is ratified by the other party or issuer; nor shall this paragraph be construed as a present assignment of any license or permit that the Mortgagor is required by law to hold in order to operate the mortgaged premises.

12. This paragraph intentionally omitted.
13. This paragraph intentionally omitted.
14. (a) The Mortgagor represents, warrants and covenants that the Mortgagor has not used Hazardous Materials (as later defined) on or affecting the mortgaged premises in any manner which violates Environmental Laws (as later defined), that there is no condition concerning the mortgaged premises which could require remediation pursuant to applicable Environmental Laws, and that, to the best of the Mortgagor's knowledge, no prior owner of the mortgaged premises or any current or prior occupant has used Hazardous Materials on or affecting the mortgaged premises in any manner which violates Environmental Laws. The Mortgagor covenants and agrees that neither it nor any occupant shall use, introduce or maintain Hazardous Materials on the mortgaged premises in any manner unless done in strict compliance with all Environmental Laws.
- (b) The Mortgagor shall conduct and complete all investigations, environmental audits, studies, sampling and testing, and all remedial, removal and other actions necessary to clean up and remove all Hazardous Materials on or affecting the mortgaged premises, whether caused by the Mortgagor or a third party, in accordance with all Environmental Laws to the satisfaction of the Mortgagee, and in accordance with the orders and directives of all federal, state and local governmental authorities. Any remedial, removal or other action by the Mortgagor shall not be deemed a cure or waiver of any breach of this paragraph (14) due to the presence or use of Hazardous Materials on or affecting the mortgaged premises. Additionally, the Mortgagor shall defend, indemnify and hold harmless the Mortgagee, its employees, agents, shareholders, officers and directors, from and against any and all claims, demands, penalties, fines, liabilities, settlements, damages, costs or expenses (including, without limit, reasonable attorneys' fees) of whatever kind or nature arising out of or related to

UNOFFICIAL COPY

- (i) the presence, disposal, release or threatened release of any Hazardous Materials on, from or affecting the mortgaged premises or the soil, water, air, vegetation, buildings, personal property, persons or animals on the mortgaged premises, except to the extent caused by Mortgagee or occurring after Mortgagee or a purchaser from Mortgagee takes title to the mortgaged premises, (ii) any personal injury (including without limit wrongful death) or property damage (real or personal) arising out of or related to these Hazardous Materials, (iii) any lawsuit brought or threatened, settlement reached or government order related to these hazardous materials, (iv) the cost of removal of all Hazardous Materials from all or any portion of the mortgaged premises, (v) taking necessary precautions to protect against the release of Hazardous Materials on or affecting the mortgaged premises, (vi) complying with all Environmental Laws and/or (vii) any violation of Environmental Laws or requirements of the Mortgagee, which are based upon or in any way related to Hazardous Materials including, without limit, attorneys and consultants' fees (the attorneys and consultants to be selected by the Mortgagee), investigation and laboratory fees, environmental studies required by the Mortgagee (whether prior to foreclosure, or otherwise), court costs and litigation expenses.
- (c) The Mortgagor has never received any notice ("Environmental Complaint") of any violation of Environmental Laws with respect to the mortgaged premises (and, within five (5) days of receipt of any Environmental Complaint, the Mortgagor shall give the Mortgagee a copy of it), and to the best of the Mortgagor's knowledge, there have been no actions commenced or threatened by any party with respect to the mortgaged premises for noncompliance with any Environmental Laws.
- (d) In the event this Mortgage is foreclosed or the Mortgagor tenders a deed in lieu of foreclosure, the Mortgagor shall deliver the mortgaged premises to the Mortgagee, purchaser or grantee, as the case may be, free of any and all Hazardous Materials so that the condition of the mortgaged premises shall not be a violation of any Environmental Laws.
- (e) Following the occurrence of an Event of Default and upon ten (10) business days notice to the Mortgagor (except in an emergency or where not practical under applicable law, in which case notice is waived), and without limitation of the Mortgagee's other rights under this Mortgage or elsewhere, the Mortgagee has the right, but not the obligation, to enter on the mortgaged premises and to take other actions as it deems appropriate to investigate or test for, clean up, remove, resolve, minimize the impact of or advise governmental agencies of the possible existence of any Hazardous Materials or Environmental Complaint upon the Mortgagee's receipt of any notice from any source asserting the existence of any Hazardous Materials or an Environmental Complaint pertaining to the mortgaged premises which, if true, could result in an order, suit or other action against the Mortgagor and/or any part of the mortgaged premises which, in the sole opinion of the Mortgagee, could jeopardize its security under this Mortgage. All reasonable costs and expenses incurred by the Mortgagee in the exercise of any of

UNOFFICIAL COPY

these rights shall be secured by this Mortgage and shall be payable by the Mortgagor upon demand. Any such actions conducted by the Mortgagee shall be solely for the benefit of and to protect the interests of the Mortgagee and shall not be relied upon by the Mortgagor or any third party for any purpose whatsoever. By conducting any such actions, the Mortgagee does not assume control over the environmental affairs or operations of the Mortgagor nor assume any liability of the Mortgagor or any third party.

- (f) The provisions of this paragraph (14) shall be in addition to any and all other obligations and liabilities the Mortgagor may have to the Mortgagee at common law or pursuant to any other agreement, and shall survive (i) the repayment of all sums due under any note or other loan documents executed in connection with this Mortgage and the repayment of all other Indebtedness, (ii) the satisfaction of all other obligations of the Mortgagor under this Mortgage and under the other loan documents and evidence(s) of indebtedness, (iii) the discharge of this Mortgage, and (iv) the foreclosure of this Mortgage or acceptance of a deed in lieu of foreclosure.
- (g) For purposes of this Mortgage, (i) "Hazardous Materials" means each and all of the following: hazardous materials and/or substances as defined in any Environmental Law, petroleum, petroleum by-products, natural gas, flammable explosives, radioactive materials, and toxic materials, and (ii) "Environmental Laws" mean any and all federal, state, local or other laws (whether under common law, by legislative action or otherwise), rules, policies, ordinances, directives, orders, statutes, or regulations an object of which is to regulate or improve health, safety, or the environment including, without limit, the Comprehensive Environmental Response Compensation and Liability Act of 1980, as amended (42 USC 9601 et seq.), the Resource Conservation and Recovery Act, as amended (42 USC 6901 et seq.).
15. If this Mortgage encumbers a unit in a condominium or planned unit development, the Mortgagor shall perform in the time and manner required all of the Mortgagor's obligations under the declaration or covenants creating or governing the condominium or planned unit development and the bylaws, regulations and constituent documents of the condominium or planned unit development. The Mortgagor shall comply with and perform in the time required all obligations and restrictions imposed upon the Mortgagor or the mortgaged premises under applicable deed restrictions, restrictive covenants, easements or other agreements affecting the mortgaged premises, but this is not a consent by the Mortgagee to take subject to any of these agreements unless specifically set forth on attached Exhibit "B", if any, and the Mortgagee does not assume any obligations under these agreements.
16. This paragraph intentionally omitted.
17. No waiver or forbearance by the Mortgagee of any right or remedy under this Mortgage shall affect or extend to or be deemed a waiver of any other right or remedy of the Mortgagee under this Mortgage nor affect or impair the subsequent exercise of the same

UNOFFICIAL COPY

right or remedy by the Mortgagee for any future or subsequent default by the Mortgagor under this Mortgage.

18. All remedies provided in this Mortgage are distinct and cumulative to any other right or remedy under this Mortgage, any other agreement or afforded by law, and may be exercised concurrently, independently or successively.
19. The occurrence of any of the following events shall be deemed an Event of Default under this Mortgage and shall entitle the Mortgagee to exercise its remedies under this Mortgage or as otherwise provided by law:
 - (a) The occurrence of an Event of Default under the Loan Agreement dated January 4, 2006 between Mortgagor and Mortgagee.
20. In the event of any foreclosure or other sale under this Mortgage by virtue of judicial proceedings, power of sale, or otherwise, the mortgaged premises may be sold in one parcel and as an entirety, or in such parcels, manner or order as the Mortgagee in its sole discretion may elect.
21. Acceleration of the Indebtedness as provided in this Mortgage shall trigger any applicable prepayment premium or formula. Without limiting when a prepayment premium may be due, it is agreed that at any time after acceleration a tender of payment of the amount necessary to satisfy the entire Indebtedness by the Mortgagor, or by anyone on behalf of the Mortgagor or otherwise, must include any applicable prepayment premium or formula.
22. Immediately upon the occurrence of any Event of Default, the Mortgagee shall have the option, in addition to and not in substitution for all other rights and remedies provided in this Mortgage or other agreement or by law, and is authorized by the Mortgagor, to do any or all of the following:
 - (a) Declare the entire unpaid amount of the Indebtedness, together with accrued and unpaid interest on it and any applicable prepayment premium or formula, and any and all other charges payable by the Mortgagor to the Mortgagee to be immediately due and payable and, at the Mortgagee's option, (i) to bring suit for the same, (ii) to bring suit for any delinquent payment of or upon the Indebtedness, or (iii) to take any and all steps and institute any and all other proceedings that the Mortgagee deems necessary to enforce payment of the Indebtedness and performance of other obligations secured under this Mortgage and to protect the lien of this Mortgage.
 - (b) Commence foreclosure proceedings against the mortgaged premises pursuant to the Illinois Mortgage Foreclosure Law, 735 ILCS 5/15-1101, et. seq. (the "Act"). The commencement by the Mortgagee of foreclosure proceedings shall be deemed an exercise by the Mortgagee of its option to accelerate the Indebtedness, unless such proceedings on their face specifically indicate otherwise. The Mortgagor grants power to the Mortgagee to sell the mortgaged premises or to cause the same to be sold at public sale.



UNOFFICIAL COPY

- (c) Cause to be updated an abstract or abstracts and tax histories of the mortgaged premises, procure title insurance or title reports and procure new abstracts and tax histories.
- (d) Obtain a receiver to manage the mortgaged premises and collect the rents, profits and income from it.
- (e) Enter upon the mortgaged premises and take other actions as the Mortgagee deems appropriate to investigate or test for the presence of any Hazardous Materials and/or to appraise the mortgaged premises. Without limiting what other rights and remedies of the Mortgagee are specifically enforceable, the Mortgagor agrees that the Mortgagee's rights under this paragraph (22) (e) are specifically enforceable since there is no adequate monetary remedy available to the Mortgagee.
- (f) Contest the amount or validity of any taxes applicable to the mortgaged premises by appropriate proceedings either in the Mortgagee's name, the Mortgagor's name or jointly with the Mortgagor. The Mortgagor shall execute and deliver to the Mortgagee, upon demand, whatever documents and information the Mortgagee determines may be necessary or proper to so contest the taxes or to secure payment of any resulting refund. The Mortgagor shall reimburse the Mortgagee for all costs and expenses, including without limit reasonable attorneys' fees, incurred in connection with each tax contest proceeding. All refunds resulting from each tax contest proceeding shall belong to the Mortgagee to be applied against the Indebtedness with the surplus, if any, to be paid to the Mortgagor. The Mortgagee and any of its employees is each irrevocably appointed attorney in-fact for the Mortgagor and is authorized to execute and deliver in the name of the Mortgagor those documents deemed necessary or proper by the Mortgagee to carry out any tax contest proceeding or receive the resulting refunds, if any.
- (g) In the event of any sale of the mortgaged premises by foreclosure, through judicial proceedings, by power of sale or otherwise, apply the proceeds of any such sale in the following order or such other order as the Mortgagee may elect: to (i) all expenses incurred for the collection of the Indebtedness and the foreclosure of this Mortgage including, without limit, reasonable attorneys' fees; (ii) all sums expended or incurred by the Mortgagee directly or indirectly in carrying out terms, covenants and agreements of or under this Mortgage or any related document, together with interest as provided in this Mortgage; (iii) all accrued and unpaid interest and late payment charges upon the Indebtedness; (iv) any applicable prepayment premium or formula; (v) the unpaid principal amount of the Indebtedness; and (vi) the surplus, if any, paid to the Mortgagor unless a court of competent jurisdiction decrees otherwise.
23. Notwithstanding the foregoing rights of the Mortgagee following an Event of Default, to the extent that leases approved by Mortgagee are in full force and effect and the tenants under the leases pay all rent due under the leases as and when due to the Mortgagee, the

UNOFFICIAL COPY

Mortgagee shall prior to exercising any remedies hereunder or in the Loan Agreement collect all rent due under the leases for a period of thirty (30) days after an Event of Default (the "Collection Period"), after which it can either (i) continue to collect rent from the tenants under the leases (if the tenants under the leases have agreed to make such payments to the Mortgagee) or (ii) after 15 days written notice to the Mortgagor exercise any and all rights and remedies provided for herein, in the Loan Agreement or available to it under law, unless within said fifteen (15) day period, Mortgagor provides a third party purchaser of the mortgaged premises who pays to Mortgagor in good funds the outstanding amount of all Indebtedness within said 15 days period; provided that the Mortgagor's rights under paragraphs 3 and 4 shall apply without regard to the provisions hereof or any notice and cure periods as provided in Section 7.11 under the Loan Agreement with regard to any payment or action required to be performed by the Mortgagor where failure to make such payment or take such action may materially impair the value of the mortgaged premises, subject the mortgaged premises to sale or confiscation, or where the Borrower or the tenants fail to maintain insurance on the mortgaged premises. If the tenants fail to pay rent to the Mortgagee under the leases approved by Mortgagee as and when due, the Mortgagee will not be required to wait for the expiration of the Collection Period prior to exercising any of its remedies. A lease to Mortgagor or an affiliate of Mortgagor shall be a lease deemed approved by Mortgagee.

24. If any provision of this Mortgage is in conflict with any statute or rule of law or is otherwise unenforceable for any reason, then that provision shall be deemed null and void to the extent of the conflict or unenforceability and shall be deemed severable, but shall not invalidate any other provision of this Mortgage.
25. In the event of foreclosure of this Mortgage or the enforcement by the Mortgagee of any other rights and remedies under this Mortgage, the Mortgagor waives any right otherwise available in respect to homestead, and marshalling of assets which secure the Indebtedness or to require the Mortgagee to pursue its remedies against any other assets or any other party which may be liable for any of the Indebtedness. In the event of foreclosure of this Mortgage or the enforcement by the Mortgagee of any other rights and remedies under the Mortgage, appraisal of the mortgaged premises may be deemed to have been waived, or not to have been waived by Mortgagor, at Mortgagee's election, such election to be exercised at the time judgment is rendered in any foreclosure hereof.
26. The Mortgagee agrees that it shall not seek to have a receiver appointed and that the Mortgagor shall not be obligated to consent to the appointment of a receiver if leases approved by Mortgagee are in full force and effect, the tenants under the leases are paying all rent as and when due under the leases, and Mortgagor is in compliance with the provisions of this Mortgage regarding payment of Impositions and insurance premiums and has not committed waste upon the mortgaged premises. A lease to Mortgagor or an affiliate of Mortgagor shall be a lease deemed approved by Mortgagee.
27. If more than one person or party has executed this Mortgage as the mortgagor, the term "Mortgagor" shall include each of the mortgagors individually and collectively, and all warranties, covenants, rights and powers given to or conferred upon the Mortgagee are made or given jointly and severally.

UNOFFICIAL COPY

28. Nothing contained in this Mortgage is intended, nor should it be construed, to preclude the Mortgagee from pursuing any other remedy provided by law for the collection of the Indebtedness or any portion of it, or for the recovery of any other sum to which the Mortgagee may be or become entitled for breach of this Mortgage by the Mortgagor, nor shall anything contained in this Mortgage reduce or release in any manner any rights, security interests or liens in favor of the Mortgagee contained in any existing or future agreement between the Mortgagor and the Mortgagee.
29. Any reference in this Mortgage to attorneys' fees shall be deemed a reference to fees, charges, costs and expenses of both in-house and outside counsel and paralegals, whether or not a suit or proceeding is instituted, and whether incurred at the trial court level, on appeal, in a bankruptcy, administrative or probate proceeding, in a workout, in consultation with counsel, or otherwise. All costs, expenses and fees of any nature for which the Mortgagor is obligated to reimburse or indemnify the Mortgagee are part of the Indebtedness secured by this Mortgage and are payable upon demand, unless expressly provided otherwise, with interest until repaid at the highest rate charged by the Mortgagee on any of the Indebtedness (but not to exceed the maximum rate permitted by applicable law).
30. With respect to the right, title, interest or lien of any person or entity which is superior to the lien of this Mortgage, the Mortgagee has the right, but not the obligation, to acquire and/or pay off the holder of such right, title, interest or lien and add the amount so paid to the Indebtedness and charge interest on that amount at the highest rate charged by the Mortgagee to the Mortgagor on any of the Indebtedness (but not to exceed the maximum interest rate permitted under applicable law).
31. This Mortgage and the Loan Agreement constitute the entire agreement of the Mortgagor and the Mortgagee with respect to the subject matter of this Mortgage. No waiver, consent, modification or change of the terms of this Mortgage shall bind the Mortgagor or the Mortgagee unless in writing and signed by the party, or an authorized officer of the party, against whom enforcement is sought. Each waiver, consent, modification or change shall be effective only for the specific purpose given.
32. This Mortgage shall be binding on the Mortgagor and the Mortgagee and on the Mortgagor's and the Mortgagee's heirs, legal representatives, successors and assigns including, without limit, any debtor in possession or trustee in bankruptcy for the Mortgagor. This shall not be deemed a consent by the Mortgagee to a conveyance by the Mortgagor of all or part of the mortgaged premises or of any ownership interest in the Mortgagor.
33. The Mortgagor has entered into this Mortgage in good faith for the purpose of inducing the Mortgagee to extend credit or make other financial accommodations to or at the request of the Mortgagor, and the Mortgagor acknowledges that the terms of this Mortgage are reasonable.
34. Within ten (10) business days of request by the Mortgagee, the Mortgagor shall promptly provide the Mortgagee with certificates of occupancy, licenses, rent rolls, income and

UNOFFICIAL COPY

expense statements and other documents and information pertaining to the mortgaged premises and its operations as the Mortgagee, from time to time, may request.

35. At the sole option of the Mortgagee, this Mortgage shall become subordinate, in whole or in part (but not with respect to priority as to insurance proceeds or any eminent domain award) to any or all leases and/or occupancy agreements of all or part of the mortgaged premises upon the execution by the Mortgagee, and recording in the appropriate official county records where the premises are located, of a unilateral declaration to that effect.
36. All notices and demands required or permitted to be given to the Mortgagor shall be deemed given when delivered to the Mortgagor or when placed in an envelope addressed to the Mortgagor at the address above, or at such other address as the Mortgagee may have on its records, and deposited, with postage, in a post office or other depository under the custody of the United States Postal Service. The mailing may be certified, first class or registered mail.
37. To the extent that any of the Indebtedness is payable upon demand, nothing contained in this Mortgage shall be construed to prevent the Mortgagee from making demand, without notice and with or without reason, for immediate payment of all or any part of that Indebtedness at any time or times, whether or not an event of default has occurred.
38. Any inspection, audit, appraisal or examination by the Mortgagee or its agents of the mortgaged premises or of information or documents pertaining to the mortgaged premises is for the sole purpose of protecting the Mortgagee's interests under this Mortgage and is not for the benefit or protection of the Mortgagor or any third party. The Mortgagee has no obligation to provide the Mortgagor or any third party designated by the Mortgagor with information concerning or results of any inspection, audit, appraisal or examination by the Mortgagee or its agents. If the Mortgagee, in its sole discretion, discloses information to the Mortgagor this disclosure is for the sole protection of the Mortgagee, does not constitute an agreement to further disclosure and does not create a warranty by the Mortgagee as to the accuracy, sufficiency or any other aspect of the disclosure.
39. No portion of the mortgaged premises is or will be used as the residential homestead of Mortgagor or any individual. The mortgaged premises does not constitute residential or agricultural real estate within the meaning of the Illinois Mortgage Foreclosure Law, 735 ILCS 5/15-1101, et. seq., as amended from time to time (the "Act").
- (a) If any provision of this Mortgage is inconsistent with any applicable provision of the Act, subject to the limitations set forth in Section 23 of this Mortgage, the provisions of the Act shall take precedence over the provisions of this Mortgage, but shall not invalidate or render unenforceable any other provision of this Mortgage that can fairly be construed in a manner consistent with the Act.
- (b) Without in any way limiting any of Mortgagee's rights, remedies, powers and authorities under this Mortgage, and in addition to all or such rights, remedies, powers, and authorities, the Mortgagee shall also have all rights, remedies,

UNOFFICIAL COPY

powers and authorities permitted to the holder of a mortgage under the Act, subject to the limitations set forth in Section 23 of this Mortgage as the same may be amended from time to time. If any provision of this Mortgage shall grant to Mortgagee any rights, remedies, powers or authorities upon default of the Mortgagor which are more limited than what would be vested in Mortgagee under the Act in the absence of said provision, Mortgagee shall have what would be vested under the Act (subject to the limitations set forth in Section 23 of this Mortgage).

- (c) Without limitation, all expenses (including attorneys' fees and expenses on a time and charge basis) incurred by Mortgagee, to the extent reimbursable under 735 ILCS 5/15-1510, 5/15-1512, or any other provision of the Act, whether incurred before or after any judgment of foreclosure, shall be added to the indebtedness secured by this Mortgage and included in the judgment of foreclosure.
40. The proceeds of the Indebtedness referred to herein shall be used solely for business purposes and in furtherance of the regular business affairs of Mortgagor, and the entire principal obligation secured by this Mortgage constitutes (i) a "business loan" as that term is defined in and for all purposes of, 815 ILCS 205/4(c), and (ii) a "loan secured by a mortgage on real estate" within the purview and operation of 815 ILCS 205/4(l).
41. THIS MORTGAGE SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF ILLINOIS.
42. This paragraph intentionally omitted.
43. Notwithstanding any provision in this Mortgage to the contrary, in the event any insurance or condemnation proceeds become available as a result of any hazard insurance loss or condemnation, such proceeds shall be held by Mortgagee, or escrow agent satisfactory to Mortgagee, without application to the Indebtedness and used to reimburse Mortgagor for the repair and restoration of the Premises to the condition existing immediately prior to the loss or condemnation, or such other condition as Mortgagee may approve in writing, subject to the following terms and conditions:
- (a) There shall be no Event of Default under this Mortgage;
- (b) Mortgagee shall be satisfied that the Premises can be restored to an architectural and economic unit of substantially the same character and value as existed prior to the casualty or condemnation, and shall have approved in writing plans and specifications of an architect satisfactory to Mortgagee and contractor's cost estimates by contractors satisfactory to Mortgagee;
- (c) Such proceeds shall have been deemed sufficient by Mortgagee to pay all costs of, and expenses incidental to, such repair or restoration and, if such proceeds shall be deemed insufficient to pay same, Mortgagor shall, if requested to do so by Mortgagee, have deposited with Mortgagee or such escrow agent such additional sums as Mortgagee deems necessary, in its reasonable judgment, when combined with such proceeds, to pay such costs and expenses;

UNOFFICIAL COPY

- (d) The repair or restoration can be completed before the maturity of the Indebtedness;
- (e) Mortgagee shall be entitled to deduct from each such advance all costs reasonably incurred by Mortgagee in connection therewith;
- (f) The improvements on the Premises shall not have been damaged to the extent of 75% or more of the value of such improvements;
- (g) Mortgagee shall be satisfied that any leases on the Premises are not subject to termination because of the hazard loss or condemnation;
- (h) Mortgagor shall not be entitled to interest on any proceeds held by Mortgagee;
- (i) Mortgagee shall not be deemed a fiduciary, and shall have no obligation to restore or repair the Premises;
- (j) At Mortgagee's option, disbursement of proceeds shall be subject to Mortgagee's usual construction loan requirements.

If these conditions cannot be satisfied, in Mortgagee's sole discretion, then Mortgagee may at its option apply the insurance proceeds to the Indebtedness, and Mortgagor shall be liable for any prepayment or fee resulting therefrom.

44. Additional provisions, if any: ("None," if left blank).

IN WITNESS WHEREOF, the Mortgagor has signed and delivered this Mortgage the day and year first written above.

RECORDING REQUIREMENTS: Two witnesses are required for each Mortgagor. Type or print name of each Mortgagor, Witness and Notary beneath the respective signature line.

ATTEST OR WITNESS:

MORTGAGOR:

LAKESHORE DISTRIBUTION, LLC, a Michigan limited liability company

By: Crown Enterprises, Inc., a Michigan corporation

Its: Sole Member

By: Gregory E. Burcz
Gregory E. Burcz

Its: CFO

UNOFFICIAL COPY

STATE OF MICHIGAN)
)
COUNTY OF Oakland) ^{ASS.}

This instrument was acknowledged before me this 4th day of January, 2006 by Gregory F. Burcz, the CFO of Crown Enterprises, Inc., the sole member of Lakeshore Distribution, LLC, a Michigan limited liability company, on behalf of the company.

Reinhold S. Brauer
Notary Public
Wayne County, Michigan
My commission expires: 11-19-2010
[SEAL]

This instrument was prepared by
and when recorded return to:

David W. Hipp
Bodman LLP
201 West Big Beaver Road
Suite 500
Troy, Michigan 48084

Property of Cook County Clerk's Office

UNOFFICIAL COPY**EXHIBIT "A"****DESCRIPTION OF REAL ESTATE**

Property in the County of Cook, in the State of Illinois described as follows:

PARCEL 1:

THE NORTHWEST 1/4 OF THE NORTHEAST 1/4 (EXCEPT THE NORTH 900 FEET THEREOF) OF SECTION 17 TOWNSHIP 39 NORTH RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN, TOGETHER WITH THAT PART OF THE NORTHEAST 1/4 OF THE NORTHEAST 1/4 (EXCEPT THE NORTH 900 FEET THEREOF) OF SECTION 17 TOWNSHIP 39 NORTH RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN, ALSO TOGETHER WITH THE NORTH 66 FEET OF THE SOUTHEAST 1/4 OF THE NORTHEAST 1/4 OF AFORESAID SECTION 17 TAKEN AS A TRACT, (EXCEPT THAT PART DESCRIBED AS FOLLOWS:

NOTE: FOR THE FOLLOWING COURSES THE NORTH LINE OF NORTHEAST 1/4 OF AFORESAID SECTION 17 IS CONSIDERED AS BEARING DUE WEST

COMMENCING AT POINT OF INTERSECTION OF THE SOUTHEAST CORNER OF AFORESAID NORTH 900 FEET WITH THE EAST LINE OF AFORESAID NORTHEAST 1/4 OF SECTION 17, THENCE DUE WEST IN AFORESAID SOUTH LINE OF THE NORTH 900 FEET, A DISTANCE OF 92.40 FEET TO A POINT; THENCE SOUTH 0 DEGREES 28 MINUTES WEST IN A LINE, A DISTANCE OF 60 FEET; THENCE DUE WEST IN A LINE, A DISTANCE OF 264.31 FEET TO A POINT; THENCE SOUTH 83 DEGREES 32 MINUTES 00 SECONDS WEST IN A LINE, A DISTANCE OF 272.85 FEET TO A POINT; THENCE SOUTH 1 DEGREES 41 MINUTES 00 SECONDS WEST IN A LINE, A DISTANCE OF 406.80 FEET TO A POINT IN THE SOUTH LINE OF AFORESAID NORTH 66 FEET OF THE SOUTHEAST 1/4 OF THE NORTHEAST 1/4; THENCE SOUTH 89 DEGREES 55 MINUTES 15 SECONDS EAST IN THE LAST DESCRIBED A DISTANCE OF 642.23 FEET MORE OR LESS TO THE SAID EAST LINE OF THE NORTHEAST 1/4 OF SECTION 17; THENCE NORTH ALONG SAID EAST LINE, A DISTANCE OF 498.35 FEET MORE OR LESS TO THE POINT OF BEGINNING

ALSO

EXCEPTING THEREFROM THE FOLLOWING DESCRIBED PROPERTY: THE WEST 15 FEET OF THAT PART OF THE NORTHWEST 1/4 OF THE NORTHEAST 1/4 LYING SOUTH OF THE NORTH 900 FEET THEREOF OF SECTION 17 AFORESAID) IN COOK COUNTY ILLINOIS

PARCEL 2:

EASEMENT FOR THE BENEFIT OF PARCEL 1 AS CREATED BY GRANT FILED AUGUST 7, 1962 AS DOCUMENT LR2048408 FOR INGRESS TO AND EGRESS FROM

UNOFFICIAL COPY

THE PUBLIC HIGHWAY COMMONLY KNOWN AS MANNHEIM ROAD AND TO PROVIDE FOR SERVICING THE DOMINANT TENEMENT WITH UTILITIES.

Property of Cook County Clerk's Office

UNOFFICIAL COPY

EXHIBIT "B"

PERMITTED EXCEPTIONS

1. COVENANTS AND RESTRICTIONS CONTAINED IN DECLARATION FILED OCTOBER 30, 1946 AS DOCUMENT LR1123907 BY THE FIRST NATIONAL BANK OF CHICAGO AS TRUSTEE THAT NO CUT OR EXCAVATION SHALL EVER BE MADE OR PERMITTED FOR QUARRY OR MINING PURPOSES IN OR ON THE NORTH 66 FEET OF THE LAND WITHOUT WRITTEN AND RECORDED CONSENT OF THE OWNERS OF THE NORTH 900 FEET OF THE NORTHEAST 1/4 OF SECTION 17.
2. TERMS, PROVISIONS, AND CONDITIONS RELATING TO THE EASEMENT DESCRIBED AS PARCEL 2 CONTAINED IN THE INSTRUMENT CREATING SUCH EASEMENT.
3. RIGHTS OF THE OWNER OR OWNERS OF THE ADJOINING LAND TO THE CONCURRENT USE OF THE EASEMENT.
4. EASEMENT IN FAVOR OF COMMONWEALTH EDISON COMPANY, AND/OR THEIR SUCCESSORS IN INTEREST, FOR POLE LINES, CONDUITS AND MAINTENANCE PURPOSES GRANTED BY DOCUMENT LR 2681586, RECORDED ON MARCH 23, 1973, AND THE TERMS AND CONDITIONS THEREOF.

(AFFECTS THAT PART OF THE LAND SHOWN IN SAID DOCUMENT)

5. EASEMENT IN FAVOR OF COMMONWEALTH EDISON COMPANY AND/OR THEIR SUCCESSORS IN INTEREST, FOR POLE LINES, CONDUITS AND MAINTENANCE PURPOSES GRANTED BY DOCUMENT LR2786019, RECORDED ON OCTOBER 4, 1974, AND THE TERMS AND CONDITIONS THEREOF.

(AFFECTS WEST 10 FEET OF THE NORTH 265 FEET)

6. EXISTING UNRECORDED LEASES, IF ANY, AND RIGHTS OF PARTIES IN POSSESSION UNDER SUCH UNRECORDED LEASES.
7. EASEMENT FOR INGRESS AND EGRESS FOR THE BENEFIT OF LAND LYING EAST OF AND ADJOINING CREATED BY AGREEMENT FILED JULY 19, 1988 AS DOCUMENT LR3724603 OVER THE FOLLOWING.

THE PART OF THE NORTHWEST 1/4 OF THE NORTHEAST 1/4 (EXCEPT THE NORTH 900.00 FEET THEREOF) OF SECTION 17, TOWNSHIP 39 NORTH RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN DESCRIBED AS FOLLOWS:

UNOFFICIAL COPY

COMMENCING AT THE POINT OF INTERSECTION OF THE SOUTH LINE OF AFORESAID NORTH 900.00 FEET WITH THE EAST LINE OF AFORESAID NORTHEAST 1/4; THENCE NORTH 90 DEGREES 00 MINUTES 00 SECONDS WEST ALONG THE SOUTH LINE OF THE NORTH 900.00 FEET OF SAID NORTHEAST 1/4, A DISTANCE OF 98.40 FEET; THENCE SOUTH 00 DEGREES 28 MINUTES 00 SECONDS WEST ALONG A LINE PARALLEL TO THE EAST LINE OF SAID NORTHEAST 1/4 FOR A DISTANCE OF 12.35 FEET FOR A PLACE OF BEGINNING; THENCE SOUTH 00 DEGREES 28 MINUTES 00 SECONDS WEST ALONG A LINE PARALLEL TO THE EAST LINE OF SAID NORTHEAST 1/4 FOR A DISTANCE OF 33.78 FEET; THENCE NORTH 87 DEGREES 54 MINUTES 26 SECONDS WEST 21.89 FEET; THENCE SOUTH 41 DEGREES 15 MINUTES 38 SECONDS WEST, 19.51 FEET; THENCE NORTH 90 DEGREES 00 MINUTES 00 SECONDS WEST, 102.07 FEET; THENCE NORTH 15 DEGREES 34 MINUTES 23 SECONDS EAST 45.25 FEET; THENCE NORTH 88 DEGREES 08 MINUTES 12 SECONDS EAST 125.01 FEET TO THE POINT OF BEGINNING ALL IN COOK COUNTY ILLINOIS.

8. ANY LIEN, OR RIGHT TO A LIEN IN FAVOR OF A PROPERTY MANAGER EMPLOYED TO MANAGE THE LAND.
9. TERMS AND CONDITIONS OF A NO FURTHER REMEDIATION LETTER RECORDED DECEMBER 9, 1997 AS DOCUMENT 97925248.
10. TERMS AND CONDITIONS OF AN ENVIRONMENTAL DISCLOSURE DOCUMENT RECORDED AS DOCUMENT 90162538.
11. LEASE BETWEEN HOME DEPOT USA, INC., A DELAWARE CORPORATION AND CROWN ENTERPRISES, INC. A MICHIGAN CORPORATION.
12. LIEN FOR TAXES AND ASSESSMENTS NOT YET DUE AND PAYABLE.
13. MECHANIC'S LIEN CLAIM RECORDED OCTOBER 8, 2004 AS DOCUMENT 0428215092, BY CENTRAL BLACKTOP COMPANY, INC., AGAINST THE LAND, IN THE AMOUNT OF \$26,283.00.

UNOFFICIAL COPY

STATE OF MICHIGAN)
COUNTY OF Oakland) SS.

This instrument was acknowledged before me this 4th day of January, 2006 by Gregory F. Burcz, the CFO of Crown Enterprises, Inc., the sole member of Lakeshore Distribution, LLC, a Michigan limited liability company, on behalf of the company.

Robert B. Brewer

Notary Public

Wayne County, Michigan

My commission expires: 11-19-2010

[SEAL]

acting in Oakland

This instrument was prepared by
and when recorded return to:

David W. Hipp
Bodman LLP
201 West Big Beaver Road
Suite 500
Troy, Michigan 48084

Property of Cook County Clerk's Office

First American Title