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Cook County Recorder of Deeds  
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Permanent Real Estate Index Nos.:

13-28-202-019-0000  
13-28-202-020-0000  
13-28-202-021-0000  
13-28-202-022-0000

Street Address:

4901 West Belmont  
Chicago, Illinois

ABOVE SPACE FOR RECORDER'S USE ONLY

## MORTGAGE AND ASSIGNMENT OF LEASES AND RENTS

THIS MORTGAGE AND ASSIGNMENT OF LEASES AND RENTS made this 1<sup>st</sup> day of March, 2006, by WIX AUTO COMPANY, INC., (hereinafter referred to as the "Mortgagor"), whose address is 3401-3411 North Cicero, Chicago, IL 60641, in favor of NATIONWIDE ACCEPTANCE CORPORATION, a Delaware corporation qualified to do business in Illinois, (hereinafter, together with its successors and assigns, including each and every, from time to time, holder of the Note, called the "Mortgagee"), whose address is 3435 North Cicero, Chicago, Illinois 60641.

WHEREAS, Mortgagor is indebted to Mortgagee in the principal sum of ONE MILLION THREE HUNDRED THOUSAND and 00/100 (\$1,300,000.00) U.S. DOLLARS (the "Loan"), which is evidenced by a Demand Promissory Note of even date herewith from Mortgagor (hereinafter referred to as the "Note"), and which Note provides for payment of the Loan on demand, with interest to be paid on the first day of March, June, September, and December of each calendar year as set forth in the Note.

NOW, THEREFORE, Mortgagor, to secure the payment of the Note with interest thereon, and any extensions and renewals thereof, in whole or in part, and the payment of all other sums with interest thereon advanced in accordance herewith or in the Note provided (hereinafter referred to as the "Indebtedness") and to protect the security of this Mortgage, and the performance and observance by Mortgagor of all the terms, covenants and agreements of Mortgagor contained in this Mortgage and the other "Loan Documents" (as defined in the Note), Mortgagor does hereby mortgage, grant, convey, and warrant to Mortgagee the following described real estate located in the City of Chicago, County of Cook, and State of Illinois:

LOTS 1 TO 4 IN BLOCK 8 IN FALCONERS ADDITION TO CHICAGO, A SUBDIVISION OF THE NORTH HALF OF THE NORTHEAST QUARTER OF SECTION 28, TOWNSHIP 40 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

P.I.N. 13-28-202-019-0000  
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(hereinafter referred to as the "Real Estate")

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which Real Estate commonly known as 4901-4909 West Belmont, Chicago, Illinois, and with the property herein described, is referred to herein as the "Premises" together with:

- (a) All of the Real Estate;
- (b) All buildings and other improvements now or at any time hereafter constructed or erected upon or located at the Real Estate, and all materials located on the Real Estate intended for construction, reconstruction, alteration and repairs of such improvements now or hereafter erected thereon, together with and including, but not limited to, all fixtures, equipment, machinery, appliances and other articles and attachments now or hereafter forming part of, attached to or incorporated in any such buildings or improvements and used in the operation of the Premises (all hereinafter referred to as the "Improvements");
- (c) All privileges, reservations, allowances, hereditaments, tenements and appurtenances now or hereafter belonging or pertaining to the Real Estate or Improvements;
- (d) All leasehold estates, right, title and interest of Mortgagor in any and all leases, subleases, arrangements or agreements relating to the use and occupancy of the Real Estate and Improvements or any portion thereof, now or hereafter existing or entered into (all hereinafter referred to as "Leases"), together with all cash or security deposits, advance rentals and other deposits or payments of similar nature given in connection with any Leases;
- (e) All rents, issues, profits, royalties, income, avails and other benefits now or hereafter derived from the Real Estate and Improvements, under Leases or otherwise (all hereinafter referred to as "Rents"), subject to the right, power and authority given to the Mortgagor in Section 25 hereof to collect and apply the Rents;
- (f) All the estate, interest, right, title or other claim or demand which Mortgagor now has or may hereafter have or acquire with respect to (i) the proceeds of insurance in effect with respect to the Premises, and (ii) any and all awards, claims for damages and other compensation made for or consequent upon the taking by condemnation, eminent domain or any like proceeding, or by any proceeding or purchase in lieu thereof, of the or any part of the Premises, including, without limitation, any awards and resulting from a change of grade of streets and awards and compensation severance damages (all hereinafter generally referred to as "Awards").

MORTGAGOR COVENANTS that Mortgagor is lawfully seized of the real estate hereby conveyed and has the right to mortgage, warrant, grant and convey the Premises, that the Premises are unencumbered and that Mortgagor will warrant and defend generally the title to the Premises against all claims and demands and further that the Premises hereby mortgaged and conveyed or intended so to be, together with the rents, issues and profits thereof, and hereby conveyed unto the Mortgagee forever, free from all rights and benefits under and by virtue of the Homestead Exemption Laws of the State of Illinois (which rights and benefits are hereby expressly released and waived) for the uses and purposes herein set forth, together with all rights to retain possession of the Premises after any default in the payment of all or any part of the Note or any amounts due under the Note, or the breach of any covenant or agreement herein contained, or upon the occurrence of any Event of Default as hereinafter defined;

PROVIDED, NEVERTHELESS, and these presents are upon the express condition that if the Note and all of the amounts due under the Note and other Loan Documents shall be duly and punctually paid and all the terms, provisions, conditions and agreements herein contained on the part of the Mortgagor to be performed or observed shall be strictly performed and observed, then this Mortgage and the estate, right and interest of the Mortgagee in the Premises shall cease and become void and of no effect.

AND IT IS FURTHER AGREED THAT:

1. **Payment of Indebtedness.** The Mortgagor will duly and promptly pay the Indebtedness as the same becomes due and will duly perform and observe all of the covenants, agreements and provisions herein or in the Note provided on the part of the Mortgagor to be performed and observed.

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2. **Maintenance, Repair, Restoration, Prior Liens, Parking.** In addition, Mortgagor will:
- (a) Promptly repair, restore or rebuild any Improvements now or hereafter on the Premises that may become damaged or be destroyed;
  - (b) Keep the Premises in good condition and repair, without waste, and free from mechanics, materialmen's or like liens or claims, or other liens or claims for lien;
  - (c) Subject to Mortgagor's rights set forth in Section 29 hereof, pay when due any indebtedness which may be secured by a lien or charge on the Premises on a parity with or superior to the lien hereof, and upon request exhibit satisfactory evidence of the discharge of such lien to the Mortgagee;
  - (d) Complete within a reasonable time any Improvements at any time in the process of erection upon the Premises;
  - (e) Comply with all requirements of law, municipal ordinances or restrictions and covenants of record with respect to the Premises and the use thereof;
  - (f) Make no Improvements or material alterations in the Premises, except as required by law or municipal ordinance, or except which Mortgagee, in its sole discretion, consents to, in writing, which consent Mortgagee may condition on such terms and conditions Mortgagee deems appropriate.
  - (g) Suffer or permit no change in the general nature of the occupancy of the Premises or consent to any change in any existing private restrictive covenants, zoning ordinances or other public or private restriction, without the Mortgagee's prior written consent;
  - (h) Pay when due all operating costs of the Premises;
  - (i) Pay all utility charges incurred in connection with the Premises and all improvements thereon and maintain all utility services now or hereafter available for use at the Premises.
3. **Taxes.**

A. Subject to Mortgagor's rights under Section 29 hereof, the Mortgagor will pay when due and before any penalty attaches, all general and special taxes, assessments, water charges, sewer charges, and other fees, taxes, charges and assessments of every kind and nature whatsoever (all hereinafter referred to as "Taxes"), whether or not assessed against the Mortgagor, if applicable to the Premises or any interest therein, or the Indebtedness, or any obligation or agreement secured hereby; and Mortgagor will furnish to the Mortgagee duplicate receipts therefor; provided that (a) in the event that any law or court decree has the effect of deducting from the value of land for the purposes of taxation any lien thereof, or imposing upon the Mortgagee the payment in whole or any part of the Taxes or fees herein required to be paid by Mortgagor, or changing in any way the law relating to the taxation of mortgages or debts secured by mortgages or the interest of the Mortgagee in the Premises or the manner of collection of Taxes, so as to affect this Mortgage or the Indebtedness or the holder thereof, then, and in any such event, the Mortgagor upon demand by the Mortgagee, will pay such Taxes, or reimburse the Mortgagee therefor; and (b) nothing in this Section 3 shall require the Mortgagor to pay any income, franchise or excise tax imposed upon the Mortgagee, excepting only such which may be levied against such income expressly as and for a specific substitute for Taxes on the Premises, and then only in an amount computed as if the Mortgagee derived no income from any source other than its interest hereunder.

B. In order to assure that the payment of Taxes will be made when due, if requested by Mortgagee:

- (a) Mortgagor shall, deposit with Mortgagee on or before the tenth (10th) day of each month, an amount equal to one-twelfth (1/12) of the Taxes thereof to become due with respect to the Premises between one (1) and thirteen (13) months after the date of such deposit; provided that in the case of the first such deposit, Mortgagor shall deposit in addition an amount which, when added to the aggregate amount of monthly deposits to be made hereunder with respect to Taxes to become due within thirteen (13) months

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after such first deposit, will provide (without interest) a sufficient fund to pay such Taxes, one (1) month prior to the date when they are due; provided, however that Mortgagee shall not accumulate or retain in any such fund more than the amount of one (1) month's deposit on the day after any payment of taxes is made. The amounts of such deposits (herein generally called "Tax Deposits") shall be based upon Mortgagee's good faith estimate of the amount of Taxes. Mortgagor shall promptly upon the demand of Mortgagee make additional Tax Deposits as Mortgagee may from time to time require due to (i) failure of Mortgagee to require, or failure of Mortgagor to make, Tax Deposits in previous months, (ii) underestimation of the amounts of Taxes, due dates and, or (iii) application of the Tax Deposits pursuant to this Subsection. Mortgagee shall hold all Tax Deposits in the manner it deems appropriate and shall not be required to pay interest on the Tax Deposits.

- (b) Mortgagee will, out of the Tax Deposits, upon the presentation to Mortgagee by Mortgagor of the bills therefor, pay the Taxes or will, upon the presentation of receipted bills therefor, reimburse Mortgagor for such payments made by Mortgagor. If the total Tax Deposits on hand shall not be sufficient to pay all of the Taxes when the same shall become due, then Mortgagor shall pay to Mortgagee on demand the amount necessary to make up the deficiency.
- (c) Mortgagee may, at its option, apply any Tax Deposits on hand to the Indebtedness in order and manner as Mortgagee may elect. When the Indebtedness has been fully paid, any remaining Tax Deposits shall be paid to Mortgagor. All Tax Deposits are hereby pledged as additional security for the Note, and shall be held by Mortgagee irrevocably to be applied for the purposes for which made as herein provided, and shall not be subject to the direction or control of Mortgagor.
- (d) Notwithstanding anything herein contained to the contrary, Mortgagee shall not be liable for any failure to apply the Tax Deposits unless Mortgagor shall have (i) requested Mortgagee in writing to make application of such Deposits to the payment of the Taxes and (ii) presented Mortgagee with bills for such Taxes.
- (e) The provisions of this Mortgage are for the benefit of Mortgagor and Mortgagee alone. No provision of this Mortgage shall be construed as creating in any other party any rights in and to the Tax Deposits or any rights to have the Tax Deposits applied to payment of Taxes. Mortgagee shall have no obligation or duty to any third party to collect Tax Deposits.

4. **Insurance Coverage.** The Mortgagor will insure and keep insured the Premises and each and every part and parcel thereof against such perils and hazards as the Mortgagee may from time to time require and in any event will continuously maintain the following described policies of insurance:

- (a) Casualty insurance against loss and damage by all risks of physical loss or damages, including fire, windstorm, and all other risks covered by the so-called extended coverage endorsement in amounts not less than the full insurable replacement value of all improvements, fixtures and equipment from time to time on the Premises and bearing a replacement cost agreed amount endorsement;
- (b) Comprehensive public liability against death, bodily injury and property damage in an amount not less than One Million Dollars (\$1,000,000.00);
- (c) Employer's Liability Insurance, if any;
- (d) Steam boiler, machinery and pressurized vessel insurance (if applicable to the Premises);
- (e) If the Federal Insurance Administration (FIA) has designated the Premises to be in a special flood hazard area and designated the community in which the Premises are located eligible for sale of subsidized insurance, first and second layer flood insurance when and as available; and
- (f) The types and amount of coverage as are customarily maintained by owners or operators of like properties.

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5. **Insurance Policies.** All policies of insurance to be maintained and provided as required by Section 4 hereof shall:

- (a) Be in forms, companies and amounts reasonably satisfactory to Mortgagee, and all policies of casualty insurance shall have attached thereto mortgagee clauses or endorsements in favor of and with loss payable to Mortgagee, with the exception of the Employer's Liability policy which names only the Mortgagor as insured;
- (b) Contain endorsements that no act or negligence of the insured or any occupant and no occupancy or use of the Premises for purposes more hazardous than permitted by the terms of the policies will affect the validity or enforceability of such policies as against Mortgagee;
- (c) Be written in amounts sufficient to prevent Mortgagor from becoming a co-insurer;
- (d) Provide for thirty (30) days' prior written notice of cancellation to Mortgagee;

and Mortgagor will deliver all policies, including additional and renewal policies, to Mortgagee, and in case of insurance policies about to expire, the Mortgagor will deliver renewal policies not less than thirty (30) days prior to the respective dates of expiration.

6. **Proceeds of Insurance.** The Mortgagor will give the Mortgagee prompt notice of any damage to or destruction of the Premises; and

- (a) In case of loss covered by policies of insurance, the Mortgagee (or, after entry of decree of foreclosure, the purchaser at the foreclosure sale or decree creditor, as the case may be) is hereby authorized at its option either (i) to settle and adjust any claim under such policies without consent of the Mortgagor provided however so long as no Event of Default shall have occurred and be continuing, the settlement and adjustment of any such claims shall be made with the mutual consent of the Mortgagor, or (ii) allow the Mortgagor to agree with the insurance company or companies on the amount to be paid upon the loss; provided that the Mortgagor may itself adjust and collect losses aggregating not in excess of Five Thousand and 00/100 Dollars (\$5,000.00); provided further that in any case the Mortgagee shall, and is hereby authorized to, collect and receipt for any such insurance proceeds; and the expenses incurred by the Mortgagee in the adjustment and collection of insurance proceeds shall be so much additional Indebtedness, and shall be reimbursed to the Mortgagee upon demand;
- (b) In the event of any insured damage to or destruction of the Premises or any part thereof (hereinafter referred to as an "Insured Casualty") and if, in the reasonable judgment of the Mortgagee, the Premises can be restored prior to Loan maturity, to an architectural and economic unit of the same character and not less valuable than the same was prior to the Insured Casualty, and adequately securing the outstanding balance of the Indebtedness, and the insurers do not deny liability to the insureds, then, if none of the Leases are subject to termination on account of such casualty and if no Event of Default as hereinafter defined shall have occurred and be then continuing, and if there was no Event of Default, whether continuing or not, at the time of occurrence of damage or destruction which resulted in said loss, the proceeds of insurance may be applied to reimburse the Mortgagor for the cost of restoring, repairing, replacing or rebuilding (hereinafter referred to as "Restoring") the Premises or any part thereof subject to Insured Casualty, as provided for in Section 8 hereof; so long as there is no Event of Default, such insurance proceeds, after deducting therefrom any expenses incurred in the collection thereof, shall be made available by Mortgagee for the Restoring of the Premises; provided that Mortgagor shall furnish evidence sufficient to Mortgagee that there are sufficient funds available for the rebuilding or restoration of the Premises.
- (c) If, in the reasonable judgment of Mortgagee, the Premises cannot be restored to an architectural and economic unit as provided for in Subsection (b) above, then at any time from and after the Insured Casualty, upon demand, Mortgagee may declare the entire balance of the Indebtedness to be, and the Indebtedness shall be and become, immediately due and payable.

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- (d) Except as provided for in Subsection (b) of this Section 6, Mortgagee shall apply the proceeds of insurance (including amounts not required for Restoring effected in accordance with Subsection (b) above) consequent upon any Insured Casualty upon the Indebtedness, in such order or manner as the Mortgagee may elect.
- (e) In the event that proceeds of insurance, if any, shall be made available to the Mortgagor for the Restoring of the Premises, Mortgagor hereby covenants to Restore the same to be of at least equal value and of substantially the same character as prior to such damage or destruction; all to be effected in accordance with plans and specifications to be first submitted to and reasonably approved by the Mortgagee.
- (f) Any portion of insurance proceeds remaining after payment in full of the Indebtedness shall be paid to Mortgagor;
- (g) Nothing contained in this Mortgage shall create any responsibility or liability upon the Mortgagee to (i) collect any proceeds of any policies of insurance, or (ii) Restore any portion of the Premises damaged or destroyed through any cause.

7. **Condemnation.** The Mortgagor will give Mortgagee prompt notice of any proceedings, instituted or threatened, seeking condemnation or taking by eminent domain or any like process (hereinafter referred to as a "Taking"), of all or any part of the Premises, including damages to grade, and:

- (a) Mortgagor hereby assigns, transfers and sets over unto Mortgagee the entire proceeds of any Award consequent upon any Taking;
- (b) If, in the reasonable judgment of the Mortgagee, the Premises can be restored to an architectural and economic unit of the same character and not less valuable than the Premises prior to such Taking and adequately securing the outstanding balance of the Indebtedness, then if no Event of Default, as hereinafter defined, shall have occurred and be then continuing, the Award shall be applied to reimburse Mortgagor for the cost of Restoring the portion of the Premises remaining after such Taking, as provided for in Section 8 hereof;
- (c) If, in the reasonable judgment of Mortgagee, the Premises cannot be restored to an architectural and economic unit as provided for in Subsection (b) above, then at any time from and after the Taking, upon demand, Mortgagee may declare the entire balance of the Indebtedness to be, and the Indebtedness shall be and become immediately due and payable.
- (d) Except as provided for in Subsection (b) of this Section 7, Mortgagee shall apply any Award (including the amount not required for Restoration effected in accordance with Subsection (b) above) upon the Indebtedness in such order or manner as the Mortgagee may elect.
- (e) In the event that any Award shall be made available to the Mortgagor for Restoring the portion of the Premises remaining after a Taking, Mortgagor hereby covenants to Restore the remaining portion of the Premises to be of at least equal value and of substantially the same character as prior to such Taking, all to be effected in accordance with plans and specifications to be first submitted to and reasonably approved by the Mortgagee;
- (f) Any portion of any Award remaining after payment in full of the Indebtedness shall be paid to Mortgagor.

8. **Disbursement of Insurance Proceeds and Condemnation Awards.** In the event the Mortgagor is entitled to reimbursement out of insurance proceeds or any Award held by Mortgagee, such proceeds shall be disbursed from time to time upon the Mortgagee being furnished with satisfactory evidence of the estimated cost of completion of the Restoring, with funds (or assurances reasonably satisfactory to the Mortgagee that such funds are available) sufficient in addition to the proceeds of insurance or Award, to complete the proposed Restoring, and with such architect's certificates, waivers of lien, contractor's sworn statements and such other evidence of costs and payments as the

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Mortgagee may reasonably require and approve; and the Mortgagee may, in any event, require that all plans and specifications for such Restoring be submitted to and approved by the Mortgagee prior to commencement of work; and in each case:

- (a) No payment made prior to the final completion of the Restoring shall exceed ninety percent (90%) of the value of the work performed from time to time;
- (b) Funds other than proceeds of insurance or the Award shall be disbursed prior to disbursement of such proceeds;
- (c) At all times the undisbursed balance of such proceeds remaining in the hands of the Mortgagee, together with funds deposited for the purpose or irrevocably committed to the satisfaction of the Mortgagee by or on behalf of the Mortgagor for the purpose, shall be at least sufficient in the reasonable judgment of the Mortgagee to pay for the cost of completion of the Restoring, free and clear of all liens or claims for liens; and
- (d) Mortgagor shall approve plans and specifications of the work for Restoring the Premises before such work shall be commenced. Any surplus which remains out of said insurance proceeds after payment of such costs of building or restoring shall be paid to Mortgagor.

9. **Prepayment.** Mortgagor shall have the privilege of making prepayments of the amounts outstanding under the Note (in addition to the required payments thereunder) in accordance with the terms and conditions, if any, set forth in the Note, but not otherwise.

10. **Effect of Extensions of Time, Junior Liens and Others.** Mortgagor covenants and agrees that:

- (a) If the payment of the Indebtedness, or any part thereof, be extended or varied, or if any part of the security be released, all persons now or at any time hereafter liable therefor, or interested in the Premises, shall be held to assent to such extension, variation or release, and their liability, if any, and the lien and all provisions hereof shall continue in full force and effect; the right of recourse against all such persons being expressly reserved by the Mortgagee, notwithstanding any such extension, variation or release;
- (b) Subject to the Mortgagee's rights in Section 14 hereof, any person, firm or corporation taking a junior mortgage or other lien upon the Premises, or any interest therein, shall take the said lien subject to all the rights of the Mortgagee herein and without the lien of this Mortgagee losing its priority over the rights of any such junior lien;
- (c) Nothing in this Section contained shall be construed as waiving any provision of Section 14 hereof which provides, among other things, that it shall constitute an Event of Default if the Premises be sold, conveyed or encumbered;

11. **Effect of Changes in Tax Laws.** In the event of the enactment after the date hereof by any legislative authority having jurisdiction of the Premises of any law deducting from the value of land for the purposes of taxation, any lien thereon, or imposing upon the Mortgagee the payment of the whole or any part of the taxes or assessments or charges or liens herein required to be paid by the Mortgagor, or changing in any way the laws relating to the taxation of mortgages or debts secured by mortgages or the Mortgagee's interest in the Premises, or the method of collecting taxes, so as to affect this Mortgage or the Indebtedness, or the holder hereof, then, and in any such event, the Mortgagor, upon demand by the Mortgagee, shall pay such taxes or assessments, or reimburse the Mortgagee therefor; provided that if in the opinion of counsel for the Mortgagee the payment by Mortgagor of any such taxes or assessments shall be unlawful, then the Mortgagee may, on demand, declare the entire principal balance of the Indebtedness and all accrued interest to be immediately due and payable, and the Indebtedness and all accrued interest shall then be due and payable without premium or penalty.

12. **Mortgagee's Performance of Mortgagor's Obligations.** In case of an Event of Default as defined in Section 16 herein, the Mortgagee either before or after acceleration of the Indebtedness or the foreclosure of the lien

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hereof, and during the period of redemption, if any, may, but shall not be required to, make any payment or perform any act herein which is required of the Mortgagor (whether or not the Mortgagor is personally liable therefor), in any form and manner, in whole or in part, and by any means deemed expedient to the Mortgagee, and all monies paid for any of the purposes herein authorized or authorized by any other instrument evidencing or securing the Indebtedness, and all expenses paid or incurred in connection therewith, including reasonable attorney's fees and any other monies advanced by the Mortgagee to protect the Premises and the lien hereof, shall be so much additional Indebtedness, whether or not they exceed the amount of the Note, and shall become immediately due and payable without notice, and with interest thereon at the Default Rate specified in the Note (herein called the "Default Rate");

13. **Inspection of Premises.** Mortgagee, its agents and designees shall have the right to inspect the Premises at all reasonable times and upon reasonable advance notice and access thereto shall be permitted for that purpose.

14. **Restrictions on Transfer.** Subject to the provisions of Section 15 hereof, it shall be an immediate Event of Default hereunder if, without the prior written consent of the Mortgagee, the Mortgagor shall create, effect, or consent to or shall suffer or permit any conveyance, sale, assignment, transfer, assignment of beneficial interest or a sale, conveyance or transfer of any nature whatsoever of any interest in any entity holding such beneficial interest (if title is held in a land trust), lien (other than mechanics' liens), pledge, mortgage, security interest or other encumbrance or alienation of the Premises or any part thereof, or interest therein.

15. **Permitted Transfers.** The provisions of Section 14 hereof shall not apply to liens securing the Indebtedness or the lien of current real estate taxes and assessments not in default.

16. **Events of Default.** If one or more of the following events (hereinafter referred to as "Events of Default") shall occur:

- (a) Any default shall occur in the due and punctual payment of the Loan, or any portion thereof, on the Note or any other indebtedness of the Mortgagor to the Mortgagee, which continues for a period of five (5) Business Days after it is due; or any default shall occur in the due and punctual payment of any interest on the Note or any other indebtedness of the Mortgagor to the Mortgagee, which continues for a period of five (5) Business Days after it is due;
- (b) Any failure of Mortgagor for a period of fourteen (14) days after receipt of notice as herein provided (except as to defaults specified in subparagraph (a) above or elsewhere in this Section 16, or where a longer or shorter period is specified elsewhere in this Mortgage or in the other Loan Documents for a particular default) after written notice from Mortgagee to Mortgagor to observe or perform any of the covenants of Mortgagor under the terms of this Mortgage or other of the Loan Documents, except payment of the Note; provided however in the event Mortgagor has commenced efforts to cure such default within said fourteen (14) days and is diligently pursuing the same, such fourteen (14) day cure period shall be extended for a period of time not to exceed an additional thirty (30) days;
- (c) If all or a substantial part of the assets of Mortgagor is attached, seized, subjected to a writ or distress warrant, or is levied upon, unless such attachment, seizure, writ, warrant or levy is vacated within thirty (30) days;
- (d) If Mortgagor is enjoined, restrained or in any way prevented by court order from performing any of its obligations hereunder or conducting all or a substantial part of its business affairs; or if a proceeding seeking such relief is not dismissed within thirty (30) days of being filed or commenced;
- (e) If a notice of lien, levy or assessment is filed of record with respect to all or any part of the property of the Mortgagor by the United States, or any other governmental authority, unless contestable and actually and diligently contested in accordance herewith;
- (f) If there occurs a materially adverse change in the financial condition of Mortgagor;
- (g) If Mortgagor:



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(i) Shall file a voluntary petition in bankruptcy or for arrangement, reorganization or other relief under any chapter of the Federal Bankruptcy Code or any similar law, state or federal, now or hereafter in effect;

(ii) Shall file an answer or other pleading in any proceedings admitting insolvency, bankruptcy, or inability to pay its debts as they mature;

(iii) Within thirty (30) days after the filing against it of any involuntary proceedings under the Federal Bankruptcy Act or similar law, state or federal, now or hereafter in effect, such proceedings shall not have been vacated;

(iv) Any order appointing a receiver, trustee or liquidator for it or for all or a major part of its property or the Premises shall not be vacated within thirty (30) days following entry thereof;

(v) Shall be adjudicated a bankrupt;

(vi) Shall make an assignment for the benefit of creditors or shall admit in writing its inability to pay its debts generally as they become due or shall consent to the appointment of a receiver or trustee or liquidator of all or the major part of its property, or the Premises.

(h) If an Event of Default pursuant to Section 14 hereof shall occur and be continuing without notice or grace of any kind; or

(i) If default is made in the maintenance and delivery to Mortgagee of insurance required to be maintained and delivered hereunder, for a period of five (5) days after notice; or

(j) If any default shall exist under the provisions of Section 25 hereof, or under the Assignment referred to therein; or

(k) If the Premises shall be abandoned;

(l) The occurrence of an Event of Default under any of the Loan Documents.;

then the Mortgagee is hereby authorized and empowered, at its option, and without affecting the lien hereby created or the priority of said lien or any right of the Mortgagee hereunder, to declare, without notice all Indebtedness to be immediately due and payable, whether or not such default is thereafter remedied by the Mortgagor, and the Mortgagee may immediately proceed to foreclose this Mortgage and/or exercise any right, power or remedy provided by this Mortgage, the Note, or by law or in equity conferred.

17. **Foreclosure.** When the Indebtedness, or any part thereof, shall become due, whether by acceleration or otherwise, the Mortgagee shall have the right to foreclose the lien hereof for such Indebtedness or part thereof and in connection therewith:

(a) In any suit or proceeding to foreclose the lien hereof, there shall be allowed and included as additional indebtedness in the decree for sale, all expenditures and expenses which may be paid or incurred by or on behalf of the Mortgagee to prepare, file, or prosecute such suit or proceeding including reasonable attorneys' fees, appraisers' fees, outlays for documentary and expert evidence, stenographers' charges, publication costs, and costs (which may be estimated as to items to be expended after entry of the decree) of procuring all such abstracts of title, title searches and examinations, title insurance policies, and similar data and assurances with respect to title, as the Mortgagee may deem reasonably necessary to prosecute, file, or prosecute such suit or proceeding or to evidence to bidder at sales which may be had pursuant to such decree the true conditions of the title to or the value of the Premises.

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- (b) All expenditures and expenses of the nature in this Section mentioned, and such expenses and fees as may be incurred in the protection of the Premises and the maintenance of the lien of this Mortgage, including the reasonable fees of any attorney employed by the Mortgagee in any litigation or proceedings affecting this Mortgage, the Note or the Premises, including probate and bankruptcy proceedings, or in preparation for the commencement or defense of any proceeding or threatened suit or proceeding, shall be immediately due and payable by the Mortgagor, with interest thereon at the Default Rate as that term is defined in the Note.
- (c) In the event of a deficiency upon a sale of the Premises pledged hereunder by Mortgagor, then Mortgagor shall forthwith pay such deficiency including all expenses and fees that may be incurred by the holder of the Note secured by this Mortgage in enforcing any of the terms and provisions of this Mortgage.

18. **Proceeds of Foreclosure Sale.** The proceeds of any foreclosure sale of the Premises shall be distributed and applied in the following order of priority: First, on account of all costs and expenses incident to the foreclosure proceedings, including all such items as are mentioned in Section 17 hereof; Second, all other items which, under the terms hereof, constitute Indebtedness additional to that evidenced by the Note, with interest on such items as herein provided; Third, to interest remaining unpaid upon the Note; Fourth, to the Loan remaining unpaid; and lastly, any overage to the Mortgagor, and its successors or assigns, as their rights may appear.

19. **Receiver.** Mortgagor consents and agrees that:

- (a) Upon, or at any time after, the filing of a complaint to foreclose this Mortgage, the court in which such complaint is filed may appoint a receiver of the Premises;
- (b) Such appointment may be made either before or after sale, with five (5) Business Days (as defined in the Note) notice, without regard to solvency or insolvency of the Mortgagor at the time of application for such receiver, and without regard to the then value of the Premises or whether the same shall be then occupied as a homestead or not; and the Mortgagee hereunder, or any holder of the Note may be appointed as such receiver;
- (c) Such receiver shall have the power to collect the rents, issues and profits of the Premises during the pendency of such foreclosure suit and in case of a sale and a deficiency, during the full statutory period of redemption, if any, when there be a redemption or not, as well as during any further times when the Mortgagor, except for the intervention of such receiver, would be entitled to collection of such rents, issues and profits, and all other powers which may be necessary or are usual in such cases for the protection, possession, control, management and operation of the Premises during the whole of said period;
- (d) The court may, from time to time, authorize the receiver to apply the net income from the Premises in his hands in payment in whole or in part of:

(i) The Indebtedness or the indebtedness secured by a decree foreclosing this Mortgage, or any tax, special assessment or other lien which may be or become superior to the lien hereof or such decree, provided such application is made prior to the foreclosure sale; or

(ii) The deficiency in case of a sale and deficiency.

20. **Insurance Upon Foreclosure.** In case of an insured loss after foreclosure proceedings have been instituted, the proceeds of any insurance policy or policies, if not applied in Restoring the Improvements, as aforesaid, shall be used to pay the amount due in accordance with any decree of foreclosure that may be entered in any such proceedings, and the balance, if any, shall be paid as the court may direct; and:

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- (a) In the case of foreclosure of this Mortgage, the court, in its decree, may provide that the Mortgagee's clause attached to each of the casualty insurance policies may be canceled and that the decree creditor may cause a new loss clause to be attached to each of said casualty insurance policies making the loss thereunder payable to said decree creditors; and any such foreclosure decree may further provide that in case of one or more redemptions under said decree, pursuant to the statutes in each such case made and provided, then in every such case, each and every successive redelector may cause the preceding loss clause attached to each casualty insurance policy to be canceled and a new loss clause to be attached thereto, making the loss thereunder payable to such redelector; and
- (b) In the event of foreclosure sale, the Mortgagee is hereby authorized, without the consent of the Mortgagor, to assign any and all insurance policies to the purchaser at the sale, or to take such other steps as the Mortgagee may deem advisable to cause the interest of such purchaser to be protected by any of the said insurance policies.

## 21. Compliance with Illinois Mortgage Foreclosure Law.

- (a) In the event that any provision in this Mortgage shall be inconsistent with any provision of the Illinois Mortgage Foreclosure Law (Chapter 735 ILCS 5/15 1101 et seq., Illinois Compiled Statutes Annotated) (hereinafter referred to as the "Act") 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 be construed in a manner consistent with the Act.
- (b) All expenses incurred by Mortgagee to the extent reimbursable under Sections 5/15-1510 and 5/15-1512 of the Act, whether incurred before or after any decree or judgment of foreclosure, and whether enumerated in any paragraph of this Mortgage, shall be added to the indebtedness secured by this Mortgage or by the judgment of foreclosure.

22. **Waiver of Statutory Rights.** The Mortgagor acknowledges that the transaction of which this Mortgage is a part is a transaction which does not include either agricultural real estate (as defined in Section 5/15-1201 of the Act) or residential real estate (as defined in Section 5/15-1219 of the Act), and to the full extent permitted by law, hereby voluntarily and knowingly waives its rights to reinstatement and redemption as allowed under Section 5/15-1601(b) of the Act, and to the full extent permitted by law, the benefits of all present and future valuation, appraisal, homestead exemption, stay, redemption and moratorium laws under any state or federal law.

23. **Forbearance.** Any forbearance by Mortgagee in exercising any right or remedy hereunder or otherwise afforded by applicable law, shall not be a waiver of or preclude the exercise of any such right or remedy. The procurement of insurance or the payment of taxes or other liens or charges by Mortgagee shall not be a waiver of Mortgagee's right to accelerate the indebtedness secured by this Mortgage.

24. **Waiver.** The Mortgagor hereby expressly waives any and all rights of redemption from sale under any order or decree of foreclosure of this Mortgage, on its own behalf and on behalf of each and every person, excepting only decree or judgment creditors of the Mortgagor acquiring any interest or title to the Premises or beneficial interest in Mortgagor subsequent to the date hereof, it being the intent hereof that any and all such rights of redemption of the Mortgagor and of all other persons are and shall be deemed to be hereby waived to the full extent permitted by the provisions of Chapter 735, Section 5/15-1601 of the Act or other applicable law or replacement statutes. No act of omission or commission of the Mortgagee, including, but not limited to, the failure to exercise any right, shall be deemed to be a waiver, release, or modification of the same and any such waiver, release, or modification may be effected only through a written document executed by the Mortgagee and then only to the extent specifically recited therein.

## 25. Assignment of Leases and Rents.

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- (a) All of Mortgagor's interest in and rights under any leases hereinbefore or hereafter entered into and all of the Rents, to become due, and including all prepaid rents and security deposits, are hereby absolutely, presently and unconditionally assigned and conveyed to Mortgagee to be applied by Mortgagee in payment of all sums due under the Note, and of all other sums payable under this Mortgage. Prior to the occurrence of any Event of Default, Mortgagor shall have a license to collect and receive all Rents, which license shall be terminated at the sole option of Mortgagee, without regard to the adequacy of its security hereunder and without notice to or demand upon Mortgagor, upon the occurrence of an Event of Default. It is understood and agreed that neither the foregoing assignment of Rents to Mortgagee nor the exercise by Mortgagee of any of its rights or remedies hereunder shall be deemed to make Mortgagee a "mortgagee-in-possession" or otherwise responsible or liable in any manner with respect to the Premises or the use, occupancy, enjoyment or any portion thereof, unless and until Mortgagee, in person or by agent, assumes actual possession thereof. Nor shall appointment of a receiver for the Premises by any court at the request of Mortgagee or by agreement with Mortgagor, or the entering into possession of any part of the Premises by such receiver, be deemed to make Mortgagee a mortgagee-in-possession or otherwise responsible or liable in any manner with respect to the Premises or the use, occupancy, enjoyment or operation of all or any portion thereof. Upon the occurrence of an Event of Default, this assignment shall constitute a direction to and full authority to each lessee under any Lease and each guarantor of any Lease to pay all Rents to Mortgagee without proof of the default relied upon. Mortgagor hereby irrevocably authorizes each lessee and guarantor to rely upon and comply with any notice or demand by Mortgagee for the payment to Mortgagee of any Rents due or to become due.
- (b) Mortgagor shall at all times fully perform the obligations of the lessor under all Leases. Mortgagor shall at any time or from time to time, upon request of Mortgagee, transfer and assign to Mortgagee in such form as may be satisfactory to Mortgagee, Mortgagor's interest in the Leases, subject to and upon the condition, however, that prior to the occurrence of an Event of Default hereunder, Mortgagor shall have a license to collect and receive all Rents under such Leases upon accrual, but not prior thereto, as set forth in subsection (a) above.
- (c) Mortgagee shall have the right to assign Mortgagor's right, title and interest in any leases to any subsequent holder of this Mortgage or any participating interest therein or to any person acquiring title to all or any part of the Premises through foreclosure or otherwise. Any subsequent assignee shall have all the rights and powers herein provided to Mortgagee. Upon an Event of Default, Mortgagee shall have the right to execute new leases of any part of the Premises, including leases that extend beyond the term of this Mortgage.

**26. Priorities With Respect To Leases.** If the Mortgagee shall execute and record in the public office wherein this Mortgage was recorded a unilateral declaration that this Mortgage shall be subject and subordinate, in whole or in part, to any Lease, then upon such recordation (or registration), this Mortgage shall become subject and subordinate to such Lease to the extent set forth in such instrument; provided that such subordination shall not extend to or affect the priority of entitlement to insurance proceeds or any Award unless such instrument shall specifically so provide.

**27. Mortgagee In Possession.** Nothing herein contained shall be construed as constituting the Mortgagee a mortgagee in possession in the absence of the actual taking of possession of the Premises by the Mortgagee. Upon the occurrence of an Event of Default, Mortgagee may, in accordance with the Act, apply to the court in which the complaint to foreclose the Mortgage is filed to place the Mortgagee in possession of the Premises.

**28. Business Loan.** It is understood and agreed that the loan evidenced by the Note and secured hereby is a business loan within the purview of the Illinois Interest Act (Chapter 815 ILCS Section 205/4) (or any substitute, amended, or replacement statutes) transacted solely for the purpose of carrying on or acquiring the business of the Mortgagor as contemplated by said Section.

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29. **Contests.** Notwithstanding anything to the contrary herein contained, Mortgagor shall have the right to contest by appropriate legal proceedings diligently prosecuted any taxes imposed or assessed upon the Premises or which may be or become a lien thereon and any mechanic's, materialmen's or other liens or claims for lien upon the Premises (all herein called "Contested Liens"), and no Contested Lien shall constitute an Event of Default hereunder, if, but only if:

- (a) Mortgagor shall forthwith give notice of any Contested Lien to Mortgagee at the time the same shall be asserted;
- (b) Mortgagor shall deposit with Mortgagee the full amount (herein called the "Lien Amount") of such Contested Lien or which may be secured thereby, together with such amount as Mortgagee may reasonably estimate as interest or penalties which might arise during the period of contest; provided that in lieu of such payment Mortgagor may furnish to Mortgagee a bond or title indemnity in such amount and form, and issued by a bond or title insuring company, as may be satisfactory to Mortgagee;
- (c) Mortgagor shall diligently prosecute the contest of any Contested Lien by appropriate legal proceedings having the effect of staying the foreclosure or forfeiture of the Premises, and shall permit Mortgagee to be represented in any such contest and shall pay all expenses incurred by Mortgagee in so doing, including fees and expenses of Mortgagee's counsel (all of which shall constitute so much additional Indebtedness bearing interest at the Default Rate until paid, and payable upon demand);
- (d) Mortgagor shall pay such Contested Lien and all Lien Amounts together with interest and penalties thereon (i) if and to the extent that any such Contested Lien shall be determined adverse to Mortgagor, or (ii) forthwith upon demand by Mortgagee if, in the opinion of Mortgagee, and notwithstanding any such contest, the Premises shall be in jeopardy or in danger of being forfeited or foreclosed; provided that if Mortgagor shall fail so to do, Mortgagee may, but shall not be required to, pay all such Contested Liens and Lien Amounts and interest and penalties thereon and such other sums as may be necessary in the judgment of the Mortgagee to obtain the release and discharge of such liens; and any amount expended by Mortgagee in so doing shall be so much additional Indebtedness bearing interest at the Default Rate until paid and payable upon demand; and provided further that Mortgagee may in such case use and apply for the purpose monies deposited as provided in Subsection 29(b) above and may demand payment upon any bond or title indemnity furnished as aforesaid.

30. **Indemnification.** Mortgagor does hereby covenant and agree that, except in cases of the gross negligence or the intentional acts of the Mortgagee:

- (a) Mortgagee shall have no responsibility for the control, care, management or repair of the Premises and shall not be responsible or liable for any negligence in the management, operation, upkeep, repair or control of the premises resulting in loss, injury or death to any tenant, licensee, immediate stranger or other person;
- (b) No liability shall be asserted or enforced against Mortgagee in the exercise of the rights and powers hereby granted to the Mortgagee, and Mortgagor hereby expressly waives and releases any such liability;

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(c) Mortgagor shall and does hereby indemnify and hold Mortgagee harmless from any liability, loss or damage which Mortgagee may or might incur by reason of (i) exercise by Mortgagee of any right hereunder, and (ii) any and all claims and demand whatsoever which may be asserted against Mortgagee by reason of any alleged obligation or undertaking on Mortgagee's part to perform or discharge any of the terms, covenants or agreements contained herein or in any instrument evidencing, securing or relating to the Indebtedness or in any contracts, agreements or other instruments relating to or affecting the Premises; and all such liability, loss or damage incurred by the Mortgagee together with the costs and expenses, including reasonable attorneys' fees incurred by Mortgagee in the defense (including preparation for defense) of any claims or demands therefor (whether successful or not) shall be so much additional Indebtedness, and the Mortgagor shall reimburse the Mortgagee therefor on demand, together with interest thereon at the Default Rate from the date of demand to the date of payment.

(d) In the event of foreclosure of the lien hereof, the foregoing provisions of this Section 30 shall expire upon the first to occur of (i) the Mortgagee or any party claiming by or through Mortgagee taking possession of the Premises; or (ii) the Mortgagee or any party claiming by or through Mortgagee acquiring title to the Premises, provided however such expiration shall only apply as to occurrences arising after the event giving rise to the expiration of the provisions of this Section 30.

31. **Mortgagor Not A Joint Venturer Or Partner.** Mortgagor and Mortgagee acknowledge and agree that in no event shall Mortgagee be deemed to be a partner or joint venturer with Mortgagor; and without limiting the foregoing, Mortgagee shall not be deemed to be such a partner or joint venturer on account of its becoming a mortgagee in possession or exercising any rights pursuant to this Mortgage or pursuant to any other instrument or document evidencing or securing any of the Indebtedness, or otherwise.

32. **Subrogation.** To the extent that Mortgagee, on or after the date hereof, pays any sum due under or secured by any Senior Lien as hereinafter defined, or Mortgagor or any other person pays any such sum with the proceeds of the Indebtedness:

- (a) Mortgagee shall have and be entitled to a lien on the Premises equal in priority to the Senior Lien discharged, and Mortgagee shall be subrogated to, and receive and enjoy all rights and liens possessed, held or enjoyed by, the holder of such Senior Lien, which shall remain in existence and benefit Mortgagee in securing the Indebtedness; and
- (b) Notwithstanding the release of record of Senior Liens (as hereinafter defined) Mortgagee shall be subrogated to the rights and liens of all mortgages, trust deeds, superior titles, vendors' liens, mechanics liens, or liens, charges, encumbrances, rights and equities on the Premises having priority to the lien of the Mortgage (hereinafter referred to as "Senior Liens"), to the extent that any obligation secured thereon is directly or indirectly paid or discharged with proceeds of disbursements or advances of the Indebtedness, whether made pursuant to the provisions hereof or of the Note or any document or instrument executed in connection with the Indebtedness.

33. **Mortgagor's Statement.** Mortgagor, within seven (7) days upon request in person or within ten (10) days upon request by mail, shall furnish either or both of the following: (i) a written statement duly acknowledged of all amounts due on any Indebtedness secured hereby, whether for principal or interest on the Note or otherwise, and stating whether any offsets or defenses exist against the Indebtedness and covering such other matters with respect to any of the Indebtedness as Mortgagee may reasonably require; and (ii) a certificate of Mortgagor setting forth the names of all lessees under any leases, the terms of their respective leases, the space occupied, the rents payable thereunder, and any security deposits collected by Mortgagor and the dates through which any and all rents have been paid.

34. **No Merger.** It being the desire and intention of the parties hereto that this Mortgage and the lien hereof do not merge in fee simple title to the Premises, it is hereby understood and agreed that should the Mortgagee acquire any additional or other interests in or to the Premises or the ownership thereof, then, unless a contrary intent is manifested by the Mortgagee as evidenced by an express statement to that effect in an appropriate document duly recorded, this Mortgage and the lien hereof shall not merge in the fee simple title, toward the end that this Mortgage may be foreclosed as if owned by a stranger to the fee simple title.

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35. **Rights Cumulative.** Each right, power and remedy herein conferred upon the Mortgagee is cumulative and in addition to every other right, power or remedy, express or implied, given now or hereafter existing, at law or in equity, and each and every right, power and remedy herein set forth or otherwise so existing may be exercised from time to time as often and in such order as may be deemed expedient by the Mortgagee, and the exercise or the beginning of the exercise of one right, power or remedy shall not be a waiver of the right to exercise at the same time or thereafter any other right, power or remedy; and no delay or omission of the Mortgagee in the exercise of any right, power or remedy accruing hereunder or arising otherwise shall impair any such right, power or remedy, or be construed to be a waiver of any default or acquiescence therein.

36. **Successors and Assigns.** This Mortgage and each and every covenant, agreement and other provision hereof shall be binding upon the Mortgagor and its successors and assigns (including, without limitation, each and every from time to time record owner of the Premises or any other person having an interest therein) and shall inure to the benefit of the Mortgagee and its successors and assigns and (a) wherever herein the Mortgagee is referred to, such reference shall be deemed to include the holder of from time to time of the Note, whether so expressed or not; and (b) each such from time to time holder of the note shall have and enjoy all of the rights, privileges, powers, options, benefits and security afforded hereby and hereunder, and may enforce every and all of the terms and provisions hereof, as fully and to the same extent and with the same effect as if such from time to time holder was herein by name specifically granted such rights, privileges, powers, options, benefits and security and was herein by name designated the Mortgagee.

37. **Provisions Severable.** The enforceability of any provision or provisions hereof shall not render any other provision or provisions herein contained unenforceable or invalid.

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

39. **Captions And Pronouns.** The captions and headings of the various sections of this Mortgage are for convenience only, and are not to be construed as confining or limiting in any way the scope or intent or the provisions hereof. Whenever the context requires or permits, the singular number shall include the plural, the plural shall include the singular and the masculine, feminine and neuter genders shall be freely interchangeable.

40. **Addresses And Notices.** Any notice, communication or demand required or permitted under this Mortgage shall be in writing and shall be deemed to have been given if delivered by personal service, overnight delivery service or sent by registered or certified mail, return receipt requested, and postage prepaid, as follows:

IF TO MORTGAGEE:

NATIONWIDE ACCEPTANCE CORPORATION  
3435 North Cicero  
Chicago, IL 60641  
Attention: Martin Less

IF TO MORTGAGOR:

WIX AUTO COMPANY, INC.  
3401 North Cicero  
Chicago, IL 60641  
Attention: Charles Glickman

or at such other address as either party may designate by such written notice. A notice, demand, or other communication shall be deemed received on the date of service, if delivered personally, or, if mailed, on the third Business Day after the deposit thereof in any United States Post Office or if sent by overnight delivery service, on the next Business Day. Notwithstanding anything to the contrary, all notices, communications, and demands from Lender or Borrower actually received in writing by the other shall be considered to be effective upon receipt thereof by the party regardless of the procedure or method utilized to accomplish such delivery thereof.

41. **Interest At The Default Rate.** Without limiting the generality of any provision herein or in the Note contained, from and after the occurrence of any Event of Default hereunder, all of the Indebtedness shall bear interest at the "Default Rate" as that term is defined in the Note.

42. **Time.** Time is of the essence hereof and of the Note, and all other instruments, if any, delivered in connection with the Indebtedness.

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43. **Governing Law.** This Mortgage shall be governed by the laws of the State of Illinois. In the event one or more of the provisions contained in this Mortgage shall be prohibited or invalid under applicable law, such provision shall be ineffective only to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Mortgage.

44. **Hazardous Waste.** The Mortgagor represents and warrants to the Mortgagee that the Mortgagor has not used Hazardous Materials (as defined below), on, from or affecting the Premises in any manner which violates federal, state or local laws, ordinances, rules, regulations or policies governing the use, storage, treatment, transportation, manufacture, refinement, handling, production or disposal of Hazardous Materials and, to the best of the Mortgagor's knowledge, no prior owner of the Premises or any existing or prior tenant, or occupant has used Hazardous Materials on, from or affecting the Premises in any manner which violates federal, state or local law, ordinances, rules, regulations or policies governing the use, storage, treatment, transportation, manufacture, refinement, handling, production or disposal of Hazardous Materials; (b) the Mortgagor has never received any notice of any violations (and is not aware of any existing violations of federal, state or local laws, ordinances, rules, regulations or policies governing the use, storage, treatment, transportation, manufacture, refinement, handling, production or disposal of Hazardous Materials at the Premises and, to the best of the Mortgagor's knowledge, there have been no actions commenced or threatened by any party for noncompliance which affects the Premises; (c) Mortgagor shall keep or cause the Premises to be kept free of Hazardous Materials except to the extent that such Hazardous Materials are stored and/or used in compliance with all applicable federal, state and local laws and regulations; and, without limiting the foregoing, Mortgagor shall not cause or permit the Premises to be used to generate, manufacture, refine, transport, treat, store, handle, dispose of, transfer, produce, or process Hazardous Materials, except in compliance with all applicable federal, state and local laws and regulations, nor shall Mortgagor cause or permit, as a result of any intentional or unintentional act or omission on the part of Mortgagor or any tenant, subtenant or occupant, a release, spill, leak or emission of Hazardous Materials onto the Premises or onto any other contiguous property; (d) the Mortgagor shall conduct and complete all investigations, including a comprehensive environmental audit, studies, sampling, and testing, and all remedial, removal and other actions necessary to clean up and remove all Hazardous Materials on, under, from or affecting the Premises as required by all applicable federal, state and local laws, ordinances, rules, regulations and policies, to the reasonable satisfaction of the Mortgagee, and in accordance with the orders and directives of all federal, state and local governmental authorities. If the Mortgagor fails to conduct an environmental audit reasonably required by the Mortgagee, then the Mortgagee may at its option and at the expense of the Mortgagor, conduct such audit.

Subject to the limitations set forth below, the Mortgagor shall defend, indemnify and hold harmless the Mortgagee, its employees, agents, officers and directors, from and against any claims, demands, penalties, fines, liabilities, settlements, damages, costs or expenses, including, without limitation, attorney's and consultant's fees, investigation and laboratory fees, court costs and litigation expenses, known or unknown, contingent or otherwise, arising out of or in any way related to (a) the presence, disposal, release or threatened release of any Hazardous Materials on, over, under, from or affecting the Premises or the soil, water, vegetation, buildings, personal property, persons or animals; (b) any personal injury (including wrongful death) or property damage (real or personal) arising out of or related to such Hazardous Materials on the Premises, (c) any lawsuit brought or threatened, settlement reached or government order relating to such Hazardous Materials with respect to the Premises, and/or (d) any violation of laws, orders, regulations, requirements or demands of government authorities, or any policies or requirements of the Mortgagee, which are based upon or in any way related to such Hazardous Materials used in the Premises. The indemnity obligations under this paragraph are specifically limited as follows:

- (i) The Mortgagor shall have no indemnity obligation with respect to Hazardous Materials that are first introduced to the Premises or any part of the Premises subsequent to the date that the Mortgagor's interest in and possession of the Premises or any part of the Premises shall have fully terminated by foreclosure of this Mortgage or acceptance of a deed in lieu of foreclosure;
- (ii) The Mortgagor shall not have indemnity obligation with respect to any Hazardous Materials introduced to the Premises or any part of the Premises by the Mortgagee, its successors or assigns.

The Mortgagor agrees that in the event this Mortgage is foreclosed or the Mortgagor tenders a deed in lieu of foreclosure, the Mortgagor shall deliver the Premises to the Mortgagee free of any and all Hazardous Materials which are then required to be removed (whether over time or immediately) pursuant to applicable federal, state and local laws, ordinances, rules or regulations affecting the Premises. For purposes of this Mortgage, "Hazardous Materials",



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includes, without limitation, any flammable explosives, radioactive materials, hazardous materials, hazardous wastes, hazardous or toxic substances or related materials defined in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. Section 9601, et. seq.), the Hazardous Materials Transportation Act, as amended (49 U.S.C. Sections 1801, et. seq.), the Resource Conservation and Recovery Act, as amended (42 U.S.C. Section 6901, et. seq.) and in the regulations adopted and publications promulgated pursuant thereto, or any other federal, state or local governmental law, ordinance, rule or regulation.

The provisions of this paragraph shall be in addition to any and all other obligations and liabilities the Mortgagor may have to the Mortgagee under the Indebtedness, any loan document, and in common law, and shall survive (a) the repayment of all sums due for the debt, (b) the satisfaction of all of the other obligations of the Mortgagor in this Mortgage and under any loan document, (c) the discharge of this Mortgage, and (d) the foreclosure of this Mortgage or acceptance of a deed in lieu of foreclosure. Notwithstanding anything to the contrary contained in this Mortgage, it is the intention of the Mortgagor and the Mortgagee that the indemnity provisions of this paragraph shall only apply to an action commenced against any owner or operator of the Premises in which any interest of the Mortgagee is threatened or any claim is made against the Mortgagee for the payment of money.

IN WITNESS WHEREOF, this Mortgage is executed and delivered as of the day and year first above written.

WIX AUTO COMPANY, INC.

By: Charles Glickman  
CHARLES GLICKMAN, President

## MORTGAGOR ACKNOWLEDGEMENT

STATE OF ILLINOIS )  
 ) SS.  
COUNTY OF COOK )

I, the undersigned, a Notary Public in and for the County of Cook in the State of Illinois, DO HEREBY CERTIFY that CHARLES GLICKMAN, personally known to me to be the same person whose name is subscribed to the foregoing instrument and the President of WIX AUTO COMPANY, INC., appeared before me this day in person and he acknowledged that he signed and delivered the said instrument as his free and voluntary act for the uses and purposes therein set forth.

Given under my hand and Notarial Seal this 8th day of March, 2006.

Ingrid Wessel  
Notary Public

