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Doc#: 0731239179 Fee: \$46.00
Eugene "Gene" Moore RHSP Fee: \$10.00
Cook County Recorder of Deeds
Date: 11/08/2007 02:05 PM Pg: 1 of 12

Prepared By And Mail To:
Wolfe and Polovin
180 N. LaSalle St.
Suite 2420
Chicago, Illinois 60601

MORTGAGE AND SECURITY AGREEMENT

THIS MORTGAGE (the "Mortgage"), dated effective as of this 5th day of November 2007 is from Michael Bauer and Iris Bauer (hereinafter referred to as "Mortgagors"), having an address at 2835 Riverwoods Road, Riverwoods, Illinois, to Marblecast Products, Inc., an Illinois corporation, (hereinafter referred to as "Mortgagee"), its successors and assigns.

WITNESSETH, that to secure the payment of an indebtedness in the amount of ONE HUNDRED FIFTY THOUSAND AND NO/100^{THS} DOLLARS (\$150,000.00) lawful money of the United States, to be paid, without interest thereon, according to a certain Negotiable Promissory Note ("Note") of even date herewith, between Marblecast Granite & Marble, Inc., an Illinois corporation, as Maker, and Mortgagee, as Payee, and that certain Guaranty of even date herewith given by Mortgagors and Marathon Cutting Die, Inc., an Illinois corporation, to Mortgagee in consideration of Mortgagee's extension of credit to Maker as evidenced by the Note, as well as any extension, modification, renewal or substitution thereof, Mortgagors hereby mortgage, convey and transfer to the Mortgagee all of Mortgagors' right, title and interest in the property (the "Premises" or "Mortgaged Premises") situated in Cook County, State of Illinois, and legally described in Exhibit A attached hereto and made a part hereof.

Together with (i) all improvements now or hereafter located thereon, (ii) all easements, rights-of-way and rights used in connection therewith or with a means of access thereto and all tenements, hereditaments and appurtenances thereto, (iii) all fixtures and all furniture, equipment and other personalty (excluding inventory goods) customarily located on, in or upon said real property, including but not limited to all machinery used in the operation of the business conducted on said real property, as well as any and all additions, substitutions, replacements and proceeds thereto or there from, (collectively referred to herein as "Personalty"), (iv) all right, title and interest of Mortgagors in and to any and all leases, now or hereafter on or affecting the property described in Exhibit A, (v) all rents, issues and profits of such real property, with full and complete authority and right in Mortgagee in case of default of this Mortgage to demand, collect, receive and receipt for such rents, issues and profits, and (vii) all real property legally described in Exhibit A, together with the improvements thereon, the rights therein, the appurtenances thereto, the Personalty on, in, upon, attached to or installed therein, the rents, issues and proceeds thereof, the present and future estates and interest of Mortgagors therein.

And Mortgagors covenant with Mortgagee as follows:

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1. Payment of Indebtedness and Performance of all Obligations and Conditions.

Mortgagors will guaranty the payment of the indebtedness as provided for in the Note and Guaranty and will otherwise duly comply with the terms thereof and further will timely perform all duties and obligations of Mortgagors under this Mortgage, the Guaranty and all other documents guarantying or securing the Note, or delivered in connection with the Note and any renewals, extensions or modifications thereof (hereinafter "Loan Documents").

2. Title to Premises.

Mortgagors represent and covenant that Mortgagors have full legal power, right and authority to mortgage, pledge and convey the Fee Simple Estate and this Mortgage creates a lien on the Fee Simple Estate.

3. Maintenance of Premises Changes and Alterations.

Mortgagors shall (a) promptly repair, restore, replace or rebuild any portion of the Premises which may become damaged or be destroyed whether or not proceeds of insurance are available or sufficient for that purpose; (b) keep the Premises in good condition and repair, free from waste; (c) pay all operating costs of the Premises; (d) complete, within a reasonable time, any building or buildings or other improvements now or at anytime in the process of erection upon the Premises; (e) comply with all requirements of statutes, ordinances, rules, regulations, orders, decrees and other requirements of law relating to the premises or any part thereof by any federal, state or local authority; (f) refrain from any action and correct any condition which would increase the risk of fire or other hazard to the improvements or any portion thereof; (g) comply with any restrictions and covenants of record with respect to the Premises and the use thereof; and (h) cause the Premises to be managed in a competent and professional manner.

4. Taxes and Liens.

Payment. Mortgagors shall pay or cause to be paid 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 levied or assessed against the Premises or any part thereof or any interest thereon or any obligation or instrument secured hereby, and all installments thereof (all herein generally called "taxes"), whether or not assessed against Mortgagors, and shall discharge any claim or lien relating to taxes upon the Premises.

If the Mortgagors shall fail to pay and keep paid any taxes or other liens encumbering the Premises, when due, in accordance with the requirements of this Paragraph, the Mortgagee shall have the right, at its option and in addition to any other remedies available to it under this Mortgage, to pay such taxes or other liens, and any amounts paid thereon by the Mortgagee shall constitute additional indebtedness secured by this Mortgage, shall bear interest at the Default Rate, as set forth in the Note from the date of payment, and shall become immediately due and owing to the Mortgagee.

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5. Insurance.

A. Mortgagors shall maintain at their sole cost and expense, the following insurance coverage with respect to the Premises:

(i) Insurance against loss of or damage to the Premises by fire and such other risks as are customarily insured against in the area in which the Premises are located, including but not limited to, risks insured against under extended coverage policies with all risk and difference in conditions endorsements, in each case in amounts at all times sufficient to prevent Mortgagors from becoming a co-insurer under the terms of the applicable policies and, in any event, in such amounts and against such insurable risks, as from time to time may reasonably be required by the Mortgagee.

(ii) Comprehensive general liability insurance against any and all claims (including all costs and expenses of defending the same) for bodily injury or death and for property damage and environmental liability occurring upon, in or about the Premises and the adjoining streets or passageways in amounts not less than \$1,000,000.00, with a liability limit of not less than \$1,000,000.00.

(iii) Such other insurance as is customarily purchased in the area for similar types of business, in such amounts and against such insurable risks, as from time to time may reasonably be required by the Mortgagee.

Mortgagors may effect for their own account any insurance not required under the provisions of subparagraph A hereof, but any insurance effected by Mortgagors on the Premises, whether or not required under this Mortgage, shall be for the benefit of the Mortgagee and Mortgagors, as their interests may appear, and shall be subject to the provisions of this Mortgage.

B. If Mortgagors shall fail to keep the Premises insured in accordance with the requirements of this Paragraph, Mortgagee shall have the right, at its option and in addition to any other remedies available to it under this mortgage, to provide for such insurance and pay the premiums thereof, and any amounts paid thereon by Mortgagee shall constitute additional indebtedness secured by this Mortgage, and shall become immediately due and owing to the Mortgagee.

C. On all insurance policies of the character described in this Paragraph 5, Mortgagee shall be named as an additional named insured thereunder.

6. Restrictions on Transfer.

Mortgagors, without the prior written consent of Mortgagee, shall not effect, suffer or permit any transfer of the Premises, including any conveyance, sale, assignment, transfer, lien, pledge, mortgage, security interest or other encumbrance or alienation (or any agreement to do any of the foregoing) of the Premises.

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7. Lien

This Mortgage is and will be maintained as a valid mortgage lien against the Mortgaged Premises. Mortgagors will not, after the date hereof, directly or indirectly, create or suffer or permit to be created, or to stand against the Premises, or any portion thereof, or against the rents, issues and profits thereof, any subsequent lien, security interest, encumbrance or charge.

8. Condemnation.

A. The term "Taking" as used herein shall mean a Taking of all or part of the Premises under the power of condemnation or eminent domain. Promptly upon the receipt by Mortgagors of notice of the institution of any proceeding for the Taking of the Premises or any part thereof, Mortgagors shall give written notice thereof to Mortgagee and Mortgagee may, at its option, appear in any such proceeding. Mortgagors will promptly give to Mortgagee copies of all notices, pleadings, awards, determinations and other papers received by Mortgagors in any such proceeding. Mortgagors shall not adjust or compromise any claim for award or other proceeds of a Taking without having first given at least thirty (30) days' prior written notice to Mortgagee of the proposed basis of adjustment or compromise and without first having received the written consent thereto of Mortgagee. Any award or other proceeds of a Taking, after allowance for expenses incurred in connection therewith, are herein referred to as "Condemnation Proceeds".

B. In the event of a Taking of the Premises or any part thereof, the Condemnation Proceeds shall be paid to Mortgagee and applied to payment of the mortgage indebtedness.

C. If an Event of Default shall occur, any Condemnation Proceeds in the hands of Mortgagee or to which Mortgagee is entitled may be retained by Mortgagee and, at its option, applied in payment of the mortgage indebtedness. Any amount remaining in the hands of Mortgagee following such application shall be paid to Mortgagors.

9. Right to Inspect.

Mortgagee, its agents and representatives, may at all reasonable times and with reasonable advanced written notice make such inspections of the Premises as Mortgagee may deem necessary or desirable.

10. Hazardous Substances.

Mortgagors covenant and represent that they shall not utilize or permit the use of any hazardous substances at the Premises; moreover, it shall maintain and keep the Premises free at all times of any environmental violation, waste, hazard or damage, including toxic chemicals, asbestos, or gasoline, and that Mortgagors shall provide reasonable proof required by the Mortgagee that the Premises are free from any environmental waste, hazard, or damage. Further, Mortgagors represent that the Premises shall not violate any state or federal environmental statute, regulation or law. Mortgagors covenant and agree that Mortgagors shall not, nor shall Mortgagors voluntarily permit any other person or entity to, place, hold, locate or dispose of any hazardous substances on, under or at the Premises or any part thereof, except in accordance with applicable law.

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If Mortgagors receive any notice or knowledge of (i) the occurrence of any event involving the use, spill, release, leak, seepage, discharge or clean up of any hazardous substance, or (ii) any complaint, order, citation or other notice with regard to air emissions, water discharges, or any other environmental, health or safety matter affecting Mortgagors or the Premises (an "Environmental Complaint") from any person or entity (including, without limitation, the EPA) then Mortgagors shall immediately notify Mortgagee orally and in writing of any such notice and, if the Environmental Complaint is in writing, shall immediately deliver a copy of the Environmental Complaint to Mortgagee. Further, Mortgagors shall immediately commence all actions necessary to clean up, remove, resolve and comply with any complaint, order, citation, notice or Environmental Complaint as may be required to comply with applicable law.

11. Events of Default.

In the case one or more of the following events ("Events of Default") shall occur, to-wit:

A. If default shall be made in the payment of any installment of principal on the Note or Guaranty, or in the payment of any other amount required to be paid thereunder and not cured as provided in the Note or Guaranty, when the same or any part thereof shall become due and payable, and if such default shall not have been cured within the time period, if any, given under the Note or Guaranty; or,

B. If a transfer occurs or any representation, covenant or warranty made by Mortgagors in this Mortgage, or made heretofore or contemporaneously herewith in any other instrument, agreement or written statement in any way related hereto or to the loan transaction or any other agreement between the parties, shall prove to have been false or incorrect in any material respect on or as of the date when made and such falsity or incorrectness shall materially affect the security of this Mortgage.

C. If for any other reason Mortgagee shall in good faith, but solely in its discretion, deem itself insecure or deem the collateral granted to Mortgagee insufficient to secure Maker's obligations under the Note or Guarantors' obligations under the Guaranty.

Then, in any such event, at the option of Mortgagee, the entire unpaid principal balance of the Note secured hereby, all applicable penalties, fees, or specified in the Note, and any other sums secured hereby shall be due and payable immediately. All costs and expenses incurred by, or on behalf of, Mortgagee (including, without limitation, reasonable attorneys' fees and expenses) occasioned by an Event of Default by Mortgagors hereunder shall be immediately due and payable by Mortgagors. After any such Event of Default, Mortgagee may institute, or cause to be instituted, proceedings for the realization of its rights and remedies under this Mortgage, the Guaranty or the Note.

12. Rights, Powers and Remedies of Mortgagee.

If an Event of Default shall occur, Mortgagee may, at any time, at its election and to the extent permitted by law and after expiration of any applicable grace period:

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A. Foreclose this Mortgage as provided in the Illinois Mortgage Foreclosure Act and exercise any and all other rights and remedies available to Mortgagee.

B. Advertise the Premises or any part thereof for sale and thereafter sell, assign, transfer and deliver the whole, or from time to time any part, of the Premises or any interest in any part thereof, at any private sale or at public auction, with or without demand upon Mortgagors, for cash, on credit or in exchange for other property, for immediate or future delivery, and for such price and on such other terms as Mortgagee may, in its discretion, deem appropriate or as may be required by law. The exercise of this power of sale by Mortgagee shall be in accordance with the provisions of any statute of the State of Illinois now or hereafter in effect which authorizes the enforcement of a mortgage by power of sale, or any statute expressly amending the foregoing:

C. Enter upon and take possession of the Premises or any part thereof by force, summary proceedings, ejectment or otherwise, and may remove Mortgagors and all other persons and any and all property therefrom, and may hold, operate, manage, and lease the same and receive all earnings, income, rents, issues and proceeds accruing with respect thereto. Mortgagee shall be under no liability for or by reason of such entry, taking of possession, removal, holding, operation or management, except that any amounts so received shall be applied as hereinafter provided in this Paragraph; and

D. Make application for the appointment of either an order for mortgagee in possession or a receiver, without bond, for the Premises whether such Mortgagee in possession or receivership be incident to a proposed sale of said Premises, any part thereof, or otherwise, and Mortgagors hereby consent to the appointment of such receiver and agree not to oppose any such appointment. Further, Mortgagors agree that Mortgagee shall be appointed mortgagee in possession or receiver of the Premises, at Mortgagee's option.

In the event the right to accelerate the indebtedness secured hereby or to foreclose the Mortgage has accrued to Mortgagee, whether the entire debt has then been accelerated, Mortgagee may, with or without order of Court notice to or demand upon Mortgagors, take possession of the Premises. Should Court proceedings be instituted, Mortgagors hereby consent to the entry of an order by agreement to effect and carry out the provisions of this Subparagraph C. While in possession of the Premises, Mortgagee shall have the following powers:

(i) To collect the rents and manage, lease alter and repair the Premises, cancel or modify existing leases, obtain insurance and in general have all powers and rights customarily incident to absolute ownership; and

(ii) To pay out of the rents so collected the management and repair charges, taxes, insurance, commissions, fees and all other expenses and, after creating reasonable reserves, apply the balance (if any), on account of the indebtedness secured hereby; and

(iii) Any and all other powers set forth in the Loan Documents; and

(iv) Any and all other powers available under the law.

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Mortgagee may remain in possession of the Premises in the event of a foreclosure, until the foreclosure sale and thereafter during the entire period of redemption (if any), if a deficiency exists. Mortgagee shall incur no liability for, nor shall Mortgagors assert any claim, set-off or recoupment as a result of, any action taken while Mortgagee is in possession of the Premises except only for Mortgagee's own gross negligence or willful misconduct. In the event no foreclosure proceedings are commenced, Mortgagee may remain in possession as long as there exists a Default.

In order to facilitate Mortgagee's exercise of the rights, powers and remedies granted above, Mortgagors hereby irrevocably appoint Mortgagee their true and lawful attorney to act in their name and stead for the purpose of effectuating any sale, assignment, transfer or delivery authorized above, whether pursuant to power of sale or otherwise, and to execute and deliver all such deeds, bills of sale, leases, assignments and other instruments as Mortgagee may deem necessary and appropriate. Notwithstanding the foregoing, if requested by Mortgagee or any purchaser from Mortgagee, Mortgagors shall ratify and confirm any such sale, assignment, transfer or delivery by executing and delivering to Mortgagee or such purchaser all appropriate deeds, bills of sale, leases, assignments and other instruments as may be designated in such request. Further, s agrees that Mortgagee may be a purchaser of the Premises or any part thereof or any interest therein at any sale, whether pursuant to power of sale or otherwise, and may apply upon the purchase price the indebtedness secured hereby. Any purchaser at any sale shall acquire good title to the property so purchased, free of the lien of this Mortgage and free of all rights of redemption in Mortgagors. The receipt of the officer making the sale under judicial proceedings or of Mortgagee shall be sufficient discharge to the purchaser for the purchase money and such purchaser shall not be responsible for the proper application thereof.

Mortgagors hereby waive the benefit of all appraisal, valuation, stay, extension, redemption and equity of redemption laws now or hereafter in force and all rights of marshaling in the event of any sale hereunder of the Premises or any part thereof or any interest therein.

The Proceeds of any sale of the Premises or part thereof or any interest therein, whether pursuant to power of sale or otherwise hereunder, and all amounts received by Mortgagee by reason of any holding, operation or management of the Premises or any part thereof, together with any other moneys at the time held by Mortgagee, shall be applied in the following order:

First: To all costs and expenses of the sale of the Premises or any part thereof or any interest therein, or entering upon, taking possession of, removal from, holding, operating and managing the Premises or any part thereof, as the case may be, together with (a) the costs and expenses of any receiver of the Premises or any part thereof appointed pursuant hereto and (b) any taxes, assessments or other charges, prior to the lien of this Mortgage, which Mortgagee may consider necessary or desirable to pay;

Second: To any indebtedness secured by this Mortgage and at the time due and payable, other than the indebtedness with respect to the Note at the time outstanding;

Third: To all amounts of principal, premium, if any, interest at the time due and payable on the Note at the time outstanding (whether at maturity or on a date fixed for any installment payment or any prepayment or by declaration or acceleration or otherwise), including interest at the Default Rate, as set forth in the Note, and (to the extent permitted under applicable law) on any overdue

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interest and all other fees, charges or expenses under the Note and other Loan Documents: and, in case such moneys shall be insufficient to pay in full the amount so due and unpaid upon the Note, then, first, to the payment of all amounts of interest at the time due and payable on the Note, and second, to the payment of all amounts of principal and premium if any, at the time due and payable on the Note and

Fourth: The balance, if any, to the person or entity then entitled thereto pursuant to applicable state law.

Mortgagors hereby waive all rights of redemption and/or equity of redemption which exists either by statute and/or common law for sale under any order or decree of foreclosure of this Mortgage.

13. Remedies are Cumulative.

Each right, power and remedy of Mortgagee now or hereafter existing at law or in equity shall be cumulative and concurrent and shall be available to Mortgagee and in addition to every right, power and remedy provided for in this Mortgage, and the exercise of any right, power or remedy shall not preclude the simultaneous or later exercise of any other right, power or remedy.

14. No Waiver.

No delay or failure by Mortgagee to insist upon the strict performance of any term hereof or of the Note or to exercise any right, power or remedy provided for herein or therein as a consequence of an Event of Default hereunder or thereunder, and no acceptance of any payment of the principal, interest or premium, if any, on the Note during the continuance of any such Event of Default, shall constitute a waiver of any such term, such Event of Default or such right, power or remedy preclude any other or further exercise thereof or the exercise of any other right, power or remedy. No waiver of any Event of Default hereunder shall affect or alter this Mortgage, which shall continue in full force and effect with respect to any other then existing or subsequent Events of Default.

15. Further Assurances.

Mortgagors, at their expense, will execute, acknowledge and deliver such instruments and take such actions as Mortgagee from time to time may reasonably request for the further assurance to Mortgagee of the properties and rights now or hereafter subjected to the lien hereof or assigned hereunder or intended so to be.

16. Defeasance.

If Maker, or Mortgagors shall pay the principal due under the Note in accordance with the terms thereof, and if they shall pay all other sums payable hereunder and shall comply with all other terms hereof and of the Note and the Guaranty, then this Mortgage and the estate and rights hereby created shall cease, terminate and become void, and thereupon Mortgagee, at the expense of Mortgagors, shall execute and deliver to Mortgagors such instruments as shall be required to evidence of record the satisfaction of this Mortgage and the lien thereof, and any sums at the time held by Mortgagee shall be returned to Mortgagors.

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17. Definitions.

Where used in this Mortgage, unless the context clearly indicates a contrary intent or unless otherwise specifically provided herein, the word "Mortgagors" shall be construed as meaning the "Mortgagors and any subsequent owner or owners of the Premises", and the word "Mortgagee" shall be construed as meaning "Mortgagee" and any subsequent holder or holders of the Note or this Mortgage.

18. Amendments.

This Mortgage cannot be changed or terminated orally but may only be amended, modified or terminated pursuant to written agreement between Mortgagors and Mortgagee.

19. Notices.

Any notice, demand or other communication given pursuant to the terms hereof shall be in writing and shall be delivered by personal service or sent by registered mail, return receipt requested, postage prepaid, addressed as follows:

If to Mortgagors: Michael Bauer
Chris Bauer
2815 Riverwoods Road
Riverwoods, Illinois 60015

with a copy to: Kenneth S. Fickle, Esq.
1401 W. Dundee Rd., Ste 208
Buffalo Grove, IL 60089

If to Mortgagee: Marblecast Products, Inc.
1496 Vernon
Park Ridge, Illinois 60068

with a copy to: Robert K. Polovin, Esq.
Wolfe and Polovin
180 N. LaSalle Street, Suite 2420
Chicago, Illinois 60601

or at such other address within the United States or to the attention of such other office as either party shall have designated in writing to the other. Any such notice, demand or other communication shall be deemed given when received at the office of the Mortgagee or Mortgagors or of any other officer who shall have been designated by the addressee by notice in writing to the other party.

20. Expense of Litigation and Preparation Where No Litigation is Initiated.

If any action or proceeding be commenced to which Mortgagee is made a party, or in which it becomes necessary to defend or uphold the lien of this Mortgage, all sums paid by Mortgagee for the expense (including reasonable attorneys' fees) of any litigation to prosecute or to defend the rights and lien created by this Mortgage shall be paid by Mortgagors immediately upon written

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demand therefor. Mortgagors further expressly agree to pay all costs and expenses including reasonable attorneys' fees should Mortgagee incur costs and attorneys' fees relating to this Mortgage even in the event no suit or litigation is initiated.

21. Miscellaneous.

A. If the time of payment of all indebtedness secured hereby or any part thereof be extended at any time or times, if the Note or Guaranty be renewed, modified or replaced, or if any security for the note be released, Mortgagors and any other parties now or hereafter liable for payment of such indebtedness in whole or in part or interested in the Premises shall be held to consent to such extensions, renewals, modifications, replacements and releases, and their liability and the lien hereof and the rights created hereby and thereby shall continue in full force, except as to those parties released, the right of recourse against all such other parties being reserved by Mortgagee.

B. The loan proceeds have been used, along with Maker's and Mortgagors' other funds, for the purpose of purchasing the business assets relating to the marble and tile business operated at 2211 S. Foster Avenue, Wheeling, Illinois and the real estate at 2211 S. Foster Avenue, in Wheeling, Illinois, and for no other purposes.

C. This Mortgage shall be binding upon Mortgagors, their respective administrators, personal representatives, heirs, legatees, successors and assigns.

D. The headings in this Mortgage are for purposes of reference only and shall not limit or otherwise affect the meaning hereof.

E. If any clause, phrase, paragraph or portion of this Mortgage or the application thereof to any person, party or circumstances shall be invalid or unenforceable under applicable law, such event shall not affect, impair or render invalid or unenforceable the remainder of this Mortgage nor any other clause, phrase, paragraph or portion hereof, nor shall it affect the application of any clause, phrase, paragraph or provision hereof to other persons, parties or circumstances.

22. Consent to Jurisdiction.

TO INDUCE MORTGAGEE TO ACCEPT THE NOTE AND OTHER LOAN DOCUMENTS, MORTGAGORS IRREVOCABLY AGREE THAT, SUBJECT TO MORTGAGEE'S SOLE AND ABSOLUTE ELECTION, ALL ACTIONS OR PROCEEDINGS IN ANY WAY ARISING OUT OF OR RELATED TO THE NOTE AND OTHER LOAN DOCUMENTS WILL BE LITIGATED IN COURTS HAVING SITUS IN COOK COUNTY, ILLINOIS. MORTGAGORS HEREBY CONSENT AND SUBMIT TO THE JURISDICTION OF ANY COURT LOCATED WITHIN COOK COUNTY, ILLINOIS, WAIVE PERSONAL SERVICE OF PROCESS UPON MORTGAGORS, AND AGREE THAT ALL SUCH SERVICE OF PROCESS MAY BE MADE BY REGISTERED MAIL DIRECTED TO MORTGAGORS AT THE ADDRESS STATED IN THE MORTGAGE AND SERVICE SO MADE WILL BE DEEMED TO BE COMPLETED UPON ACTUAL RECEIPT.

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24. Waiver of Jury Trial.

MORTGAGORS AND MORTGAGEE (BY ACCEPTANCE OF THE NOTE AND OTHER LOAN DOCUMENTS), HAVING BEEN REPRESENTED BY COUNSEL, EACH KNOWINGLY AND VOLUNTARILY WAIVES ANY RIGHT TO A TRIAL BY JURY IN ANY ACTION OR PROCEEDING TO ENFORCE OR DEFEND ANY RIGHTS (a) UNDER THE NOTE AND OTHER LOAN DOCUMENTS OR ANY RELATED AGREEMENT OR UNDER ANY AMENDMENT, INSTRUMENT, DOCUMENT OR AGREEMENT DELIVERED OR WHICH MAY IN THE FUTURE BE DELIVERED IN CONNECTION WITH THE NOTE AND OTHER LOAN DOCUMENTS OR (b) ARISING FROM ANY BANKING RELATIONSHIP EXISTING IN CONNECTION WITH THIS NOTE, AND AGREES THAT ANY SUCH ACTION OR PROCEEDING WILL BE TRIED BEFORE A COURT AND NOT BEFORE A JURY. MORTGAGORS AGREE THAT THEY WILL NOT ASSERT ANY CLAIM AGAINST MORTGAGEE ON ANY THEORY OF LIABILITY FOR SPECIAL, INDIRECT, CONSEQUENTIAL, INCIDENTAL OR PUNITIVE DAMAGES NOR REPUDIATE THE TERMS OF THE LOAN DOCUMENTS AND IRREVOCABLY WAIVES THE RIGHT TO DO SO.

IN WITNESS thereof Mortgagors have caused this Mortgage to be executed as of the date and year first written above.

MORTGAGORS:

Michael Bauer
Michael Bauer

Iris Bauer
Iris Bauer

STATE OF ILLINOIS)SS.
COUNTY OF COOK)

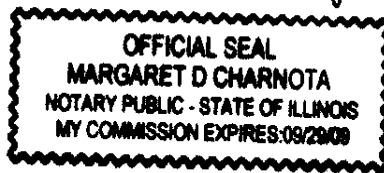
I, Margaret D. Charnota, a Notary Public in and for said County in the State aforesaid, DO HEREBY CERTIFY that Michael Bauer, and Iris Bauer, personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that they signed and delivered the said instrument as their own free and voluntary act, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 5th day of November, 2007.

Margaret D. Charnota
Notary Public

My Commission Expires:

Sept. 29, 2009



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EXHIBIT A

LEGAL DESCRIPTION

LOT 29 IN PALWAUKEE INDUSTRIAL PARK, BEING A SUBDIVISION OF THE SOUTH EAST 1/4 OF SECTION 23, TOWNSHIP 42 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS

P.I.N. NUMBERS: 03-23-406-012-0000

ADDRESS: 2230-32 S. Foster, Wheeling, Illinois

Property of Cook County Clerk's Office