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## Illinois Anti-Predatory Lending Database Program

### Certificate of Exemption

Report Mortgage Fraud  
800-532-8785



Doc#: 0903629029 Fee: \$104.00  
Eugene "Gene" Moore RHSP Fee:\$10.00  
Cook County Recorder of Deeds  
Date: 02/05/2009 12:08 PM Pg: 1 of 35

The property identified as: **PIN: 10-36-428-009-0000**

**Address:**

**Street:** 2546-52 W. DEVON

**Street line 2:**

**City:** CHICAGO

**State:** IL

**ZIP Code:** 60659

**Lender:** BROADWAY BANK

**Borrower:** MOHAMMAD SIDDIQUI

**Loan / Mortgage Amount:** \$1,376,018.56

This property is located within Cook County and the transaction is exempt from the requirements of 765 ILCS 77/70 et seq. because the application was taken by an exempt entity.

**Certificate number:** 1A2C08C1-6737-4753-ADA0-0A2CC080A11E

**Execution date:** 12/19/2008

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## SUBORDINATE MORTGAGE AND SECURITY AGREEMENT

THIS SUBORDINATE MORTGAGE AND SECURITY AGREEMENT ("Mortgage") made as of this 19<sup>th</sup> day of December, 2008, by ASAT, Inc., an Illinois corporation, with an address at 1516 W. Farwell, Chicago, Illinois 60626 (herein referred to as "Mortgagor") and BROADWAY BANK, an Illinois banking corporation ("Mortgagee");

WITNESSETH, THAT WHEREAS, Mortgagor is affiliated to those entities which are justly indebted to Mortgagee for money borrowed in the principal amount of One Million Three Hundred Seventy Six Thousand and 00/100 (\$1,376,078.56) ("Principal Amount"), or such lesser sum, as evidenced by a Loan Note of even date herewith executed by Mohammad Siddiqi, A/K/A Mohammad Siddiqi, an Illinois resident, and 4635-41 N. BROADWAY LLC, an Illinois limited liability company, both with an address at 1516 W. Farwell, Chicago, Illinois 60626, and Chicago Title Land Trust As Successor Trustee to LaSalle Bank N.A. as Trustee under Land Trust Number 134275, dated April 27, 2005, and not personally, with an address at 181 West Madison Street, 17<sup>th</sup> Floor, Chicago, IL 60602 (collectively referred to herein as the "Borrower") made payable to the order of and delivered to Mortgagee (which note, together with any and all other notes executed and delivered in substitution therefor or in renewal and extension thereof, in whole or in part, is herein collectively referred to as "Note"), by the provisions of which Borrower promises to pay to Mortgagee or to the legal owner and holder of Note, from time to time):

- I. The Principal Amount (or so much thereof as may be advanced by Mortgagee from time to time);
- II. Interest at the rate set forth in the Note; and

PREPARED BY AND WHEN  
RECORDED RETURN TO:  
Alexander R. Domanskis  
Boodell & Domanskis, LLC  
205 N. Michigan Avenue, Suite 4307  
Chicago, IL 60601

Property Address:

2546-52 W. Devon Avenue, Chicago, Illinois 60659  
and 6425 N. Rockwell Street, Chicago, Illinois 60659

Tax Number:

10-36-428-035, 10-36-428-009, 10-36-428-033-8001,  
10-36-428-033-8002, 10-36-428-024 & 10-36-428-025

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- III. All other sums due and owing pursuant to the Note or hereunder and advanced by Mortgagee to protect the Mortgaged Premises or to preserve the priority of the lien established hereby;

(collectively, "Indebtedness"), from the date of the disbursement of the Principal Amount, as set forth in the Note, with a final payment of Indebtedness on June 19, 2010 ("Maturity Date", as defined in the Note). **Mortgagee would not lend to the Borrower without the additional collateral provided by Mortgagor herein.**

NOW, THEREFORE, for good and valuable consideration, the receipt of which is hereby acknowledged, to secure the payment of the Indebtedness and the performance of the terms, covenants, conditions and agreements contained herein and in the Note and in any guaranty and all other documents executed and delivered to secure the Indebtedness ("Other Loan Documents"), Mortgagor, by these presents, **DOES HEREBY MORTGAGE, GRANT, CONVEY, SELL, ASSIGN, TRANSFER, PLEDGE, and SET OVER** with the right of entry and possession forever the land legally described on Exhibit "A" attached hereto and made a part hereof ("Land") and the "Improvements" (as such term is defined in the Loan Agreement) to be constructed thereon, **TOGETHER WITH THE FOLLOWING** (collectively "Other Interests"):

- A. All right, title and interest of the Mortgagor, including any after-acquired title or reversions in and to the rights of way, roads, streets and alleys which adjoin the Land;
- B. All right, title and interest of Mortgagor now owned or hereafter acquired, or reversions in and to any land lying within the right of way of any street, sidewalks, alleys and strips of land contiguous or adjacent to or used in connection with the Land;
- C. All Fixtures;
- D. All right, title and interest of Mortgagor in and to the minerals, flowers, shrubs, trees, and landscaping now or hereafter located on the Mortgaged Premises or under or above the same, or any part or parcel thereof;
- E. All buildings and surface and subsurface improvements, of every kind, nature and description, now or hereafter located and placed upon the Land and all materials intended for construction, re-construction, alteration and repair of the Improvements, all of which shall be deemed a part thereof immediately upon the delivery of the same, and all fixtures and articles of personal property now or hereafter owned by Mortgagor, incorporated into, attached to, located on or contained in and used in connection with the Mortgaged Premises, including, but not limited to, all furniture, furnishings, apparatus, machinery, motors, elevators, fittings, radiators, awnings, stoves, refrigerators, washers, dryers, trash compactors, shades, screens, blinds, office equipment, carpeting and other furnishings and all plumbing, heating, lighting, ventilating, refrigerating, incinerating, air-conditioning, electrical and sprinkler systems and equipment, and fixtures and appurtenances thereto ("Personal Property") and all renewals or replacements of Personal Property or articles in substitution therefor, whether or not the same are or shall be attached to the Improvements in any

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manner, excepting from Personal Property, however, any furniture, fixtures, equipment and articles of personal property, regardless of the manner or mode of attachment, belonging to any present or future tenant or lessee of the Land and Improvements (collectively "Occupancy Tenants") (any reference hereafter made to Personal Property shall be deemed to exclude such personal property of Occupancy Tenants), PROVIDED, HOWEVER, IT IS MUTUALLY AGREED that all Personal Property owned by Mortgagor and placed by it on the Land and Improvements shall, insofar as the same is permitted by law, be deemed to be fixtures ("Fixtures"), be deemed to be a part of the Mortgaged Premises and be deemed to be security for the payment of the Indebtedness, and as to any Personal Property not deemed to be Fixtures and a part of the Mortgaged Premises, this Mortgage shall be and is a security agreement for the purpose of establishing a security interest in Personal Property, pursuant to the Uniform Commercial Code of the State of Illinois, and additional security for the payment of the Indebtedness and the performance of all other obligations of Mortgagor herein and in the Loan Agreement and Other Loan Documents set forth;

- F. All rents, issues, proceeds, security deposits and profits accruing and to accrue from the Mortgaged Premises and all right, title and interest of Mortgagor in and to any and all leases approved by Mortgagee now or hereafter on or affecting the Mortgaged Premises, whether written or oral, and all other leases and agreements for the use thereof (collectively "Lease"), together with all security therefor and all monies payable thereunder, subject, however, to the conditional permission of Mortgagee given to Mortgagor to collect the rentals to be paid pursuant thereto;
- G. Subject to the provisions of Paragraphs 7 and 8 hereof, all:
- (1) Proceeds heretofore or hereafter payable to Mortgagor and all subsequent owners of the Mortgaged Premises ("Proceeds") by reason of loss or damage by fire and such other hazards, casualties and contingencies (collectively "Casualty") insured pursuant to Insurance Policies; and
  - (2) Awards and other compensation heretofore or hereafter payable to Mortgagor and all subsequent owners of the Mortgaged Premises ("Awards") for any taking by condemnation or eminent domain proceedings, either permanent or temporary, of all or any part of the Mortgaged Premises or any easement or appurtenance thereof, including severance and consequential damage and change in grade of streets, or any payment made in consideration of the voluntary transfer of any interest of Mortgagor in the Mortgaged Premises in lieu of condemnation ("Condemnation");

Proceeds or Awards are hereby assigned to Mortgagee. Mortgagor hereby appoints Mortgagee its attorney-in-fact, coupled with an interest, and authorizes, directs and empowers such attorney-in-fact, at its option, on behalf of Mortgagor, its personal representatives, successors and assigns, to adjust or compromise any claim for Proceeds or Awards and to collect and receive the amounts thereof, to give proper

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receipts and acquittances therefor and, after deducting expenses of collection, to apply the net proceeds received therefrom as a credit upon any part, as may be selected by Mortgagee, of Indebtedness (notwithstanding that the amount owing thereon may not then be due and payable or that the same is otherwise adequately secured); and

- H. All other right, title, interest, estate or other claims of every kind and character, both in law and in equity, which Mortgagor now has or at any time hereinafter acquires in and to the Mortgaged Premises.

For convenience, the Land, Improvements and Other Interests are herein collectively referred to as "Mortgaged Premises."

TO HAVE AND TO HOLD the Mortgaged Premises unto Mortgagee, its successors and assigns, forever, for the uses and purposes herein set forth; PROVIDED, HOWEVER, that if and when Mortgagor shall pay Indebtedness and shall perform all of the terms, covenants, conditions and agreements contained herein and in the Note, Loan Agreement and Other Loan Documents, this Mortgage, Note, Loan Agreement and Other Loan Documents shall, except for the obligations, if any, which by the terms of said documents shall survive such payment and performance, be released, at the sole cost and expense of Mortgagor; otherwise, the same shall be and remain in full force and effect.

MORTGAGOR HEREBY FURTHER COVENANTS AND AGREES AS FOLLOWS:

1. **DEFINITIONS AND EXHIBITS:** For convenience, the following words, terms and phrases used in this Mortgage, including the Recitals hereof, are defined in the following references:

<u>Defined Term</u>	<u>Reference</u>
Act	Paragraph 19
Applicable Laws	Paragraph 11 e)
Awards	NOW, THEREFORE, Paragraph G (2)
Casualty	NOW, THEREFORE, Paragraph G (1)
Code	Paragraph 27 a)
Collateral	Paragraph 27 a)
Condemnation	NOW, THEREFORE, Paragraph G (2)
Contractual Agreements	Paragraph 37 b)
Debtor	Paragraph 27 e). i)
Default Rate	Paragraph 7
Deficiencies	Paragraph 17
Environmental Laws	Paragraph 42 f)
Fee	Paragraph 17
Expenses	Paragraph 17
Fixtures	NOW, THEREFORE, Paragraph E
Hazardous Material	Paragraph 42 f)
Impositions	Paragraph 6

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Improvements	NOW, THEREFORE, Paragraph
Indebtedness	WITNESSETH Paragraph
Insurance Policies	Paragraph 7
Land	NOW, THEREFORE, Paragraph
Leases	NOW, THEREFORE, Paragraph F
Lender's Environmental	
Liability	Paragraph 42 g)
Loan Agreement	Paragraph 6
Maturity Date	WITNESSETH Paragraph
Monetary Default	Paragraph 17
Mortgaged Premises	NOW, THEREFORE, following
	Paragraph H
Mortgagee	Introduction
Mortgage	Introduction
Non-Monetary Default	Paragraph 17
Note	WITNESSETH Paragraph
Occupancy Tenants	NOW, THEREFORE, Paragraph E
Other Interests	NOW, THEREFORE, Paragraph
Other Loan Documents	NOW, THEREFORE, Paragraph
Permitted Exceptions	Paragraph 2
Personal Property	NOW, THEREFORE, Paragraph E
Principal Amount	WITNESSETH Paragraph
Proceeds	NOW, THEREFORE, Paragraph G (1)
Repair or Restoration	Paragraph 7
Secured Party	Paragraph 27 e). iv).
Unpermitted Transfers	Paragraph 15
Warranties and	
Representations	Paragraph 17 b).

The following exhibit is attached hereto and made a part hereof:

Exhibit "A"

Legal Description of Land

2. **PRIORITY OF LIEN AND SUBORDINATE ENCUMBRANCES:** This Mortgage is and shall remain a subordinate and valid lien on the Mortgaged Premises subject and subordinate to the prior mortgage of Broadway Bank and a prior mortgage of Hermes Capital, LLC, until the payment in full of the Indebtedness and the performance of all of the terms, covenants, conditions and agreements specified herein and in the Note, Loan Agreement and Other Loan Documents. Mortgagor shall keep the Mortgaged Premises free and clear of any other superior or subordinate liens, or claims of every nature and kind (other than the Permitted Exceptions which are title exceptions agreed upon by Mortgagee on the date of this Mortgage) and shall not execute, deliver or grant any other mortgage, trust deed or security interest encumbering the Mortgaged Premises or Personal Property, now or at any time hereafter, except as permitted under the Other Loan Documents.

3. **SUBROGATION:** To the extent that (a) any part of the Indebtedness is applied in



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payment of any existing lien against the Mortgaged Premises, or any part thereof, or, (b) following the date hereof, Mortgagee pays any sum due pursuant to any provision of law or any instrument or document establishing any lien prior or superior to the lien of this Mortgage, Mortgagee shall have and be entitled to a lien on the Mortgaged Premises equal in parity to that discharged and Mortgagee shall be subrogated to, receive and enjoy all rights and liens possessed, held or enjoyed by the holder of such lien, which shall remain in existence and benefit Mortgagee to secure the payment of the Indebtedness. Mortgagee shall be subrogated, notwithstanding its release of record, to mortgages, trust deeds, superior titles, vendors' liens, and other liens, charges, encumbrances, rights and equities on the Mortgaged Premises to the extent that any obligation thereunder is paid or discharged from the Indebtedness or other payments by Mortgagee.

4. PROMPT PAYMENT AND PERFORMANCE OF COVENANTS: Mortgagor shall promptly pay the Indebtedness as the same becomes due and shall duly and punctually perform and observe all of the terms, covenants, conditions and agreements to be performed and observed by Mortgagor as provided herein and in the Note, Loan Agreement and Other Loan Documents.

5. MAXIMUM LIEN. At no time shall the principal amount of Indebtedness secured by the Mortgage, not including sums advanced to protect the security of the Mortgage, exceed \$2,752,037.12.

6. PAYMENT OF TAXES AND OTHER IMPOSITIONS: Subject to any right to contest in the Loan Agreement of even date herewith between Mortgagor and others and Mortgagee ("Loan Agreement"), Mortgagor shall promptly pay, when due and payable, all taxes and assessments (general and special), water and sewer charges, public impositions, levies, dues and other charges, of whatsoever nature, which are now or shall hereafter be levied or assessed or which may otherwise be or become a lien upon or against the Mortgaged Premises, or any part thereof (collectively "Impositions").

7. INSURANCE POLICIES, PAYMENT AND APPLICATION OF PROCEEDS AND SETTLEMENT OF CLAIMS: Until such time as the Indebtedness shall have been paid in full, Mortgagor shall keep the Mortgaged Premises continuously insured against Casualty and claim for personal injury and property damage by policies of insurance reasonably required by Lender, in such amounts and for such periods as may, from time to time, be required by Mortgagee ("Insurance Policy" or "Insurance Policies"), which Insurance Policies and all renewals thereof shall:

- a). be written with companies licensed to do business in the State of Illinois, having a Best's "General Policy Holder Rating" of A- or better and a financial rating class of V or better and:
  - i). if written by a mutual company, the insurance policy holder or its mortgagee must not be assessable;
  - ii). the risk of any one (1) company shall not exceed ten percent (10%) of the issuer's policyholders' surplus (including capital); and

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- iii). contain co-insurance not exceeding ninety percent (90%);
- b). be written with companies and in amounts acceptable to Mortgagee as the insurance certificates delivered to Mortgagee are accepted by Mortgagee, provide replacement coverage and otherwise be in form satisfactory to Mortgagee;
- c). cite Mortgagee's interest in standard mortgage clauses effective as of the Closing Date;
- d). be maintained to and including the Maturity Date without cost to Mortgagee;
- e). be delivered to Mortgagee as issued ( or certificates evidencing such insurance), together with evidence of payment of premiums therefor in full, not less than thirty (30) days prior to the expiration of the previous Insurance Policies;

Such insurance may be included in a blanket policy, which includes other properties owned by affiliates of Mortgagee.

In the event of a sale of the Mortgaged Premises pursuant to foreclosure hereof or other transfer of title thereto and the extinguishment of the Indebtedness, complete title to Insurance Policies and renewals thereof as they relate to the Mortgaged Premises, together with all prepaid or unearned premiums thereon, in the possession of Mortgagee shall pass to and vest in the purchaser or grantee of the Mortgaged Premises. If any renewal Insurance Policy (or certificates evidencing such insurance) is not delivered to Mortgagee within thirty (30) days prior to the expiration of any existing Insurance Policy, with evidence of premium paid, Mortgagee may obtain the required insurance on behalf of Mortgagor (or in favor of Mortgagee only) and pay the premiums therefor, in which event any monies so advanced shall be so much additional Indebtedness secured hereby and shall become immediately due and payable, with interest thereon at the "Default Rate" (as such term is defined in the Note). Mortgagee shall not, by reason of acceptance, rejection, approval or obtaining Insurance Policies, incur any liability for payment of losses.

In the event of any loss sustained by Casualty for which Insurance Policies are in effect, Mortgagor may, with the consent of Mortgagee which shall not be required for a loss claim in an amount of \$25,000.00 or less, settle, compromise and adjust any and all rights and claims pursuant to the provisions of the Insurance Policies, PROVIDED THAT Proceeds shall be payable to Mortgagee. In the absence of such consent, Mortgagee is hereby authorized, in a commercially reasonable manner, to settle, compromise and adjust such claims or rights and receive Proceeds. Any Proceeds paid to Mortgagee shall be applied first on account of the costs of repair or restoration of that part of the Mortgaged Premises damaged or destroyed ("Repair or Restoration") and if there are any remaining proceeds after Repair or Restoration these proceeds shall be applied at the sole election of Mortgagee; provided, however, such Repair and Restoration shall only be required to the extent reasonably necessary to allow Mortgagor to undertake its intended development of the Mortgaged Premises.



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If the Proceeds are to be applied on account of the cost of Repair or Restoration, the same shall be paid to Mortgagor, from time to time, upon the delivery to Mortgagee of satisfactory evidence of the estimated cost of completing the Repair or Restoration, together with such architect's certificates, contractor's sworn statements, waivers of lien, title insurance policies or certifications and other evidences of cost and payments as Mortgagee may require and approve. No payment made prior to final completion of the Repair or Restoration shall exceed ninety-five percent (95%) of the value thereof and, at all times, the undisbursed balance of Proceeds shall not be less than the amount required to pay for the cost of completion thereof, free and clear of liens or encumbrances. In the event that, in the opinion of Mortgagee, Proceeds are insufficient to pay for all costs of Repair or Restoration, Mortgagor shall deposit with Mortgagee an amount equal to such excess costs of such Repair or Restoration as necessary for the payment of such Repair or Restoration. Any surplus Proceeds, following the payment of all costs of Repair or Restoration, shall, at the option of Mortgagee, be applied on account of the Indebtedness or paid to Mortgagor.

8. **CONDEMNATION:** If all or any part of the Mortgaged Premises (other than a portion which Mortgagee reasonably deems insignificant) shall be damaged or taken through condemnation (which term, when used in this Mortgage, shall include any damage or taking by any governmental authority and any transfer by private sale in lieu thereof), either temporarily or permanently, the Indebtedness shall, at the option of Lender, become immediately due and payable. Mortgagee shall be entitled to all compensation to the extent of the Indebtedness, awards and other payments or relief therefor and is hereby authorized, at its option, to commence, appear in and prosecute, in its own or Mortgagor's name, any action or proceeding relating to any condemnation, and, in a commercially reasonable manner, to settle or compromise any claim in connection therewith. All such compensation, awards, damages, claims, rights, actions and proceedings, and the right thereto, are hereby assigned by Mortgagor to Mortgagee. After deducting from said condemnation proceeds all of its expenses incurred in the collection and administration of such sums, including reasonable attorneys' fees, Mortgagee shall apply the net proceeds or any part hereof toward restoring the Mortgaged Premises. Any surplus Proceeds, following the payment of all costs of Repair or Restoration, shall, at the option of Mortgagee, be applied on account of the Indebtedness or paid to Mortgagor. Mortgagor agrees to execute such further assignments of any compensations, awards, damages, claims, rights, actions and proceedings as Mortgagee may require. Mortgagee shall not be held responsible for any failure other than its own negligence to collect any amount in connection with any such proceeding regardless of the cause of such failure.

9. **CASUALTY OR CONDEMNATION AFTER FORECLOSURE:** In the event of Casualty or Condemnation following the institution of foreclosure proceedings, Proceeds or Awards, if not applied as specified in Paragraphs 7 and 8, shall be used to pay the amounts due in accordance with any decree of foreclosure which may be entered in any such proceedings and the balance, if any, shall be paid as the court may direct. 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 creditor. In the event of foreclosure sale, Mortgagee is hereby authorized, without the consent of Mortgagor, to assign any and all Insurance Policies to the purchaser at the sale, or to take such other steps as Mortgagee may deem advisable to cause the interest of such purchaser to be protected by any of the Insurance Policies without credit or allowance to Mortgagor for prepaid premiums thereon.

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10. **MORTGAGEE'S LIABILITY FOR COLLECTION OF PROCEEDS OR AWARDS:**

Mortgagee shall not be held responsible for any failure to collect Proceeds or Awards, regardless of the cause of such failure. The power and authority granted to Mortgagee to collect Proceeds or Awards is irrevocable and coupled with an interest and shall, in no way, affect the security of this Mortgage or the liability of Mortgagor for payment of the Indebtedness, and the entry of a decree of foreclosure of the lien hereof shall not affect or impair said power and authority.

11. **USE, CARE OR WASTE:** Mortgagor shall constantly maintain, substantially in their current condition, and neither diminish, in any respect, nor materially alter the Improvements (including landscaped areas) comprising a part of the Mortgaged Premises except pursuant to the construction authorized by the Loan Agreement or approved by Mortgagee so long as the Indebtedness, or any part thereof, remains unpaid. Except as provided herein or in the Loan Agreement or approved by Mortgagee, no buildings, structures, improvements, personal property, Fixtures constituting a part of the Mortgaged Premises or Personal Property shall be removed, added to, demolished, or altered without the prior written consent of Mortgagee. Without, in any way, limiting the generality of the foregoing except for the tear down and construction contemplated to be performed Mortgagor shall:

- a). not abandon the Mortgaged Premises or do or suffer anything to be done which would depreciate or impair the value thereof or the security of this Mortgage;
- b). not remove or demolish any part of the Improvements of a structural nature which would adversely affect the value of the Mortgaged Premises;
- c). maintain, preserve and keep the Mortgaged Premises substantially in its current insurable condition and repair and promptly make any needful and proper repairs, replacements, renewals, additions or substitutions required to maintain the mortgaged premises in its current condition;
- d). not make any changes, additions or alterations to the Mortgaged Premises of a structural nature or which would adversely affect the value thereof, except as required by all laws and regulations of governmental authorities having jurisdiction thereon ("Applicable Laws") or as otherwise approved in writing by Mortgagee;
- e). promptly commence and diligently pursue any Repair or Restoration or Rebuilding or Restoration, as the case may be, in order to maintain the Mortgaged Premises in its current condition and pay promptly all services, labor and material necessary and required to complete the same whether or not Proceeds or Awards are made available therefor;
- f). not commit or permit to exist any waste of the Mortgaged Premises; and
- g). maintain the Improvements substantially in their current condition.

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Mortgagor shall comply with and cause the Mortgaged Premises and the use and condition thereof to comply with Applicable Laws and with all conditions and requirements necessary to preserve and extend any and all rights, licenses, permits, privileges, franchises and concessions (including, without limitation, such rights, licenses, permits, privileges, franchises and concessions relating to land use and development, construction, access, water rights, noise and pollution) which are applicable to Mortgagor or have been granted for the Mortgaged Premises or the use thereof.

12. MORTGAGEE'S PERFORMANCE OF MORTGAGOR'S OBLIGATIONS: Upon the occurrence of an Event of a Default by Mortgagor in:

- a). the prompt discharge of any lien or encumbrance;
- b). defending the title to the Mortgaged Premises;
- c). the payment of any Imposition;
- d). the proper maintenance and preservation of the Mortgaged Premises; or
- e). the performance by Mortgagor of any act herein required to be performed by the Mortgagor, including the obligations specified in Paragraph 11 above;

and said default is not cured to the reasonable satisfaction of Mortgagee within the time specified to cure Non-Monetary Defaults, or if Mortgagor shall fail to procure and maintain Insurance Policies, Mortgagee may, at its election and without further demand or notice, pay and discharge such lien or encumbrance, defend the title to the Mortgaged Premises, pay such Impositions (plus any interest and penalties thereon), complete construction of the Improvements, intended to be constructed during the pre-development stage of Mortgagor's intended development of the Mortgaged Premises, perform rebuilding or restoration or repair or restoration or any obligation of Mortgagor specified in Paragraph 11 hereof, procure Insurance Policies and maintain and preserve the Mortgaged Premises.

All expenditures therefor, including reasonable attorneys' fees incurred by Mortgagee, shall forthwith become due and payable to Mortgagee, together with interest thereon at the Default Rate, which shall be added to and become a part of the Indebtedness and shall be secured by the lien of this Mortgage, all without prejudice to the right of Mortgagee to declare the Indebtedness immediately due and payable by reason of Mortgagor's Monetary Default or Non-Monetary Default. Mortgagee shall have the sole right of determination as to the validity of any lien, encumbrance or Imposition attributable to or assessed against the Mortgaged Premises and payment thereof by Mortgagee shall establish its right to recover the amount so paid, with interest at the Default Rate, subject to the provisions of Paragraph 13 following.

13. CONTEST OF LIENS OR ENCUMBRANCES: In the event Mortgagor desires to contest the validity of any lien, encumbrance or Imposition attributable to or assessed against the Mortgaged Premises, it shall:

- a). on or before fifteen (15) days following Mortgagee's receipt, of a claim for lien which was recorded with the Cook County Recorder of Deeds, notify

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Mortgagee, in writing, that it intends to so contest the same;

- b). on or before the due date thereof, deposit with Mortgagee security (in form and content and amounts satisfactory to Mortgagee) for the payment of the full amount of such lien, encumbrance or Imposition, or any balance thereof then remaining unpaid (or provide to Mortgagee such other indemnity which may be in the form of an endorsement, in form and substance and issued by a title company reasonably satisfactory to Mortgagee); and
- c). from time to time, deposit additional security or indemnity, so that, at all times, adequate security or indemnity will be available for the payment of the full amount of the lien, encumbrance or Imposition remaining unpaid, together with all interest, penalties, costs and charges accrued or accumulated thereon.

If the foregoing deposits are made and Mortgagor continues, in good faith, to contest the validity of such lien, encumbrance or Imposition, by appropriate legal proceedings which shall operate to prevent the collection thereof and the sale of the Mortgaged Premises, or any part thereof, to satisfy the same, Mortgagor shall be under no obligation to pay such lien, encumbrance or Imposition until such time as the same has been decreed, by court order, to be a valid lien on the Mortgaged Premises. Except in the event that Mortgagor provides affirmative title insurance coverage over any such liens, encumbrance or imposition, Mortgagee shall have full power and authority to reduce any such security or indemnity to cash and apply the amount so received to the payment of any unpaid lien, encumbrance or Imposition to prevent the sale or forfeiture of the Mortgaged Premises or non-payment of such lien, encumbrance or imposition, without liability on Mortgagee for any failure to apply the security or indemnity so deposited, unless Mortgagor, in writing, requests the application thereof to the payment of the particular lien, encumbrance or Imposition for which such deposit was made. Any surplus deposit retained by Mortgagee, after the payment of the lien, encumbrance or Imposition for which the same was made, shall be repaid to Mortgagor, unless Monetary Default or Non-Monetary Default exists, in which event, such surplus shall be applied by Mortgagee to cure such default.

14. **WAIVERS**: To the full extent permitted by law, Mortgagor:

- a). shall not, at any time, insist upon or plead or, in any manner whatsoever, claim, or take advantage of any and all rights to reinstatement, stay, exemption or extension law or any so-called "Moratorium Law" (now or at any time hereafter in force) nor claim, take or insist upon any benefit or advantage of or from any law (now or hereafter in force) providing for the valuation or appraisal of the Mortgaged Premises, or any part thereof, prior to any sale or sales thereof to be made pursuant to any provision herein contained or to any decree, judgment or order of any court of competent jurisdiction or after such sale or sales, claim or exercise any rights pursuant to any statute now or hereafter in force to redeem the Mortgaged Premises so sold, or any part thereof, or relating to the marshaling thereof, upon foreclosure, sale or other enforcement hereof;



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- b). 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, on behalf of all persons claiming or having an interest (direct or indirect) by, through or under Mortgagor and on behalf of each and every person acquiring any interest in or title to the Mortgaged Premises subsequent to the date hereof, it being the intent of Mortgagor hereby that any and all such rights of redemption of Mortgagor and of all other persons are and shall be deemed to be hereby waived to the full extent permitted by Applicable Law; and
- c). agrees that it will not, by invoking or utilizing any Applicable Law or Laws or otherwise hinder, delay or impede the exercise of any right, power or remedy herein or otherwise granted or delegated to Mortgagee but will suffer and permit the exercise of every such right, power and remedy as though no such law or laws has, have been or will have been made or enacted.

Mortgagor represents that the provisions of this Paragraph 14 (including the waiver of reinstatement and redemption rights) are made on its own behalf and on behalf of all other persons named herein or in any Other Loan Document. 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 15-1201 of the Act) or residential real estate (as defined in Section 15-1219 of the Act).

15. **UNPERMITTED TRANSFERS:** Mortgagor agrees that for the purpose of protecting Mortgagee's security, keeping the Mortgaged Premises free from subordinate financing liens (except for the Permitted Exceptions) and/or permitting Mortgagee to raise the rate of interest due on the Note and to collect assumption fees, any sale, installment sale, conveyance, assignment or other transfer of or grant of a security interest in and to all or any part of the:

- a). legal and/or equitable title to the Mortgaged Premises; and
- b). ownership interest in Mortgagor except for the transfer of ownership interests between the members of Mortgagor existing on the date of this Mortgage which is the legal title holder of the Mortgaged Premises;

shall be deemed to be an unpermitted transfer except as permitted by the Loan Agreement (collectively, "Unpermitted Transfers").

Notwithstanding the foregoing, prior to any transfer permitted by the Mortgagee the proposed documents of transfer are submitted to Mortgagee for its approval and, within ten (10) business days following such transfer, copies of the executed documents of transfer are delivered to Mortgagee. A consent by Mortgagee to an Unpermitted Transfer or a waiver of a default by reason thereof shall not constitute a consent to or waiver of any right, remedy or power accruing to Mortgagee by reason of any subsequent Unpermitted Transfer.

16. **CROSS-COLLATERALIZATION.** In addition to the Note, this Mortgage



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secures all obligations, debts and liabilities, plus interest thereon, of Mortgagor, as well as all claims by Mortgagee against Mortgagor, whether related or unrelated to the purpose of the Note, whether voluntary or otherwise, whether due or not due, direct or indirect, determined or undetermined, absolute or contingent, liquidated or unliquidated whether Mortgagor may be liable individually or jointly with others, whether obligated as guarantor, surety, accommodation party or otherwise, and whether recovery upon such amounts may be or hereafter may become barred by any statute of limitations, and whether the obligation to repay such amounts may be or hereafter may become otherwise unenforceable.

17. **DEFAULT:** In the event of a default by Mortgagor in the payment when due of the whole or any part of the several installments due and owing pursuant to Note, on the due date thereof or in the payment of all costs, fees, and expenses required to be paid by Mortgagor, as defined in and pursuant to the terms and conditions of the Loan Agreement, or in the payment of amounts received in the operation of the Mortgaged Premises to the extent required pursuant to the terms and conditions of the Loan Agreement or in the payment of the amounts specified in the Loan Agreement following the due date for the payment of the whole or any part of the several installments due and owing pursuant to the Note and for all other monetary defaults ("Monetary Default"), or if any one (1) or more of the following events shall exist after fifteen (15) days' written notice thereof from Mortgagee to Mortgagor, PROVIDED THAT, if any of the following cannot be cured within said period, said period may be extended for an additional forty-five (45) days if, within said sixty 60-day period, Mortgagor initiates and thereafter diligently pursues a course of action reasonably expected to cure such event (collectively, "Non-Monetary Defaults"):

- a). The failure of Mortgagor to perform any of the terms, covenants, conditions and agreements required of it pursuant hereto and to the Loan Agreement;
- b). "Warranties and Representations" (as defined in the Loan Agreement), including warranties and representations relating to Environmental Laws and other environmental matters and the representations set forth in Paragraph 42 hereof following and other environmental matters set forth in Article I of the Loan Agreement, or any one (1) of the same, are, is or shall become untrue in any material respect;
- c). The default of Mortgagor in any respect under any other agreements with or obligations to Mortgagee;
- d). Any transfer or assignment of the Mortgaged Premises, except as provided herein;
- e). The existence of any collusion, fraud, dishonesty or bad faith by or with the knowledge of Mortgagor which, in any way, materially relates to or materially affects the Indebtedness;
- f). Mortgagor shall:
  - i). have an order entered with respect to its or his relief pursuant to the

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Federal Bankruptcy Act which is not removed within forty-five (45) days following entry;

- ii). not pay, or admit in writing its or his inability to pay, its or his debts as the same become due and such non-payment or admission constitutes an act of bankruptcy;
- iii). make an assignment for the benefit of creditors;
- iv). apply for, seek, consent to or acquiesce in the appointment of a receiver, custodian, trustee, examiner, liquidator or similar official for it or him or for any substantial part of its or his property;
- v). institute any proceeding seeking the entry of an order for relief pursuant to the Federal Bankruptcy Act to adjudicate it or him a bankrupt or insolvent or seeking dissolution, winding-up, liquidation, reorganization, arrangement, adjustment or composition of it or him or its or his debts under any law relating to bankruptcy, insolvency or reorganization or relief of debtors or failure to file an answer or other pleading denying the material allegations of any such proceeding filed against it or him; or
- vi). take any action to authorize or effect any of the actions set forth in this Subparagraph (f) or fail to contest in good faith any appointment or proceeding described in this Subparagraph (f).;
- g). Without the application, approval or consent of Mortgagee, a receiver, trustee, examiner, liquidator or similar official shall be appointed for Mortgagor, and such appointment continues undischarged or such proceeding continues undismissed or unstayed for a period of sixty (60) consecutive days (provided that no such cure period shall extend the Maturity Date); or
- h). Any Non-Monetary Default pursuant to the terms and conditions of the Note, this Mortgage, the Loan Agreement and the Other Loan Documents;

then, or at any time thereafter during the continuance of a Monetary Default or Non-Monetary Default, Mortgagee may declare the Indebtedness immediately due and payable in full, without further notice thereof and without demand or presentment, anything contained herein or in the Note, Loan Agreement or Other Loan Documents to the contrary notwithstanding, and the Indebtedness so accelerated and declared due as aforesaid shall bear interest at the Default Rate.

18. **REMEDIES NOT EXCLUSIVE:** No remedy or right of Mortgagee hereunder or pursuant to the Note, Loan Agreement or Other Loan Documents or otherwise available under applicable law, shall be exclusive of any other remedy or right but each such remedy or right shall be in addition to every other remedy or right now or hereafter existing at law or in equity pursuant thereto. No delay in the exercise of or omission to exercise any remedy or right accruing by reason

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of a Monetary Default or a Non-Monetary Default shall impair any such remedy or right or be construed to be a waiver of any such default or an acquiescence therein nor shall the same affect any subsequent Monetary Default or Non-Monetary Default of the same or a different nature. Every such remedy or right may be exercised concurrently or independently, when and as often as may be deemed expedient by Mortgagee. All obligations of Mortgagor and all rights, powers and remedies of Mortgagee expressed herein shall be in addition to and not in limitation of those provided by law, this Mortgage and the Other Loan Documents. If any provision in this Mortgage shall be inconsistent with any provision of 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. If any provision of this Mortgage shall grant to Mortgagee any rights or remedies upon Monetary or Non - Monetary Default of the Mortgagor which are more limited than the rights that would otherwise be vested in Mortgagee under the Act in the absence of said provisions, Mortgagee shall be vested with the rights granted in the Act to the full extent permitted by law.

19. COMPLIANCE WITH ILLINOIS MORTGAGE FORECLOSURE LAW: In the event that any provision in this Mortgage shall be inconsistent with any provision of the Illinois Mortgage Foreclosure Law (generally, 735 ILCS 5/15-1101 et seq.) (herein called 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.

If any provision of this Mortgage shall grant to Mortgagee any rights or remedies upon default of the Mortgagor which are more limited than the rights that would otherwise be vested in Mortgagee under the Act in the absence of said provision, Mortgagee shall be vested with the rights granted in the Act to the full extent permitted by law.

Without limiting the generality of the foregoing, all expenses incurred by Mortgagee to the extent reimbursable under the Act, whether incurred before or after any decree or judgment of foreclosure, and whether enumerated in Paragraph 30 of this Mortgage, shall be added to the indebtedness secured by this Mortgage or by the judgment of foreclosure.

20. POSSESSORY RIGHTS OF MORTGAGEE: In addition to or concurrent with, and not in limitation of, the rights set forth in Paragraph 20(a), upon the occurrence of a Monetary Default or a Non-Monetary Default, whether before or after the institution of proceedings to foreclose the lien of this Mortgage, Mortgagor shall, forthwith upon demand of Mortgagee, surrender to Mortgagee, and Mortgagee shall be entitled to take actual possession of, the Mortgaged Premises or any part thereof, personally, or by its agent or attorneys or be placed in possession pursuant to court order as mortgagee in possession or receiver as provided in Section 15-1701 of the Act, and Mortgagee, in its discretion, personally, by its agents or attorneys or pursuant to court order as mortgagee in possession or receiver as provided in Section 15-1701 of the Act may enter upon and take and maintain possession of all or any part of the Mortgaged Premises, together with all documents, books and records, papers, and accounts of Mortgagor relating thereto, and may exclude Mortgagor, such owner, and any agents and servants thereof wholly therefrom and:

- a). may, on behalf of Mortgagor or such owner, or in its own name as Mortgagee

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and under the powers herein granted:

- i). hold, operate, manage, and control all or any part of the Mortgaged Premises and conduct the business, if any, thereof, either personally or by its agents, with full power to use such measures, legal or equitable, as in its discretion may be deemed proper or necessary to enforce the payment or security of the rents, issues, deposits, profits, and avails of the Mortgaged Premises, including without limitation actions for recovery of rent, actions in forcible detainer, and actions in distress for rent, all without notice to Mortgagor;
- ii). cancel or terminate any Lease or sublease of all or any part of the Mortgaged Premises on any ground that would entitle Mortgagor to cancel the same;
- iii). elect to disaffirm any Lease or sublease of all or any part of the Mortgaged Premises made subsequent to this Mortgage with or without Mortgagor's prior written consent;
- iv). extend or modify any of the then existing Leases and make new Leases of all or any part of the Mortgaged Premises, which extensions, modifications, and new Leases may provide for terms to expire, or for options to lessees to extend or renew terms to expire, beyond the maturity date of the Note and the issuance of a deed or deeds to a purchaser or purchasers at a foreclosure sale, it being understood and agreed that any such Leases, and the options or other such provisions to be contained therein, shall be binding upon Mortgagor, all persons whose interests in the Mortgaged Premises are subject to the lien hereof, and the purchaser or purchasers at any foreclosure sale, notwithstanding any redemption, reinstatement, discharge of the Indebtedness satisfaction of any foreclosure decree, or issuance of any certificate of sale or deed to any such purchaser;
- v). complete construction of Improvements intended to be constructed during the pre-development stage of Mortgagor's intended development of the Mortgaged Premises and offsite work in accordance with plans and specifications, Repair or Restoration or Rebuilding or Restoration and make all necessary or proper repairs, decoration, renewals, replacements, alterations, additions, betterments and improvements to the Mortgaged Premises which, in Mortgagee's sole discretion, may seem appropriate in connection with the maintenance of the Mortgaged Premises in its current



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condition and/or the pre-development stage of Mortgagor's intended development of the Mortgaged Premises;

- vi). insure and re-insure the Mortgaged Premises against all risks incidental to Mortgagee's possession, operation and management thereof;
- vii). perform such other acts in connection with the management and operation of the Mortgaged Premises as Mortgagee, in its sole discretion, may deem proper; and
- viii). apply the net income, after allowing a reasonable fee for the collection thereof and for the management of the Mortgaged Premises, to the payment of Taxes, Premiums and other expenses applicable to the Mortgaged Premises, or in reduction of the Indebtedness in such order and manner as Mortgagee shall select.

Without limiting the generality of the foregoing provisions of this Paragraph 20, Mortgagee shall also have all power, authority and duties as provided in Section 15-1703 of the Act. Nothing herein contained shall be construed as constituting Mortgagee a mortgagee in possession in the absence of the actual taking of possession of the Mortgaged Premises.

- b). Upon the filing of a complaint to foreclose this Mortgage or at any time thereafter, the court in which such complaint is filed may appoint upon petition of Mortgagee, and at Mortgagee's sole option, a receiver of the Mortgaged Premises pursuant to Section 15-1702 of the Act. Such appointment may be made either before or after a sale, without notice, without regard to solvency or insolvency of Mortgagor at the time of application for such receiver, and without regard to the then value of the Mortgaged Premises; and Mortgagee hereunder or any employee or agent thereof may be appointed as such receiver. Such receiver shall have all powers and duties prescribed by Section 15-1704 of the Act, including the power to make leases to be binding upon all parties, including the Mortgagor, the purchaser at a sale pursuant to a judgment of foreclosure and any person acquiring an interest in the Mortgaged Premises after entry of a judgment of foreclosure, all as provided in Subsection (g) of Section 15-1701 of the Act. In addition, such receiver shall also have the power to extend or modify any then existing leases, which extensions and modifications may provide for terms to expire, or for options to lessees to extend or renew terms to expire, beyond the maturity date of the Note and beyond the date of the issuance of a deed or deeds to a purchaser or purchasers at a foreclosure sale, it being understood and agreed that any such leases, and the options or other provisions to be contained therein, shall be binding upon Mortgagor and all the persons whose interest in the Mortgaged Premises are subject to the lien hereof and upon the



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purchaser or purchasers at any foreclosure sale, notwithstanding any redemption, reinstatement, discharge of the Indebtedness, satisfaction of any foreclosure judgment, or issuance of any certificate of sale or deed to any purchaser. In addition, such receiver shall have the power to collect the rents, issues and profits of the Mortgaged Premises during the pendency of such foreclosure suit and, in case of a sale and deficiency, during the full statutory period of redemption, if any, whether there be a redemption or not, as well as during any further times when Mortgagor, except for the intervention of such receiver, would be entitled to collection of such rents, issues and profits, and such receiver shall have all other powers which may be necessary or are usual in such cases for the protection, possession, control, management and operation of the Mortgaged Premises during the whole of said period. The court may, from time to time, authorize the receiver to apply the net income from the Mortgaged Premises 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 of such decree, provided such application is made prior to the foreclosure sale; or (ii) the deficiency in case of a sale and deficiency.

21. **OTHER REMEDIES:** in the event of a Monetary Default or a Non-Monetary Default, Mortgagee may exercise, from time to time, any rights and remedies available to it pursuant to Applicable Law. Mortgagor shall, promptly upon request by Mortgagee, assemble Personal Property and make the same available to Mortgagee at such place or places reasonably convenient for Mortgagee and Mortgagor, as Mortgagee shall designate. Any notification required by law of intended disposition by Mortgagee of any part of the Mortgaged Premises shall be deemed reasonably and properly given if served as herein provided at least ten (10) days prior to such disposition. Without limiting the foregoing, whenever a monetary or non-monetary default is existing, Mortgagee may, with respect to Personal Property, without further notice, advertisement, hearing, or process of law of any kind:

- a). notify any person obligated on the Personal Property to perform, directly for Mortgagee, its obligations thereunder;
- b). enforce collection of any part of the Personal Property by suit or otherwise and surrender, release or exchange all or any part thereof or compromise, extend or renew, for any period (whether or not in excess of the original period), any obligations of any nature of any party with respect thereto;
- c). endorse any checks, drafts or other writings in the name of Mortgagor to permit collection of the Personal Property and control of any proceeds thereof;
- d). enter upon any part of the Mortgaged Premises where Personal Property may be located and take possession of and remove the same;

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- e). sell any part or all of the Personal Property free of all rights and claims of Mortgagor therein and thereto, at any public or private sale; and
- f). bid for and purchase any part or all of the Personal Property at any such sale.

Any proceeds of any disposition by Mortgagee of any part of the Personal Property may be applied by Mortgagee to the payment of expenses incurred in connection therewith, including reasonable attorneys' fees and legal expenses, and any balance of such proceeds shall be applied by Mortgagee in the payment of such part of the Indebtedness and in such order of application as Mortgagee may, from time to time, elect. Mortgagee may exercise, from time to time, any rights and remedies available to it pursuant to the Uniform Commercial Code, other applicable laws in effect from time to time or otherwise available to it by reason of any applicable law. Mortgagor hereby expressly waives presentment, demand, notice of dishonor and protest in connection with the Indebtedness and, to the fullest extent permitted by applicable law, any and all other notices, advertisements, hearings or process of law in connection with the exercise by Mortgagee of any of its rights and remedies hereunder.

Mortgagor hereby constitutes Mortgagee its attorney-in-fact, with full power of substitution, to take possession of the Personal Property upon the occurrence of any Monetary or Non-Monetary Default hereunder, as Mortgagee, in its sole discretion (reasonably exercised) deems necessary or proper, to execute and deliver all instruments required by Mortgagor to accomplish the disposition of the Personal Property, or any part thereof, which power of attorney is a power coupled with an interest, irrevocable until such time as the Indebtedness is paid in full.

22. **NON-LIABILITY OF MORTGAGEE:** Notwithstanding anything contained herein, Mortgagee shall not be obligated to perform or discharge, and does not hereby undertake to perform or discharge, any obligation, duty or liability of Mortgagor pursuant to the Leases or otherwise and, except for any and all liability, claims or damage caused by or resulting from the gross negligence of the Mortgagee or the Mortgagee's willful or wanton act, Mortgagor shall and does hereby agree to indemnify, defend and hold Mortgagee harmless of and from any and all liability, loss or damage which it may or might incur pursuant thereto or by reason of its exercise of its rights hereunder and of and from any and all claims and demands whatsoever which may be asserted against it by reason of any alleged obligations or undertakings, on its part, to perform or discharge any of the terms, covenants or agreements with respect to the Mortgaged Premises. Mortgagee shall neither have responsibility for the control, care, management or repair of the Mortgaged Premises nor shall Mortgagee be responsible or liable for any negligence (other than its own gross negligence) in the management, operation, upkeep, repair or control of the Mortgaged Premises resulting in loss, injury or death to any Occupancy Tenant, licensee, employee or stranger upon the Mortgaged Premises. No liability shall be enforced or asserted against Mortgagee in the exercise of the powers herein granted to it and Mortgagor expressly waives and releases any such liability. In the event Mortgagee incurs any such liability, loss or damage pursuant hereto and to any Lease or in the defense of any claim or demand, Mortgagor agrees to reimburse Mortgagee, immediately upon demand, for the amount thereof, including costs, expenses and reasonable attorneys' fees.

23. **USURY:** Mortgagor represents and agrees that the Loan will be used for business purposes and this Mortgage is exempt from limitations upon lawful interest, pursuant to the terms of

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815 ILCS 205/4.

24. **CHANGE OF LAW**: In the event of the enactment, following the date hereof, of any law in the State of Illinois deducting from the value of Mortgaged Premises, for the purpose of taxation, the amount of any lien, encumbrance or Imposition or imposing upon Mortgagee the payment of the whole or any part thereof or changing, in any way, the laws relating to the taxation of mortgages or debts secured by mortgages or the manner of collection of liens, encumbrances or Impositions, so as to affect this Mortgage, Indebtedness or Mortgagee, Mortgagor shall, in any such event, upon demand by Mortgagee, pay such liens, encumbrances or Impositions or reimburse Mortgagee therefor; PROVIDED, HOWEVER, that if, in the opinion of counsel for Mortgagee, it may be unlawful to require Mortgagor to make such payment or the making of such payment may result in the payment of interest beyond the maximum amount permitted by law, then, and in such event, Mortgagee may elect, by notice in writing given to Mortgagor, to declare the Indebtedness and all interest due and owing thereon to be and become due and payable within one (1) year from the giving of such notice. Notwithstanding the foregoing, it is understood and agreed that Mortgagor is not obligated to pay any part of Mortgagee's federal, state or local income tax.

25. **COMPLIANCE WITH AGREEMENTS**: Mortgagor shall pay promptly and keep, observe, perform and comply with all material covenants, terms and provisions of operating agreements, Leases, instruments and documents relating to the Mortgaged Premises or evidencing or securing any indebtedness secured thereby and shall observe all covenants, conditions and restrictions affecting the same.

26. **LEASES AND RENTS**: No rents, issues, profits, Leases or other contracts relative to the Mortgaged Premises shall be assigned to any person, firm or corporation other than Mortgagee, without the prior written consent of Mortgagee. Mortgagor shall not and will not permit the leasing (within the meaning thereof in the law of landlord and tenant) of all or any part of the Mortgaged Premises, except as permitted pursuant to the Loan Agreement.

27. **SECURITY AGREEMENT**: Mortgagor and Mortgagee agree that:

- a). This Mortgage shall constitute a security agreement within the meaning of the Illinois Uniform Commercial Code ("Code") with respect to any and all sums at any time on deposit for the benefit of or held by Mortgagee (whether deposited by or on behalf of Mortgagor or others) pursuant to any provision of this Mortgage, Note, Loan Agreement or Other Loan Documents and any Personal Property included in the granting clauses of this Mortgage, which may not be deemed to be affixed to the Mortgaged Premises or may not constitute a "fixture" (within the meaning of Section 9-313 of the Code) and all replacements thereof, substitutions therefor, additions thereto and the proceeds thereof (collectively "Collateral");
- b). A security interest in and to Collateral is hereby granted to Mortgagee, subject to the Permitted Exceptions;
- c). Collateral and all of Mortgagor's right, title and interest therein are hereby

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assigned to Mortgagee to secure the payment of the Indebtedness;

- d). All of the terms, provisions, conditions and agreements contained herein shall pertain and apply to the Collateral as fully and to the same extent as the same apply to any other property comprising the Mortgaged Premises; and
- e). The following provisions shall not limit the applicability of any other provision of this Mortgage but shall be in addition thereto:
- i). Mortgagor (being the "Debtor", as such term is defined in the Code) is and will be the true and lawful owner of Collateral, subject to no liens, charges or encumbrances other than the lien hereof, the Permitted Exceptions, other liens and encumbrances benefitting Mortgagee only and liens and encumbrances, if any, expressly permitted pursuant hereto and to the Note, Loan Agreement and Other Loan Documents;
  - ii). Collateral shall be used by Mortgagor solely for business purposes;
  - iii). Collateral shall be kept at the Mortgaged Premises and, except for obsolete Collateral or in connection with the demolition of the existing improvements, will not be removed therefrom without the prior consent of Mortgagee;
  - iv). No financing statement (other than financing statements indicating Mortgagee as the sole "Secured Party" (as such term is defined in the Code) or except as permitted in writing by Mortgagee or with respect to liens or encumbrances, if any, expressly permitted pursuant hereto and to the Note, Loan Agreement and Other Loan Documents) applicable to any part of the Collateral or any proceeds thereof is on file in any public office;
  - v). Mortgagor shall, upon demand and at its sole cost and expense, furnish to Mortgagee such further information, execute and deliver such financing statements and other documents (in form satisfactory to Mortgagee) and do all such acts and things as Mortgagee may, at any time or from time to time, request or as may be necessary or appropriate to establish and maintain a perfected security interest in the Collateral as security for the Indebtedness, free and clear of all liens or encumbrances other than the Permitted Exceptions, liens or encumbrances benefitting Mortgagee only and liens and encumbrances, if any, expressly permitted hereby or pursuant to the Note, Loan Agreement or Other

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Loan Documents and Mortgagor will pay the cost of filing or recording this instrument and such financing statements or other documents in all public offices wherever filing or recording is deemed necessary or desirable by Mortgagee;

vi). In the event of the occurrence of a Monetary Default or a Non-Monetary Default, Mortgagee:

- A). shall have the remedies of a Secured Party pursuant to the Code, including, without limitation, the right to take immediate and exclusive possession of the Collateral, or any part thereof and, for that purpose, may, insofar as Mortgagor can give authority therefor, with or without judicial process, enter (if the same can be done without breach of the peace) upon any place in which the Collateral, or any part thereof, may be situated and remove the same therefrom (provided that if Collateral is affixed to real estate, such removal shall be subject to the conditions stated in the Code);
- B). shall be entitled to hold, maintain, preserve and prepare the Collateral for sale (until the disposition thereof) or may propose to retain the same subject to Mortgagor's right of redemption, in satisfaction of Mortgagor's obligations, as provided in the Code;
- C). may render the Collateral unusable without removal and may dispose of the same on the Mortgaged Premises;
- D). may require Mortgagor to assemble the Collateral and make the same available to Mortgagee for its possession at a place to be designated by Mortgagee which is reasonably convenient to both Mortgagee and Mortgagor;
- E). will furnish to Mortgagor not less than twenty (20) days' prior written notice of the time and place of any public sale of Collateral or of the time after which any private sale or any other intended disposition thereof is made and the requirements of reasonable notice shall be met if such notice is mailed by certified United States mail (or equivalent), Postage prepaid, to the address of Mortgagor hereafter set forth;
- F). may purchase, at any public sale and, if the Collateral



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is of a type customarily sold in a recognized market or the subject of widely distributed standard price quotations, Mortgagee may purchase the Collateral at private sale, which sale may be held as a part of and in conjunction with any foreclosure sale of the Mortgaged Premises and the Collateral and the Mortgaged Premises may be sold as one lot, if Mortgagee so elects, and the net proceeds realized upon any such disposition, after deduction for the expenses of re-taking, holding, preparing for sale, selling or the like, and reasonable attorneys' fees and legal expenses incurred by Mortgagee shall be applied against the Indebtedness in such order or manner as Mortgagee shall select; and

- G). will account to Mortgagor for any surplus realized on such disposition;
- vii). The terms and provisions contained in this Paragraph 27 shall, unless the context otherwise requires, have the meanings contained and be construed as provided in the Code;
- viii). This Mortgage is intended to be a financing statement within the purview of Section 9-402(6) of the Code with respect to the Collateral and the goods described herein, which are or may become fixtures relating to the Mortgaged Premises;
- ix). The addresses of Mortgagor (Debtor) and Mortgagee (Secured Party) are hereafter set forth

**Mortgagor:**

ASAT, Inc.  
1516 W. Farwell  
Chicago, IL 60626

**Mortgagee:**

Broadway Bank  
5960 North Broadway  
Chicago, IL 60660

- x). This Mortgage shall be filed or recorded with the Recorder of Deeds of Cook County, Illinois;

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- xi). Mortgagor is the record owner of the Mortgaged Premises; and
- xii). To the extent permitted by applicable law, the security interest established hereby is specifically intended to cover and include all of the right, title and interest of Mortgagor, as landlord, in and to the Leases, including all extended terms and extensions and renewals thereof, together with any amendments to or replacements thereof and all right, title and interest of Mortgagor, as landlord thereunder, including, without limitation, the present and continuing right to:
  - A). make claim for, collect, receive and receipt for any and all rents, income, revenues, issues, profits and monies payable as damages or, in lieu of the rents and moneys payable, as the purchase price of the Mortgaged Premises, or any part thereof or of awards or claims of money and other sums of money payable or receivable thereunder, howsoever payable;
  - B). bring actions and proceedings thereunder or for the enforcement thereof; and
  - C). do any and all things which Mortgagor or any landlord is or may become entitled to do pursuant to the Leases.

28. **EXECUTION OF SEPARATE SECURITY AGREEMENT AND FINANCING STATEMENT:** In addition to this Mortgage being deemed a security agreement, Mortgagor shall, upon the written request of Mortgagee, as additional security for the payment of the Indebtedness and the performance of all of the terms, covenants, conditions and agreements set forth herein and in the Note, Loan Agreement and Other Loan Documents, execute and deliver to Mortgagee a security agreement, granting to Mortgagee a first security interest in and to the Collateral, all right, title and interest of Mortgagor, as landlord, in and to the Leases and all rents, issues and profits due or which may hereafter become due and payable pursuant to the terms and provisions thereof subject to the Permitted Exceptions; and, further, execute and deliver Financing Statements pursuant to the Uniform Commercial Code, State of Illinois. Mortgagor agrees, from time to time, to execute such additional Security Agreements and Financing Statements as may be necessary to vest in Mortgagee a security interest in and to the Collateral and Leases until the Indebtedness is paid in full.

29. **FINANCIAL STATEMENTS:** Concurrent with the execution of the Mortgage and within ninety (90) days following the close of each annual fiscal or calendar year period of Mortgagor, Mortgagor shall deliver or cause to be delivered to Mortgagee copies of their financial statements. The financial statements of Borrower shall be prepared in accordance with accounting principles, consistently applied, in such detail as Mortgagee may require and certified to be true and correct by Mortgagor.

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30. **PAYMENT AND PERFORMANCE BY MORTGAGEE:** In the event that Mortgagor shall fail to pay or perform any of its obligations contained herein and in the Note, Loan Agreement and Other Loan Documents (including the payment of expenses of foreclosure and court costs), Mortgagee may, but need not, following the expiration of any applicable grace period provided herein or therein, pay or perform (or cause to be paid or performed) any obligation of Mortgagor pursuant thereto, in any form and manner deemed reasonably expedient by Mortgagee, as agent or attorney-in-fact of Mortgagor, and any amount so paid or expended (plus reasonable compensation to Mortgagee for its out-of-pocket and other expenses for each matter for which it acts hereunder), with interest thereon at the Default Rate, shall be and become a part of the Indebtedness and shall be paid to Mortgagee upon demand. By way of illustration and not in limitation of the foregoing, Mortgagee may, but need not:

- a). purchase, discharge, compromise or settle any Imposition, lien or any other lien, encumbrance, suit, proceeding, title or claim thereof;
- b). redeem from any tax sale or forfeiture affecting the Mortgaged Premises or contest any Imposition; and
- c). perform any act or deed reasonably necessary and required to protect the value of the Mortgaged Premises and the security given for the Indebtedness.

In making any payment or securing any performance relating to any obligation of Mortgagor hereunder, Mortgagee, so long as it acts in good faith, shall have the sole discretion as to the legality, validity and amount of any lien, encumbrance or Imposition and of all other matters necessary to be determined in satisfaction thereof. No such action of Mortgagee shall be considered a waiver of any right accruing to it on account of the occurrence of any default by Mortgagor pursuant hereto or to the Note, Loan Agreement or Other Loan Documents.

31. **RELEASE:** Upon payment in full of the Indebtedness, this Mortgage shall be null and void, and an appropriate instrument of reconveyance or release shall, in due course, be made by Mortgagee and delivered to Mortgagor, at Mortgagor's expense.

32. **CONSENT OF MORTGAGEE:** The consent by Mortgagee in any single instance shall not be deemed or construed to be Mortgagee's consent in any like matter arising at a subsequent date and the failure of Mortgagee to promptly exercise any right, power, remedy or consent provided herein or at law or at equity shall neither constitute or be construed as a waiver of the same nor shall Mortgagee be stopped from exercising such right, power, remedy or consent at a later date.

Any consent or approval requested of and granted by Mortgagee pursuant hereto shall be narrowly construed to be applicable only to Mortgagor and the matter identified in such consent or approval and no third party shall claim any benefit by reason thereof, and any such consent or approval shall neither be deemed to constitute Mortgagee a venturer or partner with Mortgagor nor shall privity of contract be presumed to have been established with any such third party.

33. **CARE:** Mortgagee shall be deemed to have exercised reasonable care in the custody and preservation of any part of the Mortgaged Premises in its possession if it takes such action for

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that purpose, as Mortgagor requests in writing, but failure of Mortgagee to comply with any such request shall not, of itself, be deemed a failure to exercise reasonable care and no failure of Mortgagee to preserve or protect any rights with respect to the Mortgaged Premises against prior parties or do any act with respect to the preservation thereof not so requested by Mortgagor shall be deemed a failure to exercise reasonable care in the custody or preservation of the Mortgaged Premises.

34. **MORTGAGOR'S CONTINUING LIABILITY:** This Mortgage is intended only as security for the Indebtedness and the performance of the terms, covenants, conditions and agreements contained herein and in the Note, Loan Agreement and Other Loan Documents. Mortgagor shall be and remain liable to perform all of the obligations assumed by it pursuant hereto and Mortgagee shall have no obligation or liability by reason of or arising out of this Mortgage and shall not be required or obligated, in any manner, to perform or fulfill any of the obligations of Mortgagor pursuant hereto, anything contained herein or in the Note, Loan Agreement and Other Loan Documents to the contrary notwithstanding.

35. **INSPECTIONS:** Mortgagee, by any authorized agent or employee and for the protection of its interest in the Mortgaged Premises, is hereby authorized and empowered to enter in and upon the Mortgaged Premises at any and all reasonable time and upon reasonable advance notice to Mortgagor, for the purpose of inspecting the same and ascertaining the condition thereof subject to the rights of tenants under the Occupancy Leases.

36. **INDEMNIFICATION:** Mortgagor shall indemnify Mortgagee from all losses, damages and expenses, including reasonable attorneys' fees, incurred in connection with any suit or proceeding in or to which Mortgagee may be made a party for the purpose of protecting the lien of this Mortgage, except for acts of Mortgagee as limited by the provisions of Section 22 of this Mortgage.

37. **MORTGAGEE'S RIGHT TO COMPLETE:** In the event of a Monetary Default or Non-Monetary Default:

- a). Mortgagor hereby waives all right to possession of the Mortgaged Premises and the income and rents applicable thereto and Mortgagee is hereby expressly authorized and empowered to enter into and upon the Mortgaged Premises, or any part thereof, and take possession of the same; and
- b). Mortgagee, in addition to the exercise of any and all other rights and remedies provided pursuant to this Mortgage, Note, Loan Agreement and Other Loan Documents, is granted full and complete authority to employ watchmen for the purpose of protecting and preserving the same from damage or depreciation, continue any and all outstanding contracts and operating agreements ("Contractual Agreements") and make and enter into any contracts and obligations, wherever necessary, in its own name, and pay and discharge all debts, obligations and liabilities incurred by reason of the foregoing, at the expense of Mortgagor, which expenditures by Mortgagee shall be added to and become a part of the Indebtedness and shall become immediately due and

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payable with interest at the Default Rate.

38. **PERFORMANCE OF CONTRACTUAL AGREEMENTS AND OTHER CONTRACTS:** Mortgagor shall perform, for the benefit of Mortgagee, fully and promptly, each obligation and satisfy each condition imposed upon it pursuant to Contractual Agreements, Leases and any other contracts and agreements relative to the construction, maintenance or operation of the Improvements so that no default will occur thereunder and all persons (other than Mortgagor) obligated thereon shall be and remain, at all times, obligated to perform, for the benefit of Mortgagee, their respective covenants, conditions and agreements pursuant thereto and not permit to exist any condition, event or fact which could permit any such person to avoid such performance.

39. **CORRECTIVE DOCUMENTS:** Mortgagor and Mortgagee shall, at the request of the other, promptly correct any defect, error or omission which may be discovered in the contents of this Mortgage or in the execution or acknowledgment hereof or in any other instrument executed in connection herewith or in the execution or acknowledgment of such instrument and will execute and deliver any and all additional instruments as may be requested by Mortgagee or Mortgagor, as the case may be, to correct such defect, error or omission, and at the sole option of Mortgagee, Mortgagor will execute and deliver, at Mortgagee's expense, a note in substitution of the Note, if lost or destroyed, and Mortgagor will execute and deliver, at Mortgagee's expense any required agreement modifying this Mortgage or Other Loan Documents to reflect the substitution of such replacement note, provided that the terms and provisions of such replacement note shall neither, in the aggregate, require payments in excess of what would be required under such replaced original Note, nor contain terms different from those of such replaced original Note and Mortgagee will hold Mortgagor harmless from any claim made for payment under the original Note in an amount in excess, or duplicative, of that owed under the replacement note.

40. **REPRESENTATIONS:** Mortgagor unconditionally represents to Mortgagee as follows:

- a). Mortgagor has all requisite power, and has or will obtain and will maintain all governmental certificates of authority, licenses, permits, qualifications and documentation necessary to own, lease and operate its properties and to carry on its business as now being, and as proposed to be, conducted. Mortgagor is duly organized, validly existing and in good standing under applicable law;
- b). The execution, delivery and performance by Mortgagor under the Loan Agreement, Note, this Mortgage and Other Loan Documents and the incurring of the Indebtedness evidenced by the Note:
  - i). are within Mortgagor's powers and, where applicable, have been duly authorized by necessary parties, and all other requisite action for such authorization has been taken;
  - ii). have been performed with any and all requisite prior governmental approval in order to be legally binding and enforceable in accordance with the terms thereof; and



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- iii). will not violate, be in conflict with, result in a breach of or constitute (with due notice or lapse of time, or both) a default under any legal requirement binding on Mortgagor, or result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever upon any of Mortgagor's property or assets, except as contemplated by the provisions of the Loan Agreement, this Mortgage or any of the Other Loan Documents.
- c). The Loan Agreement, Note, this Mortgage and Other Loan Documents constitute the legal, valid and binding obligations of Mortgagor and others obligated thereunder in accordance with their respective terms;
- d). All information, reports, papers and data given to Mortgagee by Mortgagor, or upon Mortgagee's request by others with respect to Mortgagor and the Mortgaged Premises, are true, accurate, complete and correct in all material respects and do not omit any fact which must be included to prevent any other facts contained therein from being materially misleading or false and with respect to information, reports, papers and data from third parties other than Mortgagor are true, accurate, complete and correct in all material respects to the best knowledge of Mortgagor, based upon reasonable investigation;
- e). Mortgagor has neither received written notice of any litigation or administrative proceeding of any kind pending nor, to the Mortgagor's knowledge is there any litigation or administrative proceeding threatened, in respect to the Mortgaged Premises or any part thereof which, if adversely determined, would result in a material adverse change in the financial conditions, business operations or properties of Mortgagor, including, without limitation, the Mortgaged Premises or Mortgagor's ability to perform its obligations hereunder;
- f). To the best knowledge of Mortgagor, based upon reasonable investigation, and except as disclosed in Environmental Reports for the Mortgaged Premises, the Mortgaged Premises and the use and operation thereof are currently in compliance and will remain in compliance with all applicable environmental, health and safety laws, rules and regulations; the Mortgaged Premises contain no environmental, health or safety hazards; To the best knowledge of Mortgagor, based upon reasonable investigation, the Mortgaged Premises have never been used for a sanitary land fill, dump or for the disposal, generation or storage of any hazardous substances deposited or located in, under or upon the Mortgaged Premises, or on or affecting any part of the Mortgaged Premises, including, without limitation, with respect to the disposal of "Hazardous Material" (as defined in the Loan Agreement); No underground storage tanks have been located on the Mortgaged Premises and no portion of the Mortgaged Premises is presently contaminated by reportable

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quantities of any Hazardous Material and no storage, treatment or disposal of any hazardous substance has occurred on or in the Mortgaged Premises. The Mortgagor has not received any notice of any Hazardous Material in, under or upon the Mortgaged Premises or of any violation of any "Environmental Laws" (as defined in the Loan Agreement) or have any knowledge which would provide a basis for any such violation with respect to the Mortgaged Premises. Mortgagor has not received written notice of and there are no pending or, to the Mortgagor's knowledge, threatened actions or proceedings, or notices of potential actions or proceedings, from any governmental agency or any other entity regarding the condition or use of the Mortgaged Premises or regarding any Environmental Laws or health or safety laws. Mortgagor will promptly notify Mortgagee of any notices and any pending or threatened action or proceeding in the future, and Mortgagor will promptly cure and have dismissed with prejudice any such actions and proceedings to the satisfaction of Mortgagee;

- g). That until the Indebtedness is paid in full, no reportable quantities of any Hazardous Material will be used by any person for any purpose upon the Mortgaged Premises or stored thereon without thirty (30) days written notice to and approval of Mortgagee. Mortgagor indemnifies, defends and holds Mortgagee harmless from and against all loss, cost, including, without limitation, reasonable attorney fees, liability and damage whatsoever incurred by Mortgagee by reason of "Lender's Environmental Liability" (as defined in the Loan Agreement) or any violation of any applicable statute or regulation for the protection of the environment which occurs or has occurred upon the Mortgaged Premises, or by reason of the imposition of any governmental lien for the recovery of environmental cleanup costs expended by reason of such violation. Mortgagor's obligation to Mortgagee under the foregoing indemnity shall be without regard to fault on the part of Mortgagor with respect to the violation of law which results in liability to Mortgagee. The release of this Mortgage shall in no event terminate or otherwise affect the indemnity which is given under the Loan Agreement concerning Hazardous Material.

#### 41. MISCELLANEOUS:

- a). Subject to applicable provisions of the Loan Agreement, Mortgagor shall not, without the consent of Mortgagee, impose any restrictions, agreements or covenants which run with the land upon the Mortgaged Premises, nor plat, replat, subdivide or resubdivide the Land; notwithstanding the foregoing, Mortgagor may amend the Planned Development Ordinance affecting the Mortgaged Premises, without the consent of Mortgagee, provided the amendment does not decrease the floor area permitted on the Mortgaged Premises.
- b). Mortgagor shall not use any part of the Indebtedness for the purchase or

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carrying of registered equity securities within the purview and operation of Regulation G issued by the Board of Governors of the Federal Reserve System.

- c). If the lien or security interest secured by this Mortgage is invalid or unenforceable as to any part of the Indebtedness, or if such lien or security interest is invalid or unenforceable as to any part of the Mortgaged Premises, any unsecured portion of the Indebtedness shall be completely paid prior to the payment of the remaining unsecured or partially secured portion of the Indebtedness. All payments made on the Indebtedness secured hereby, whether voluntary or under foreclosure or other enforcement action or procedure, shall be considered to have been first paid on and applied to the full payment of that portion of the Indebtedness which is not secured by the lien or security interest of this Mortgage.
- d). The invalidity or unenforceability in any particular circumstance of any provision of this Mortgage shall not extend beyond such provision or such circumstance, and no other provision of this instrument shall be affected thereby.
- e). Acceptance by Mortgagee of any payment in an amount less than the amount then due on the Indebtedness shall be deemed an acceptance on account only, and the failure to pay the entire amount then due shall be and continue to be a default. Until the entire amount due on the Indebtedness has been paid, Mortgagee shall be entitled to exercise all rights conferred upon it in this instrument upon the occurrence of a Monetary Default or Non-Monetary Default.
- f). All obligations contained herein or in the Other Loan Documents are intended by the parties to be, and shall be construed as, covenants running with the Mortgaged Premises.
- g). Any foreclosure sale of the Mortgaged Premises under this Mortgage shall, without further notice create the relation of landlord and tenant at sufferance between the purchaser at such sale as landlord, and Mortgagor as tenant; and upon failure to surrender possession after acquisition of title by the Mortgagee and demand, Mortgagor may be removed by a writ of possession upon suit by such purchaser.

42. GOVERNING LAW, TRIAL RIGHTS AND VENUE: THIS MORTGAGE SHALL BE CONSTRUED IN ACCORDANCE WITH AND GOVERNED BY THE LAWS OF THE STATE OF ILLINOIS. Whenever possible, each provision of this Mortgage shall be interpreted in such a manner as to be effective and valid pursuant to applicable law; however, if any part thereof shall be prohibited by or invalid thereunder, such provision shall be ineffective to the extent of such prohibition or invalidity without invalidating the remainder thereof or the remaining provisions of this Mortgage. MORTGAGOR AND MORTGAGEE EACH HEREBY IRREVOCABLY WAIVE

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ANY RIGHT TO TRIAL BY JURY IN ANY ACTION, PROCEEDING (i) TO ENFORCE OR DEFEND ANY RIGHTS UNDER OR IN CONNECTION WITH THIS MORTGAGE, THE OTHER LOAN DOCUMENTS OR ANY AMENDMENT, INSTRUMENT, DOCUMENT OR AGREEMENT DELIVERED OR WHICH MAY IN THE FUTURE BE DELIVERED IN CONNECTION HERewith OR THEREWITH, OR (ii) ARISING FROM ANY DISPUTE OR CONTROVERSY IN CONNECTION WITH OR RELATED TO THIS MORTGAGE, THE OTHER LOAN DOCUMENTS, OR ANY AMENDMENT, INSTRUMENT, DOCUMENT OR AGREEMENT, AND AGREE THAT ANY SUCH ACTION OR COUNTERCLAIM SHALL BE TRIED BEFORE A COURT AND NOT BEFORE A JURY. MORTGAGOR IRREVOCABLY AGREES THAT, SUBJECT TO MORTGAGEE'S SOLE AND ABSOLUTE ELECTION, ANY ACTION OR PROCEEDING IN ANY WAY, MANNER OR RESPECT ARISING OUT OF THIS MORTGAGE, THE OTHER LOAN DOCUMENTS, OR ANY AMENDMENT, INSTRUMENT, DOCUMENTS OR AGREEMENT DELIVERED OR WHICH MAY IN THE FUTURE BE DELIVERED IN CONNECTION HEREIN OR THEREIN, OR ARISING FROM ANY DISPUTE OR CONTROVERSY ARISING IN CONNECTION WITH OR RELATED TO THIS MORTGAGE, THE OTHER LOAN DOCUMENTS, OR ANY SUCH AMENDMENT, INSTRUMENT, DOCUMENT OR AGREEMENT SHALL BE LITIGATED ONLY IN THE COURTS HAVING SITUS WITHIN THE COUNTY OF COOK, THE STATE OF ILLINOIS, AND MORTGAGOR HEREBY CONSENTS AND SUBMITS TO THE JURISDICTION OF ANY LOCAL, STATE OR FEDERAL COURT LOCATED WITHIN SUCH COUNTY AND STATE. MORTGAGOR HEREBY WAIVES ANY RIGHT IT MAY HAVE TO TRANSFER OR CHANGE THE VENUE OF ANY LITIGATION BROUGHT AGAINST MORTGAGOR BY MORTGAGEE IN ACCORDANCE WITH THIS SECTION.

43. **CONSENTS AND APPROVALS:** More receipt by Mortgagor of any instrument or document shall not be deemed to be approval thereof, and any approvals required hereunder must be in writing only, signed by Mortgagee and delivered to Mortgagor.

44. **SEVERABILITY:** In the event of any inconsistency among the terms hereof (including incorporated terms) or between such terms and the terms of the Note, Loan Agreement, or Other Loan Documents, the terms of the Loan Agreement shall be applicable, govern and prevail, but no such application shall invalidate the Note or the validity or priority of the Mortgage or the Other Loan Documents. The whole or partial invalidity, illegality or unenforceability of any provision hereof at any time, whether pursuant to the terms of then applicable law or otherwise, shall not affect, in the instance of partial invalidity, illegality or unenforceability, the validity, legality or enforceability of such provision at such time except to the extent of such partial invalidity, illegality or unenforceability of such provision at any other time or of any other provision hereof at that or any other time.

45. **TIME OF THE ESSENCE:** It is specifically agreed that time is of the essence of this Mortgage and that a waiver of the options or obligations secured hereby shall not, at any time thereafter, be held to be abandonment of such rights. Notice of the exercise of any option granted to Mortgagee pursuant hereto or to the Note, Loan Agreement or Other Loan Documents is not required to be given.

46. **NOTICES:** Each notice permitted or required pursuant to this Agreement shall be

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in writing and shall be deemed to have been properly given (a) upon delivery, if delivered in person or sent by facsimile with receipt acknowledged; (b) on the third business day following the day such notice is deposited in any United States post office or letter box if mailed by certified mail, return receipt requested, postage prepaid; or (c) on the first business day following the day such notice is delivered to a nationally-recognized overnight courier service and addressed to the party to whom such notice is intended, as set forth below:

It to Mortgagor:

ASAT, Inc.  
1516 W. Farwell  
Chicago, IL 60626

With a copy to:

Charles Levy  
1 North LaSalle Street, Suite 1525  
Chicago, IL 60602  
Facsimile: 312-641-5924

If to Mortgagee:

Demetris Giannoulis  
Broadway Bank  
5960 North Broadway  
Chicago, IL 60660  
Facsimile: 773-989-4896

With a Copy to:

Alexander R. Domanskis  
Boodell & Domanskis, LLC  
205 North Michigan Avenue, Suite 4307  
Chicago, IL 60601  
Facsimile: 312-540-1162

47. **CAPTIONS:** The headings or captions of the paragraphs or subparagraphs hereof are for convenience of reference only, are not to be considered a part hereof and shall not limit or otherwise affect any of the terms of this Mortgage.

48. **BENEFIT:** All grants, conditions and provisions hereof shall apply, extend to and be binding upon Mortgagor and all persons claiming any interest in the Mortgaged Premises by, through or under Mortgagor, and shall inure to the benefit of Mortgagee, its successors and assigns.

**CONTINUED ON NEXT PAGE**

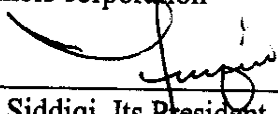


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IN WITNESS WHEREOF, Mortgagor has caused these presents to be executed as of the day and year first above written.

ASAT, INC., an Illinois corporation

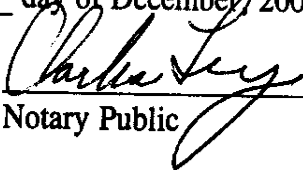
By:

  
\_\_\_\_\_  
Mohammad Siddiqi, Its President

STATE OF ILLINOIS                     )  
   ) ss:  
COUNTY OF COOK                     )

I, Charles Levy, a Notary Public in and for the County and State aforesaid, do hereby certify that Mohammad Siddiqi, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument as the President of ASAT, INC., an Illinois corporation ("Company"), appeared before me in person and acknowledged that he signed and delivered said instrument as his own free and voluntary act and as the free and voluntary act of the Company, not personally but solely as Trustee, as aforesaid, for the uses and purposes therein set forth.

Given under my hand and Notary Seal as of this 29 day of December, 2008.

  
\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_

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## EXHIBIT A

### Legal Description

**Parcel 1:**

LOTS 10 AND 11 IN BLOCK 5 IN WILLIAM L. WALLEN EDGEWATER'S GOLF CLUB ADDITION TO ROGERS PARK, A SUBDIVISION IN THE SOUTHEAST  $\frac{1}{4}$  OF SECTION 36, TOWNSHIP 41 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

**Parcel 2:**

THE SOUTH  $\frac{1}{2}$  FEET OF LOT 12 IN BLOCK 5 IN WILLIAM L. WALLEN EDGEWATER'S GOLF CLUB ADDITION TO ROGERS PARK, A SUBDIVISION IN THE SOUTHEAST  $\frac{1}{4}$  OF SECTION 36, TOWNSHIP 41 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, (EXCEPT THEREFROM ANY PORTION OF SAID SOUTH  $\frac{1}{2}$  OF LOT 12 FALLING WITHIN THE NORTH 37.5 FEET OF SAID LOT 12), IN COOK COUNTY, ILLINOIS.

**Parcel 3:**

THE VACATED 16 FOOT EAST-WEST ALLEY LYING NORTH OF THE NORTHERLY LINE OF LOTS 9 AND 10 AND SOUTH OF THE SOUTHERLY LINE OF LOT 11, EAST OF THE WESTERLY LINE OF LOT 11 EXTENDED TO THE SOUTH, AND WEST OF THE SOUTHERLY EXTENSION OF THE EAST LINE OF LOT 11 IN BLOCK 5 IN WILLIAM L. WALLEN EDGEWATER'S GOLF CLUB ADDITION TO ROGERS PARK, A SUBDIVISION IN THE SOUTHEAST  $\frac{1}{4}$  OF SECTION 36, TOWNSHIP 41 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.