



1003208200

Illinois Anti-Predatory Lending Database Program

Doc#: 1003208200 Fee: \$82.00 Eugene "Gene" Moore RHSP Fee:\$10.00 Cook County Recorder of Deeds Date: 02/01/2010 09:58 AM Pg: 1 of 24

Certificate of Exemption

H 2522318

Report Mortgage Fraud 800-532-8765

The property identified as: PIN: 17-28-427-027-0000

Address: Street: 2918 S. Wentworth Ave Street line 2: City: Chicago State: IL ZIP Code: 60616

Lender: Evergreen Bank Group Borrower: 31st & Indiana Development, LLC

Loan / Mortgage Amount: \$5,987,069.68

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: E7EB52D3-4810-422C-A006-3BFFC051FF2E

Execution date: 11/05/2009

Property of Cook County Clerk's Office

Handwritten mark

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Prepared by
and after recording, return to:

Robert N. Sodikoff
Aronberg Goldgehn Davis & Garmisa
330 North Wabash, Suite 1700
Chicago, Illinois 60611

Property Address:
2918 South Wentworth Avenue
Chicago, Illinois 60616

P.I.N.:
17-28-427-027-0000

Space above this Line for Recorder's Use Only

JUNIOR MORTGAGE, SECURITY AGREEMENT
AND ASSIGNMENT OF RENTS

THIS MORTGAGE is made and entered into effective November 5, 2009 by and between **DKM HOLDINGS LLC** (a/k/a **DKM HOLDING LLC**) an Illinois limited liability company, whose address is 900 West 31st Street, Chicago, Illinois 60608 (the "Mortgagor") and **EVERGREEN BANK GROUP**, an Illinois banking corporation, whose address is 1515 West 22nd Street, Suite 100W, Oak Brook, Illinois 60523 ("Lender").

WITNESSETH: THAT

WHEREAS, Lender has, among other things, agreed to extend the maturity date of a \$5,987,069.68 loan ("Loan") due from 31st & Indiana Development, LLC ("Borrower"), an affiliate of Mortgagor, pursuant to Amendment (the "Amendment") to Construction Loan Agreement (the "Loan Agreement") and Related Documents dated as of the date hereof and as evidenced by a Note dated November 7, 2007, as amended, modified or restated from time to time (the "Note") in the amount of the Loan; and

WHEREAS, Lender has agreed to the extension of the maturity date of the Loan and to the other Loan Agreement amendments or modifications as set forth in the Amendment on the condition that the Mortgagor mortgage the real estate described herein as additional collateral for the Loan;

WHEREAS, Mortgagor, as an affiliate of Borrower, will directly or indirectly benefit from the extension and other amendments and modifications to the Loan:

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NOW, THEREFORE, to secure payment of the indebtedness under the Note with interest thereon; the payment of all charges provided herein and all other sums, with interest thereon, advanced in accordance herewith to protect the security of this Mortgage; and the performance of the covenants and agreements contained herein and in the Note and all other indebtedness of Beneficiary to Lender whether now or hereafter existing (collectively, the "Secured Indebtedness") and also in consideration of Ten Dollars (\$10.00), the receipt and sufficiency of which is hereby acknowledged, Mortgagor does hereby irrevocably convey, hypothecate, grant, mortgage, bargain, sell, convey, transfer, pledge, set over, assign and grant a security interest to and in favor of, and warrant to Lender and its successors and assigns, forever, the real estate ("Real Estate") located in the County of Cook, State of Illinois commonly known as 2918 South Wentworth Avenue, Chicago, Illinois and legally described on Exhibit A attached hereto, together with the following described property rights and interests, all of which property, rights and interests are hereby pledged primarily and on a parity with the Real Estate and not secondarily.

TOGETHER WITH all improvements of every nature whatsoever now or hereafter situated on the Real Estate, and all fixtures and personal property of every nature whatsoever now or hereafter owned by Mortgagor and on, or used or intended to be used in connection with the Real Estate or the improvements, or in connection with any construction thereon, including all extensions, additions, improvements, betterments, renewals, substitutions, and replacements to any of the foregoing and all of the right, title and interest of Mortgagor in and to any such personal property or fixtures together with the benefit of any deposits or payments now or hereafter made on such personal property or fixtures by Mortgagor or on its behalf (the "Improvements");

TOGETHER WITH all easements, rights of way, gores of land, streets, ways, alleys, passages, sewer rights, waters, water courses, water rights and powers, and all estates, rights, titles, interests, privileges, liberties, tenements, hereditaments and appurtenances whatsoever, in any way now or hereafter belonging, relating or appertaining to the Real Estate, and the reversions, remainders, rents, issues and profits thereof, and all the estate, right, title, interest, property, possession, claim and demand whatsoever, at law as well as in equity, of Mortgagor of, in and to the same;

TOGETHER WITH all income from the Real Estate and the Improvements thereon (collectively, the "Premises") to be applied against the Secured Indebtedness; provided, however, that Mortgagor may, so long as no Default has occurred hereunder, collect income as it becomes due, but not more than one (1) month in advance thereof;

TOGETHER WITH all interest of Mortgagor in all leases now or hereafter on the Premises whether written or oral (the "Leases"), together with all security therefor and all monies payable thereunder, subject, however, to the conditional permission hereinabove given to Mortgagor to collect the rentals under any such Lease;

TOGETHER WITH all fixtures and articles of personal property now or hereafter owned by Mortgagor and forming a part of or used in connection with the Real Estate or the Improvements, including, but without limitation, any and all air conditioners, antennae,

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appliances, apparatus, awnings, basins, bathtubs, boilers, bookcases, cabinets, carpets, coolers, curtains, dehumidifiers, disposals, doors, drapes, dryers, ducts, elevators, engines, equipment, escalators, fans, fittings, floor coverings, furnaces, furnishing, furniture, hardware, heaters, humidifiers, incinerators, lighting, machinery, motors, ovens, pipes, plumbing, pumps, radiators, ranges, recreational facilities, refrigerators, screens, security systems, shades, shelving, sinks, sprinklers, stoves, toilets, ventilators, wall coverings, washers, windows, window coverings, wiring, and all renewals or replacements thereof or articles in substitution therefor, whether or not the same are or shall be attached to the Real Estate or the Improvements in any matter; it being mutually agreed that all of the aforesaid property owned by Mortgagor and placed on the Real Estate or the Improvements shall, so far as permitted by law, be deemed to be fixtures, a part of the realty, and security for the Secured Indebtedness; notwithstanding the agreement hereinabove expressed that certain articles of property form a part of the realty covered by this Mortgage and be appropriated to its use and deemed to be realty, to the extent that such agreement and declaration may not be effective and that any of said articles may constitute goods (as said term is used in the Uniform Commercial Code), this instrument shall constitute a security agreement, creating a security interest in such goods, as collateral, in Lender as a secured party and Mortgagor as debtor, all in accordance with said Uniform Commercial Code as adopted in the State of Illinois ("Code"); and

TOGETHER WITH all proceeds of the foregoing, including without limitation all judgments, awards of damages and settlements hereafter made resulting from condemnation proceeds or the taking of the Premises or any portion thereof under the power of eminent domain, any proceeds of any policies of insurance, maintained with respect to the Premises or proceeds of any sale, option or contract to sell the Premises or any portion thereof; and Mortgagor hereby appoints Lender its attorney-in-fact and authorizes Lender, at its option, on behalf of Mortgagor, or the successors or assigns of Mortgagor, to adjust, compromise, claim, collect and receive such proceeds, to give proper acquittances therefor, and, after deducting expenses of collection, to apply the net proceeds as a credit upon any portion, as selected by Lender, of the Secured Indebtedness, notwithstanding the fact that the same may not then be due or that the Secured Indebtedness is otherwise adequately secured; provided, however, that if there is not then existing an Event of Default hereunder, Lender shall take action as attorney-in-fact, with respect to eminent domain proceedings or with respect to proceeds of any policies of insurance, only with the consent of Mortgagor, which consent shall not be unreasonably withheld.

TO HAVE AND TO HOLD the Premises, unto Lender, its successors and assigns, forever, for the purposes and upon the uses herein set forth together with all right to possession of the Premises after the occurrence of any Event of Default as defined in the Note; the Mortgagor hereby **RELEASING AND WAIVING ALL RIGHTS UNDER AND BY VIRTUE OF THE HOMESTEAD EXEMPTION LAWS OF THE STATE OF ILLINOIS.**

Mortgagor represents and covenants that it is lawfully seized of the Premises, that the same are encumbered by that certain Mortgage and Assignment of Rents both dated August 30, 2005 and recorded September 2, 2005 with the Recorder's Office of Cook County, Illinois, as Document No. 0524535039 and 0524535040, respectively, made by Mortgagor in favor of

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ShoreBank ("Senior Lender") to secure a note in the amount of \$555,000.00, and that it has good right, full power and lawful authority to convey and mortgage the same, and that it will warrant and forever defend said Premises and the quiet and peaceful possession of the same against the lawful claims of all persons whomsoever, except for Senior Lender.

TO HAVE AND TO HOLD the Premises unto the said Lender, its successors and assigns, forever, for the purposes and uses herein set forth.

IT IS FURTHER UNDERSTOOD AND AGREED THAT:

1. Maintenance, Repair and Restoration of Improvements, Payment of Prior Liens, Etc. Mortgagor shall (a) promptly repair, restore or rebuild any buildings or improvements now or hereafter on the Premises which may become damaged or be destroyed; and (b) keep the Premises in good condition and repair, without waste, and free from mechanics' liens or other liens or claims for lien not expressly subordinated to the lien hereof (but subject, however to the mortgage of the Senior Lender existing as of the date hereof).

2. Payment of Taxes and Assessments. Mortgagor shall pay before any penalty or interest attaches all general taxes, and shall pay special taxes, special assessments, water charges, sewer service charges, and all other charges or liens of any nature against the Premises when due, and shall furnish to Lender duplicate receipts of payment therefor. If any special assessment is permitted by applicable law to be paid in installments, Mortgagor shall have the right to pay such assessment in installments, so long as all such installments are paid prior to the due date thereof. To prevent default hereunder, Mortgagor shall pay in full under protest, in the manner provided by statute, any tax or assessment which Mortgagor may decide to contest.

3. Payment of Taxes and Assessments. Mortgagor shall pay before any penalty or interest attaches all general taxes, and shall pay special taxes, special assessments, water charges, sewer service charges, and all other charges or liens of any nature against the Premises when due, and shall furnish to Lender duplicate receipts of payment therefor. If any special assessment is permitted by applicable law to be paid in installments, Mortgagor shall have the right to pay such assessment in installments, so long as all such installments are paid prior to the due date thereof. Notwithstanding anything contained herein to the contrary, Mortgagor shall have the right to protest any taxes assessed against the Premises, so long as such protest is conducted in good faith by appropriate legal proceedings diligently prosecuted and Mortgagor shall furnish to the title insurer such security or indemnity as said insurer requires to induce it to issue an endorsement, in form and substance acceptable to Lender, insuring over any exception created by such protest. If required by Lender, upon the direction of Lender, Mortgagor covenants and agrees to deposit at such place as Lender may from time to time in writing appoint, and in the absence of such appointment, then at the office of Lender in Melrose Park, Illinois, a sum equal (a) to one-twelfth (1/12th) of the last total annual taxes and assessments for the last ascertainable year (general and special) on the Premises, unless said taxes are based upon assessments which exclude the improvements or any part thereof now constructed, or to be constructed, in which event the amount of such deposits shall be based upon Lender's reasonable estimate as to the amount of taxes and assessments to be levied and assessed, and (b) one-twelfth

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(1/12th) of the annual premiums payable for insurance required to be maintained in accordance with Paragraph 4 hereof. Mortgagor, concurrently with the first monthly deposit of taxes required hereunder, will also deposit with Lender (i) an amount which, together with the aggregate of the monthly deposits to be made pursuant to (a) above, shall be sufficient to pay in full the total annual taxes and assessments so ascertainable or so estimated by Lender, as the case may be, to become due and payable with respect to the Premises for the current calendar year, as of one month prior to the due date of such taxes and assessments, and (ii) which, together with the aggregate deposits to be made pursuant to (b) above, shall be sufficient to pay in full the total annual insurance premium estimated by Mortgagor to next become due and payable with respect to the Premises, as of one month prior to the date on which the next annual insurance premium becomes due. Such deposits are to be held without any allowance for interest except as may be required by law and are to be used for the payment of taxes and assessments (general and special) and insurance premiums, respectively, on the Premises next due and payable when they become due. If the funds so deposited are insufficient to pay any such taxes or assessments (general and special) and premiums for any year when the same shall become due and payable, Mortgagor shall within ten (10) days after receipt of demand therefor, deposit such additional funds as may be necessary to pay such taxes and assessments (general and special) and insurance premiums in full. If the funds so deposited exceed the amount required to pay such taxes and assessments (general and special) and insurance premiums for any year, the excess shall be applied to the next subsequent deposit or deposits. Except as may be required by law, said deposits need not be kept separate and apart from any other funds of Lender.

4. Insurance. Mortgagor shall keep the Premises insured against loss or damage by fire, tornado, windstorm and extended coverage perils and such other hazards as may reasonably be required by Lender, including, without limitation: (a) all-risk fire and extended coverage insurance, with vandalism and malicious mischief endorsements, for the full replacement value of the Premises, with agreed upon amount; (b) if the Premises are located in a flood hazard district, flood insurance in the maximum amount obtainable up to the amount of the Secured Indebtedness; and (c) such other insurance as Lender may from time to time reasonably require and as provided in the Loan Agreement. Mortgagor also shall at all times maintain comprehensive public liability, property damage and worker's compensation insurance covering the Premises and any employees thereof, with such limits for personal injury, death and property damage as Lender may reasonably require. All policies of insurance to be furnished hereunder shall be in forms, companies, amounts and deductibles reasonably satisfactory to Lender, with Lender clauses attached to all policies in favor of and in form satisfactory to Lender, including a provision requiring that the coverage evidenced thereby shall not be terminated or materially modified without thirty (30) days' prior written notice to Lender (except for cancellation for non-payment of premiums which shall require ten (10) days prior written notice to Lender) and shall contain endorsements that no act or negligence of the insured or any occupant and no occupancy or use of the Premises for purposes more hazardous than permitted by the terms of the policies will affect the validity or enforceability of such policies as against Lender. Mortgagor shall deliver all policies, including additional and renewal policies, together with evidence of payment of premiums thereon, to Lender, and in the case of insurance about to expire, shall deliver renewal policies not less than thirty (30) days prior to their respective dates of expiration.

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5. Reserved.

6. Adjustment of Losses with Insurer and Application of Proceeds of Insurance.

Mortgagor shall give Lender prompt notice of any damage to or destruction of the Premises. In case of loss, and subject to the rights of the Senior Lender, Lender is hereby authorized either (a) to settle and adjust in a commercially reasonable manner any claim under those insurance policies maintained by Mortgagor pursuant to Section 4 hereof without consent of Mortgagor, or (b) to allow Mortgagor to agree with the insurance company or companies on the amount to be paid upon the loss. In either case, subject to the rights of the Senior Lender, Lender is authorized to collect and receipt for any such insurance money. Such insurance proceeds may, after the payment of all Lender expenses, including reasonable costs and attorneys' fees, at the option of Lender, either be applied in payment or reduction of the indebtedness secured hereby, whether due or not, or be held by Lender and used to reimburse Mortgagor for the cost of the rebuilding or restoration of buildings or improvements on said Premises. Notwithstanding the foregoing provisions of this Section 6 to the contrary, provided that there then exists no Event of Default under this Mortgage or under any other Loan Document, Mortgagor shall be entitled to apply the insurance proceeds from any loss or damage valued in the aggregate in an amount of not more than TWENTY FIVE THOUSAND AND NO/100 DOLLARS (\$25,000.00) to the restoration of the Premises or a portion thereof in compliance with all other terms and conditions of this Mortgage, without the consent of Lender. The buildings and improvements shall be so restored or rebuilt as to be of at least equal value and substantially the same character as prior to such damage or destruction. If the net proceeds of insurance are insufficient to so restore or rebuild the buildings and improvements, the additional costs to replace, repair, rebuild or restore shall be paid by Mortgagor. In the event Lender elects to reimburse Mortgagor out of insurance proceeds, such proceeds shall be made available, from time to time, upon Lender being furnished with satisfactory evidence of the estimated cost of completion thereof and with such architect's certificates, waivers of lien, contractors' sworn statements and other evidence of cost and of payments as Lender may reasonably require and approve. If the estimated cost of the work exceeds ten percent (10%) of the original principal amount of the indebtedness secured hereby, Lender shall also be furnished with all plans and specifications for such rebuilding or restoration as Lender may reasonably require and approve. No payment made prior to the final completion of the work shall exceed ninety percent (90%) of the value of the work performed, from time to time, and at all times the undisbursed balance of said proceeds remaining in the hands of Lender shall be at least sufficient to pay for the cost of completion of the work free and clear of liens.

7. Stamp Tax. If, by the laws of the United States of America, or of any state or political subdivision having jurisdiction over Mortgagor, any tax is due or becomes due in respect of the issuance of the Note or recording of this Mortgage, Mortgagor covenants and agrees to pay such tax in the manner required by any such law. Mortgagor further covenants to hold harmless and agrees to indemnify Lender, its successors or assigns, against any liability incurred by reason of the imposition of any tax on the issuance of the Note or recording of this Mortgage.

8. Indemnity. Mortgagor hereby covenants and agrees that no liability shall be asserted or enforced against Lender in the exercise of the rights and powers granted to Lender in

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this Mortgage, and Mortgagor hereby expressly waives and releases any such liability. Mortgagor shall indemnify and save Lender harmless from and against any and all liabilities, obligations, losses, damages, claims, costs and expenses (including reasonable attorneys' fees and court costs) of whatever kind or nature which may be imposed on, incurred by or asserted against Lender at any time by any third party which relate to or arise from: the making of the loan evidenced by the Note and secured by this Mortgage; any suit or proceeding (including probate and bankruptcy proceedings), or the threat thereof, in or to which Lender may or does become a party, either as plaintiff or as a defendant, by reason of this Mortgage or for the purpose of protecting the lien of this Mortgage; the offer for sale or sale of all or any portion of the Premises; and/or the ownership, leasing, use, operation or maintenance of the Premises. All costs provided for herein and paid for by Lender shall be so much additional Secured Indebtedness and shall become immediately due and payable without notice and with interest at the rate provided in the Note.

9. Effect of Extensions and Amendments. If the payment of the debt secured hereby or any part thereof be extended or varied or if any part of the security granted to secure such indebtedness be released, all persons now or at any time hereafter liable therefor, or interested in the Premises, or having an interest in Mortgagor or in the beneficiary of Mortgage, shall be held to assent to such extension, variation or release, and their liability and the lien and all provisions hereof shall continue in full force, the right of recourse against all such persons being expressly reserved by Lender, notwithstanding such extension, variation or release. Any person, firm or corporation taking a junior mortgage, or other lien upon the Premises or any part thereof or any interest therein, shall take the said lien subject to the rights of Lender to amend, modify, extend or release the Note, this Mortgage or any other document or instrument evidencing, securing or guarantying the Secured Indebtedness, in each case without obtaining the consent of the holder of such junior lien and without the lien of this Mortgage losing its priority over the rights of any such junior lien. Lender shall consent to the refinance by Mortgagor of its existing debt with the Senior Lender or such other lender acceptable to Mortgagor provided the amount being refinanced does not exceed the outstanding principal balance of such senior debt as of the date thereof, without the prior written consent of Lender.

10. Reserved.

11. Lender's Performance of Defaulted Acts and Expenses Incurred by Lender. Upon the occurrence of an Event of Default, Lender may, but need not, make any payment or perform any act required herein or in the Note required of Mortgagor in any form and manner deemed expedient, and may, but need not, make full or partial payments of principal or interest on prior encumbrances, if any, and purchase, discharge, compromise or settle any tax lien or other prior lien or title or claim thereof, or redeem from any tax sale or forfeiture affecting the Premises or consent to any tax or assessment or cure any default of Mortgagor in any lease of the Premises. Upon the occurrence of an Event of Default, Lender may, but shall not be required to rent, operate and manage the Premises and pay operating costs and expenses, including management fees, of every kind and nature in connection therewith, so that the Premises shall be operational and usable for their intended purposes. All monies paid for any of the purposes herein authorized and all expenses paid or incurred in connection therewith, including reasonable

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attorneys' fees, and any other monies advanced by Lender in regard to any tax referred to in Section 7 above or to protect the Premises or the lien hereof, shall be so much additional Secured Indebtedness, and shall become immediately due and payable without notice and with interest thereon at the Default Rate (as defined in Section 29). In addition to the foregoing, any costs, expenses and fees, including reasonable attorneys' fees, incurred by Lender in connection with (a) sustaining the lien of this Mortgage or its priority, (b) protecting and enforcing any of Lender's rights hereunder, (c) recovering any Secured Indebtedness, (d) any litigation or proceedings affecting the Note, this Mortgage, the Premises or any guarantor or co-maker of the Note or this Mortgage, including without limitation, bankruptcy and probate proceedings, or (e) preparing for the commencement, defense or participation in any threatened litigation or proceedings shall be so much additional Secured Indebtedness, and shall become immediately due and payable without notice and with interest thereon at the Default Rate. The interest accruing under this Section shall be immediately due and payable by Mortgagor to Lender, and shall be additional indebtedness evidenced by the Note and secured by this Mortgage. Inaction of Lender shall never be considered as a waiver of any right accruing to it on account of any default on the part of Mortgagor. Should the proceeds of the Note or any part thereof, or any amount paid out or advanced by Lender hereunder, or pursuant to any agreement executed by Mortgagor in connection with the loan evidenced by the Note, be used directly or indirectly to pay off, discharge or satisfy, in whole or in part, any lien or encumbrance upon the Premises or any part thereof, then as additional security hereunder, Lender shall be subrogated to any and all rights, equal or superior titles, liens and equities, owned or claimed by any owner or holder of said outstanding liens, charges and indebtedness, however remote, regardless of whether said liens, charges and indebtedness are acquired by assignment or have been released of record by the holder thereof upon payment. Notwithstanding anything contained in this Mortgage to the contrary, in no event shall the indebtedness secured by this Mortgage exceed two times the face amount of the Note.

12. Lender's Reliance on Tax Bills and Claims for Liens. Lender in making any payment hereby authorized: (a) relating to taxes and assessments may do so according to any bill, statement or estimate procured from the appropriate public office without inquiry into the accuracy of such bill, statement or estimate or into the validity of any tax, assessment, sale, forfeiture, tax lien or title or claim thereof; or (b) for the purchase, discharge, compromise or settlement of any other prior lien, may do so without inquiry as to the validity or amount of any claim for lien which may be asserted; provided that if no Event of Default exists hereunder, Lender shall give Mortgagor ten (10) days' prior notice thereof.

13. Acceleration of Indebtedness in Event of Default. It is agreed that upon the occurrence of any one or more of the following events (herein called "Defaults" or "Events of Default"):

(a) Mortgagor's failure to perform or observe any covenant or agreement, contained in this Mortgage, and such failure continues for more than 30 days following written notice thereof given by Lender to Mortgagor, unless such failure is not capable of being cured within 30 days, Mortgagor commences to cure such failure within said 30 days and thereafter Mortgagor diligently prosecutes the cure, in which event Mortgagor

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will have additional time as is reasonably necessary, not to exceed 60 additional days, to cure such failure;

(b) The occurrence of any breach of any representation or warranty contained in this Mortgage;

(c) The occurrence of a transfer prohibited under Section 27 hereof;

(d) The occurrence of an Event of Default under the Note, the Loan Agreement or any of the other Loan Documents; or

(e) Mortgagor shall fail to pay any indebtedness for borrowed money (other than the Note);

then and in every such case the whole of said principal sum hereby secured shall, at once at the option of Lender, become immediately due and payable, together with accrued interest thereon, without notice to Mortgagor.

14. Foreclosure; Expense of Litigation. When the Secured Indebtedness, or any part thereof, shall become due, whether by acceleration or otherwise, Lender shall have the right to foreclose the lien hereof for such indebtedness or part thereof and/or exercise any right, power or remedy provided in this Mortgage. In any suit to foreclose the lien hereof or enforce any other remedy of Lender under this Mortgage or the Note, there shall be allowed and included as additional indebtedness in the decree for sale or other judgment or decree all expenditures and expenses which may be paid or incurred by or on behalf of Lender, including but not limited to reasonable attorneys' fee, appraiser's fees, outlays for documentary and expert evidence, stenographers' charges, publication costs, and costs (which may be estimated as to items to be expended after entry of the decree) of procuring all such abstracts of title, title searches and examinations, title insurance policies, and similar data and assurances with respect to title and value as Lender may deem reasonably necessary either to prosecute such suit or to evidence to bidders at any sale which may be had pursuant to such decree the true conditions of the title to or the value of the Premises. All expenditures and expenses of the nature in this paragraph mentioned, and such expenses and fees as may be incurred in the protection of the Premises and the maintenance of the lien of this Mortgage, including the reasonable fees of any attorney employed by Lender in any litigation or proceeding affecting this Mortgage, the Note or the Premises, including probate and bankruptcy proceedings, or in preparations for the commencement or defense of any proceeding or threatened suit or proceeding, shall be immediately due and payable by Mortgagor, with interest thereon at the Default Rate and shall be secured by this Mortgage.

It is agreed that upon the occurrence of an Event of Default, Lender shall have the right to proceed with foreclosure proceeding in the satisfaction of said default as if under a full foreclosure, and without declaring the entire Secured Indebtedness due, and provided that if foreclosure sale is made because of default of a part of the Secured Indebtedness, such sale may be made subject to the unmatured part of the Secured Indebtedness; and it is agreed that such sale, if so made, shall not in any manner affect the unmatured part of the Secured Indebtedness

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but as to such unmatured part this Mortgage shall remain in full force and effect as if no foreclosure sale had been made under the provisions of this section. And it is further agreed that several foreclosure sales may be made hereunder without exhausting the right of foreclosure sale for any unmatured part of the Secured Indebtedness, it being the purpose to provide for a foreclosure sale of the Secured Indebtedness for any matured portion of the Secured Indebtedness without exhausting the power to foreclose and to sell the premises for any other of the Secured Indebtedness whether matured at the time or subsequently maturing.

15. Application of Proceeds of Foreclosure Sale. The proceeds of any foreclosure (or partial foreclosure) sale of the Premises shall be distributed and applied in the following order of priority: first, on account of all costs and expenses incident to the foreclosure proceedings, including all such items as are mentioned in the preceding Section hereof; second, all other items which under the terms hereof constitute Secured Indebtedness in addition to that evidenced by the Note, with interest thereon as herein provided; third, all principal and interest remaining unpaid on the Note; and fourth, any overplus to Mortgagor, its successors or assigns, as their rights may appear.

16. Appointment of Receiver. Upon, or at any time after the filing of a complaint to foreclose (or partially foreclose) this Mortgage, the court in which such complaint is filed may appoint a receiver of the Premises. Such appointment may be made either before or after sale, without notice, without regard to the solvency or insolvency of Mortgagor at the time of application for such receiver and without regard to the then value of the Premises or whether the same shall be then occupied as a homestead or not and Lender hereunder or any Holders may be appointed as such receiver. Such receiver shall have power: (a) to collect the rents, issues and profits of the Premises during the pendency of such foreclosure suit and, in case of a sale and a deficiency, during the full statutory period of redemption, whether there be redemption or not, as well as during any further times when Mortgagor, except for the intervention of such receiver, would be entitled to collect such rents, issues and profits; (b) to extend or modify any then existing leases and to make new leases, 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 indebtedness hereunder 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 such provisions to be contained therein, shall be binding upon Mortgagor and all persons whose interests in the Premises are subject to the lien hereof and upon the purchaser or purchasers at any foreclosure sale, notwithstanding any redemption from sale, discharge of the Secured Indebtedness, satisfaction of any foreclosure decree, or issuance of any certificate of sale or deed to any purchaser; and (c) all other powers which may be necessary or are usual in such cases for the protection, possession, control, management and operation of the Premises during the whole of said period. The court from time to time may authorize the receiver to apply the net income in his hands in payment in whole or in part of: (i) the Secured Indebtedness, or by any 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 foreclosure sale; (ii) if this is a leasehold mortgage, all rents due or which may become due under the underlying lease; and (iii) the deficiency in case of a sale and deficiency.

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17. Assignment of Rents and Leases. To further secure the Secured Indebtedness, Mortgagor hereby sells, assigns and transfers unto Lender all the rents, issues and profits now due and which may hereafter become due under or by virtue of any lease, whether written or verbal, or any letting of, or of any agreement for the use or occupancy of the Premises or any part thereof, which may have been heretofore or may be hereafter made or agreed to or which may be made or agreed to by Lender under the powers herein granted, it being the intention hereby to establish an absolute transfer and assignment of all such leases and agreements, and all the avails thereunder, to Lender. Mortgagor hereby irrevocably appoints Lender its true and lawful attorney in its name and stead (with or without taking possession of the Premises as provided in Section 19 hereof) to rent, lease or let all or any portion of the Premises to any party or parties at such rental and upon such terms as Lender shall, in its discretion, determine, and to collect all of said avails, rents, issues and profits arising from or accruing at any time hereafter, and all now due or that may hereafter become due under each and every of the leases and agreements, written or verbal, or other tenancy existing, or which may hereafter exist on the Premises, with the same rights and powers and subject to the same immunities, exoneration of liability and rights of recourse and indemnity as Lender would have upon taking possession pursuant to the provisions of Section 19 hereof.

Mortgagor represents and agrees that no rent has been or will be paid by any person in possession of any portion of the Premises for more than one installment in advance and that the payment of none of the rents to accrue for any portion of the said Premises has been or will be waived, released, reduced, discounted or otherwise discharged or compromised by Mortgagor. Mortgagor waives for the benefit of Lender only and its successors or assigns any rights of set off against any person in possession of any portion of the Premises. If any lease provides for the abatement of rent during repair of the Premises demised thereunder by reason of fire or other casualty, Mortgagor shall furnish to Lender rental insurance, the policies to be in amount and form and written by such insurance companies as shall be reasonably satisfactory to Lender. Mortgagor agrees that it will not assign any of the rents or profits of the Premises, except to a purchaser or grantee of the Premises.

Nothing herein contained shall be construed as constituting Lender a mortgagee in possession in the absence of the taking of actual possession of the Premises by Lender pursuant to Section 19 hereof. In the exercise of the powers herein granted Lender, no liability shall be asserted or enforced against Lender, all such liability being expressly waived and released by Mortgagor.

Mortgagor further agrees to assign and transfer to Lender all future leases upon all or any part of the Premises and to execute and deliver, at the request of Lender, all such further assurances and assignments in the Premises as Lender shall from time to time reasonably require.

Although it is the intention of the parties that the assignment contained in this Section 17 shall be a present assignment, it is expressly understood and agreed, anything herein contained to the contrary notwithstanding, that Lender shall not exercise any of the rights or powers conferred upon it by this section until an Event of Default shall exist under this Mortgage or the Note.

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18. Reserved.

19. Lender's Right of Possession in Case of Default. In any case in which under the provisions of this Mortgage Lender has a right to institute foreclosure proceedings, whether before or after the whole principal sum secured hereby is declared to be immediately due as aforesaid, or whether before or after the institution of legal proceedings to foreclose the lien hereof or before or after sale thereunder, Mortgagor shall forthwith, upon demand of Lender, surrender to Lender and Lender shall be entitled to take actual possession of the Premises personally or by its agents or attorneys. In such event Lender in its discretion may, with or without force and with or without process of law, enter upon and take and maintain possession of all or any part of said Premises, together with all documents, books, records, papers and accounts of Mortgagor or then owner of the Premises relating thereto, and may exclude Mortgagor, Mortgagor's beneficiaries, and their employees, agents or servants wholly therefrom, and may as attorney in fact or agent of Mortgagor, or in its own name as Lender and under the powers herein granted, hold, operate, manage and control the Premises and conduct the business, if any, thereof, either personally or by its agents, and with full power to use such measures, legal or equitable, as in its discretion or in the discretion of its successors or assigns may be deemed proper or necessary to enforce the payment or security of the avails, rents, issues, and profits of the Premises, including actions for the recovery of rent, actions in forcible detainer and actions in distress for rent, and with full power: (a) to cancel or terminate any lease or sublease for any cause or on any ground which would entitle Mortgagor to cancel the same; (b) to elect to disaffirm any lease or sublease which is then subordinate to the lien hereof; (c) to extend or modify any then existing leases and to make new leases, 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 indebtedness hereunder 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 such provisions to be contained therein, shall be binding upon Mortgagor and all persons whose interests in the Premises are subject to the lien hereof and upon the purchaser or purchasers at any foreclosure sale, notwithstanding any redemption from sale, discharge of the Secured Indebtedness, satisfaction of any foreclosure decree, or issuance of any certificate of sale or deed to any purchaser; (d) to enter into any management, leasing or brokerage agreements covering the Premises; (e) to make all necessary or proper repairs, decorating, renewals, replacements, alterations, additions, betterments and improvements to the Premises as to it may seem judicious; (f) to insure and reinsure the same and all risks incidental to Lender's possession, operation and management thereof; and (g) to receive all of such avails, rents, issues and profits; hereby granting full power and authority to exercise each of the rights, privileges and powers herein granted at any and all times hereafter, without notice to Mortgagor.

Lender shall not be obligated to perform or discharge, nor does it hereby undertake to perform or discharge, any obligation, duty or liability under any leases. Except for the gross negligence or willful misconduct of Lender and prior to Lender taking title to the Premises, Mortgagor shall and does hereby agree to indemnify and hold Lender harmless of and from any and all liability, loss or damage which Lender may or might incur under said leases, or under or by reason of the assignment thereof and of and from any and all claims and demands whatsoever

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which may be asserted against Lender by reason of any alleged obligations or undertakings on its part to perform or discharge any of the terms, covenants or agreements contained in said leases. Should Lender incur any such liability, loss or damage, under said leases or under or by reason of the assignment thereof, or in the defense of any claims or demands, the amount thereof, including costs, expenses and reasonable attorneys' fees, together with interest at the rate provided in the Note, shall be secured hereby, and Mortgagor shall reimburse Lender therefor immediately upon demand.

20. Application of Income Received by Lender. Following an Event of Default, Lender, in the exercise of the rights and powers hereinabove conferred upon it, shall have full power to use and apply the avails, rents, issues and profits of the Premises to the payment of or on account of the following, in such order as Lender may determine:

(a) to the payment of any amounts due the Senior Lender under any prior mortgage and the operating expenses of the Premises, including cost of management and leasing thereof (which shall include reasonable compensation to Lender and its agent or agents, if management be delegated to an agent or agents, and shall also include lease commissions and other compensation and expenses of seeking and procuring tenants and entering into leases), established claims for damages, if any, and premiums on insurance hereinabove authorized;

(b) to the payment of taxes and special assessments now due or which may hereafter become due on the Premises; and, if this is a leasehold mortgage, of all rents due or which may become hereafter due under the underlying lease;

(c) to the payment of all maintenance, repairs, decorating, renewals, replacements, alterations, additions, betterments, and improvements of the Premises, and of placing the Premises in such condition as will, in the judgment of Lender, make it readily rentable;

(d) to the payment of any Secured Indebtedness or any deficiency which may result from any foreclosure sale.

21. Lender's Right of Inspection. Lender and its representatives shall have the right to inspect the Premises at all reasonable times and access thereto shall be permitted for that purpose; provided that Lender does not interfere with Mortgagor's operations within its facilities.

22. Condemnation. Subject to the rights of the Senior Lender, Mortgagor hereby assigns, transfers and sets over unto Lender the entire proceeds of any award or any claim for damages for any of the Premises taken or damaged under the power of eminent domain or by condemnation. Lender may elect to apply the proceeds of the award upon or in reduction of the Secured Indebtedness, whether due or not, or to require Mortgagor to restore or rebuild, in which event the proceeds shall be held by Lender and used to reimburse Mortgagor for the cost of the rebuilding or restoring of buildings or improvements on said Premises, in accordance with plans and specifications to be submitted to and approved by Lender. In the event Mortgagor is required or authorized by Lender's election as aforesaid to rebuild or restore, the proceeds of the award shall be paid out in the same manner as is provided in Section 6 hereof for the payment of

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insurance proceeds toward the cost of rebuilding or restoration. If the amount of such award is insufficient to cover the cost of rebuilding or restoration, Mortgagor shall pay such cost in excess of the award, before being entitled to reimbursement out of the award. Any surplus which may remain out of said award after payment of such cost or rebuilding or restoration shall, at the option of Lender, be applied on account of the Secured Indebtedness or be paid to any other party entitled thereto.

23. Release upon Payment and Discharge of Mortgagor's Obligations. If Mortgagor shall fully pay all principal and interest on the Credit Note, and all other Secured Indebtedness and comply with all of the other terms and provisions hereof to be performed and complied with by Mortgagor, then this Mortgage shall be null and void. Lender shall release this Mortgage and the lien thereof by proper instrument upon payment and discharge of all Secured Indebtedness and payment of a reasonable fee to Lender for the execution of such release.

24. Notices. Any notices, communications and waivers under this Mortgage shall be in writing and shall be (a) delivered in person, (b) mailed, postage prepaid, either by registered or certified mail, return receipt requested, or (c) sent by overnight express carrier, addressed in each case as follows:

To Lender	Evergreen Bank Group 1515 West 22 nd Street, Suite 100W Oak Brook, Illinois 60523 Attn: Mary M. Henthorn, Senior Vice President
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To the Mortgagor:	DKM Holding LLC 900 West 31 st Street Chicago, Illinois 60608 Attn: Danny Mark
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or to any other address as to any of the parties hereto, as such party shall designate in a written notice to the other party hereto. All notices sent pursuant to the terms of this section shall be deemed received (i) if personally delivered, then on the date of delivery, (ii) if sent by overnight, express carrier, then on the next federal banking day immediately following the day sent, or (iii) if sent by registered or certified mail, then on the earlier of the third federal banking day following the day sent or when actually received.

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

26. Waiver of Right of Redemption and other Rights. To the full extent permitted by law, Mortgagor agrees that it will not at any time or in any manner whatsoever take any advantage of any stay, exemption or extension law or any so-called "Moratorium Law" now or at any time hereafter in force, nor take any advantage of any law now or hereafter in force providing for the valuation or appraisal of the Premises, or any part thereof, prior to any sale thereof to be made pursuant to any provisions herein contained, or to any decree, judgment or

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order of any court of competent jurisdiction; or after such sale claim or exercise any rights under any statute now or hereafter in force to redeem the property so sold, or any part thereof, or relating to the marshalling thereof, upon foreclosure sale or other enforcement hereof. To the full extent permitted by law, Mortgagor hereby expressly waives any and all rights it may have to require that the Premises be sold as separate tracts or units in the event of foreclosure. To the full extent permitted by law, Mortgagor hereby expressly waives any and all rights of redemption under the Illinois mortgage foreclosure laws (the "Act"), 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 Premises subsequent to the date hereof, it being the intent hereof that any and all such rights of redemption of Mortgagor and such other persons, are and shall be deemed to be hereby waived to the full extent permitted by applicable law. To the full extent permitted by law, Mortgagor 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 Lender, but will permit the exercise of every such right, power and remedy as though no such law or laws have been or will have been made or enacted. To the full extent permitted by law, Mortgagor hereby agrees that no action for enforcement of the lien or any provision hereof shall be subject to any defense which would not be good and valid in an action at law upon the Note. If the Mortgagor is a trustee, Mortgagor represents that the provisions of this Section 26 (including the waiver of redemption rights) were made at the express direction of Mortgagor's beneficiaries and the persons having power of direction over Mortgagor and are made on behalf of the trust estate of Mortgagor and all beneficiaries of Mortgagor, as well as all other parties named above. Mortgagor acknowledges that the Premises do not constitute agricultural real estate.

27. Transfer of Title. The occurrence at any time of any of the following events shall be deemed to be an unpermitted transfer of title to the Premises and, therefore, a default hereunder: any sale, conveyance, assignment or other transfer of, or the grant of a security interest in, all or any part of the title to the Premises except for leases of portions of the Premises in the ordinary course on a lease form reasonably acceptable to Lender.

28. Definitions. "Default Rate" as used herein shall mean interest at the default rates under the Note. The word "Mortgagor" when used herein shall include the original Mortgagor named in the preambles hereof, its successors and assigns, and all owners from time to time of the Premises. The word "Guarantor" when used herein shall mean any and all of the guarantors of the Note. The words "Holders" and "Lender" when used herein shall include all successors and assigns of the original holder of the Note and Lender identified in the preambles hereof.

29. Captions. The captions and headings of various sections of this Mortgage are for convenience only and are not to be construed as defining or limiting, in any way, the scope or intent of the provisions hereof.

30. Business Purpose. Mortgagor represents and agrees that the obligation secured hereby is an exempted transaction under the Truth-In-Lending Act, 15 U.S.C. 1601 et seq., and constitutes a business, commercial loan within the meaning of Section 4 of the Illinois Interest Act 815 ILCS 205/4 (1992), and that the proceeds of the obligation secured hereby will not be

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used for the purchase of registered equity securities within the purview of Regulation "U" promulgated by the Federal Reserve System.

31. Partial Invalidity; Maximum Allowable Rate of Interest. Mortgagor and Lender intend and believe that each provision in this Mortgage and the Note comport with all applicable local, state and federal laws and judicial decisions. However, if any provision or provisions, or if any portion of any provision or provisions, in this Mortgage or the Note are found by a court of law to be in violation of any applicable local, state or federal ordinance, statute, law, administrative or judicial decision, or public policy, and if such court should declare such portion, provision or provisions of this Mortgage and the Note to be illegal, invalid, unlawful, void or unenforceable as written, then it is the intent both of Mortgagor and Lender that such portion, provision or provisions shall be given force to the fullest possible extent that they are legal, valid and enforceable, that the remainder of this Mortgage and the Note shall be construed as if such illegal, invalid, unlawful, void or unenforceable portion, provision or provisions were not contained therein, and that the rights, obligations and interest of Mortgagor and Lender under the remainder of this Mortgage and the Note shall continue in full force and effect. All agreements herein and in the Note are expressly limited so that in no contingency or event whatsoever, whether by reason of advancement of the proceeds hereof, acceleration of maturity of the unpaid principal balance of the Note, or otherwise, shall the amount paid or agreed to be paid to the Holders for the use, forbearance or detention of the money to be advanced hereunder exceed the highest lawful rate permissible under applicable usury laws. If, from any circumstances whatsoever, fulfillment of any provision hereof or of the Note or any other agreement referred to herein, at the time performance of such provision shall be due, shall involve transcending the limit of validity prescribed by law which a court of competent jurisdiction may deem applicable hereto, then, ipso facto, the obligation to be fulfilled shall be reduced to the limit of such validity; and if from any circumstance the Holders shall ever receive as interest an amount which would exceed the highest lawful rate, such amount which would be excessive interest shall be applied to the reduction of the unpaid principal balance due under the Note and not to the payment of interest.

32. Hazardous Materials and Environmental Concerns.

(a) Mortgagor hereby represents and warrants to Lender that, as of the date hereof: (i) to the best of Mortgagor's knowledge, information and belief, the Premises is not in direct or indirect violation of any local, state or federal law, rule or regulation pertaining to environmental regulation, contamination, remediation or human health and safety (including the regulation or remediation of Hazardous Substances as defined below) (collectively, "Environmental Laws"), all as amended; (ii) to Mortgagor's best knowledge and belief, no hazardous, toxic or harmful substances, wastes, materials, pollutants or contaminants (including, without limitation, asbestos, polychlorinated biphenyls, petroleum products, radon, lead-based paint, flammable explosives, radioactive materials, infectious substances or raw materials which may include hazardous constituents) or any other substances or materials which are included under or regulated by Environmental Laws (collectively, "Hazardous Substances") are located on the Premises (including underground contamination) except as disclosed in the Phase I

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Environmental Report provided to Lender and those substances used by Mortgagor in the ordinary course of its business and in compliance with all Environmental Laws; (iii) the Premises is not subject to any private or governmental lien or judicial, administrative or other notice or action relating to Hazardous Substances or noncompliance with Environmental Laws, nor is Mortgagor aware of any basis for such lien, notice or action; (iv) to Mortgagor's best knowledge and belief, there are no underground storage tanks or other underground storage receptacles (whether active or abandoned) for Hazardous Substances on the Premises; (v) Mortgagor has received no notice of, and to the best of Mortgagor's knowledge and belief, after due inquiry and investigation, there does not exist any, investigation, action, proceeding or claim by any agency, authority or unit of government or by any third party which could result in any liability, penalty, sanction or judgment under any Environmental Laws with respect to any condition, use or operation of the Premises, nor does Mortgagor know of any basis for such investigation, action, proceeding, or claim; (vi) Mortgagor has received no notice that, and to the best of Mortgagor's knowledge and belief after due inquiry and investigation, there has been no claim by any party that, any use, operation or condition of the Premises has caused any nuisance, trespass or any other liability or adverse condition on any other property, nor does Mortgagor know of any basis for such notice or claim; and (vii) there are no present environmental conditions or events or, to the best of Mortgagor's knowledge, past environmental conditions or events on or near the Premises that could be reasonably anticipated to materially adversely affect the value of the Premises.

(b) Mortgagor shall keep or cause the Premises to be kept free from Hazardous Substances (except those substances used by Mortgagor in the ordinary course of its business and in compliance with all Environmental Laws) and in compliance with all Environmental Laws, shall not install or use any underground storage tanks, shall expressly prohibit the use, generation, handling, storage, production, processing and disposal of Hazardous Substances by all tenants, (except those substances used by tenants in the ordinary course of their activities and in compliance with all Environmental Laws), invitees and trespassers, and, without limiting the generality of the foregoing, during the term of this Mortgage, shall not install in the Improvements or permit to be installed in the Improvements asbestos or any substance containing asbestos.

(c) Mortgagor shall promptly notify Lender if Mortgagor shall become aware of (i) any Hazardous Substances at, on, under, affecting or threatening to affect the Premises (except those substances used by Mortgagor or tenants in the ordinary course of their business or activities, respectively, and in compliance with all Environmental Laws), (ii) any lien, action or notice affecting or threatening to affect the Premises or Mortgagor resulting from any violation or alleged violation of Environmental Law, (iii) any investigation, inquiry or proceeding concerning Mortgagor on the Premises pursuant to any Environmental Law or otherwise relating to Hazardous Substances, or (iv) any occurrence, condition or state of facts which would render any representation or warranty in this Section incorrect in any respect if made at the time of such discovery. Further, immediately upon receipt of the same, Mortgagor shall deliver to Lender copies of any and all orders, notices, permits, applications, reports, and other communications,

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documents and instruments pertaining to the actual, alleged or potential non-compliance with any Environmental Laws in connection with the Premises or presence or existence of any Hazardous Substances at, on, about, under, within, near or in connection with the Premises (except those substances used in the ordinary course of its business and in compliance with all Environmental Laws). Mortgagor shall, promptly and when and as required, at Mortgagor's sole cost and expense, take all actions as shall be necessary or advisable for compliance with the terms of this Section 32 or for the remediation of any and all portions of the Premises or other affected property, including, without limitation, all investigative, monitoring, removal, containment, remedial and response actions in accordance with all applicable Environmental Laws (and in all events in a manner satisfactory to Lender), and shall further pay or cause to be paid, at no expense to Lender, all remediation, response, administrative and enforcement costs of applicable governmental agencies which may be asserted against the Premises. In the event Mortgagor fails to do so (i) Lender may, but shall not be obligated to, undertake remediation at the Premises or other affected property necessary to bring the Premises into conformance with the terms of Environmental Laws, and (ii) Mortgagor hereby grants to Lender and its agents and employees access to the Premises and a license to do all things Lender shall deem necessary to bring the Premises into conformance with Environmental Laws. Any and all costs and expenses reasonably incurred by Lender in connection therewith, together with interest thereon at the Default Interest Rate from the date incurred by Lender until actually paid by Mortgagor, shall be immediately paid by Mortgagor on demand and shall be secured by this Mortgage and by all of the other Loan Documents securing all or any part of the indebtedness evidenced by the Note. Mortgagor covenants and agrees, at Mortgagor's sole cost and expense, to indemnify, defend (at trial and appellate levels, and with attorneys, consultants and experts acceptable to Lender), and hold Lender harmless from and against any and all liens, damages, losses, liabilities, obligations, settlement payments, penalties, assessments, citations, directives, claims, litigation, demands, defenses, judgments, suits, proceedings, costs, disbursements or expenses of any kind or of any nature whatsoever (including, without limitation, reasonable attorneys', consultants' and experts' fees and disbursements actually incurred in investigating, defending, settling or prosecuting any claim, litigation or proceeding) which may at any time be imposed upon, incurred by or asserted or awarded against Lender or the Premises, and arising directly or indirectly from or out of: (i) the presence, Release or threat of Release of any Hazardous Substances on, in, under, affecting or threatening to affect all or any portion of the Premises or any surrounding areas, regardless of whether or not caused by or within the control of Mortgagor; (ii) the violation of any Environmental Laws relating to, affecting or threatening to affect the Premises, whether or not caused by or within the control of Mortgagor; (iii) the failure by Mortgagor to comply fully with the terms and conditions of this Section 32; (iv) the breach of any representation or warranty contained in this Section 32; or (v) the enforcement of this Section 32, including, without limitation, the cost of assessment, containment and/or removal of any and all Hazardous Substances on and/or from all or any portion of the Premises or any surrounding areas, the cost of any actions taken in response to the presence, Release or threat of Release of any Hazardous Substances on, in, under or affecting any portion of the Premises or any surrounding

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areas to prevent or minimize such release or threat of release so that it does not migrate or otherwise cause or threaten danger to present or future public health, safety, welfare or the environment, and costs incurred to comply with the Environmental Laws in connection with all or any portion of the Premises or any surrounding areas. The indemnity set forth in this Section 32(c) shall also include any diminution in the value of the security afforded by the Premises or any future reduction in the sales price of the Premises by reason of any matter set forth in this Section 32(c). Lender's rights under this Section shall survive payment in full of the indebtedness secured hereby and shall be in addition to all other rights of Lender under this Mortgage, the Note and the other Loan Documents.

(d) Upon Lender's request, at any time after the occurrence of a default hereunder or at such other time as Lender has reasonable grounds to believe that Hazardous Substances are or have been handled, generated, stored, processed, transported to or from, or released or discharged from or disposed of on or around the Premises (other than in the normal course of Mortgagor's or the tenants' business or activities, respectively, and in compliance with all Environmental Laws) or that Mortgagor, any tenant or the Premises may be in violation of Environmental Laws, Mortgagor shall provide, at Mortgagor's sole cost and expense, an inspection or audit of the Premises prepared by a hydrogeologist or environmental engineer or other appropriate consultant approved by Lender indicating the presence or absence of Hazardous Substances on the Premises (including asbestos-containing material or lead-based paint). If Mortgagor fails to provide such inspection or audit within thirty (30) days after such request, Lender may order the same, and Mortgagor hereby grants to Lender and its employees and agents access to the Premises and a license to undertake such inspection or audit. The cost of such inspection or audit, together with interest thereon at the Default Interest Rate from the date incurred by Lender until actually paid by Mortgagor, shall be immediately paid by Mortgagor on demand and shall be secured by this Mortgage and by all of the other Loan Documents securing all or any part of the indebtedness evidenced by the Note.

(e) Without limiting the foregoing, Lender and its authorized representatives may, during normal business hours and at its own expense, inspect the Premises and Mortgagor's records related thereto for the purpose of determining compliance with Environmental Laws and the terms and conditions of this Section 32.

(f) As used herein, the term "Release" shall include, without limitation, any intentional or unintentional placing, spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, disposing, discarding or abandoning of any Hazardous Substance, other than in the normal course of business or activities or its tenants, and in compliance with all Environmental Laws.

(g) Mortgagor hereby represents, warrants and certifies, that: (i) to the Mortgagor's best knowledge and belief, there are no underground storage tanks located on, under or about the Premises which are subject to the notification requirements under Section 9002 of the Solid Waste Disposal Act (42 U.S.C. Section 6901 et seq.) and

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federal regulations promulgated thereunder, as now or hereafter amended; and (ii) there is no facility located on or at the Premises which is subject to the reporting requirements of Section 312 of the Federal Emergency planning and Community Right to Know Act of 1986 (42 U.S.C. Sec. 11001 et seq.) and the federal regulations promulgated thereunder, as now or hereafter amended.

33. Expenses Relating to Note and Mortgage. Mortgagor will pay all expenses, charges, costs and fees relating to the loans evidenced by the Note and secured by this Mortgage or necessitated by the terms of the Note, this Mortgage, including without limitation, Lender's reasonable attorneys' fees in connection with the negotiations, documentation, administration, servicing and enforcement of the Note, this Mortgage, all filing, registration or recording fees, all other expenses incident to the execution and acknowledgment of this Mortgage and all federal, state, county and municipal taxes, and other taxes (provided Mortgagor shall not be required to pay any income or franchise taxes of Lender), duties, imposts, assessments and charges arising out of or in connection with the execution and delivery of the Note and this Mortgage. Mortgagor recognizes that, during the term of the Mortgage, Lender:

(a) May be involved in Court or administrative proceedings, including, without restricting the foregoing, foreclosure, probate, bankruptcy, creditors' arrangements, insolvency, and pollution control proceedings of any kind, to which Lender shall be a party by reason of any of the Loan Documents or the Premises are involved directly or indirectly;

(b) May make preparations following the occurrence of an Event of Default hereunder for the commencement of any suit for the foreclosure hereof, which may or may not be actually commenced;

(c) May make preparations following the occurrence of an Event of Default hereunder for, and do work in connection with, Lender's taking possession of and managing the Premises, which event may or may not actually occur;

(d) May make preparations for and commence other private or public actions to remedy an Event of Default hereunder, which other actions may or may not be actually commenced; or

(e) May enter into negotiations with Mortgagor and/or any Guarantor of the Note, or any of their respective agents, employees or attorneys, in connection with the existence or curing of any Event of Default hereunder, the sale of the Premises, the assumption of liability for any of the indebtedness represented by the Note or the transfer of the Premises in lieu of foreclosure.

All expenses, charges, costs and fees described in this Paragraph 38 shall be so much additional Secured Indebtedness, shall bear interest from ten (10) days after the date demanded, until paid at the Default Rate and shall be paid, together with said interest, by Mortgagor forthwith upon demand.

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34. Waiver of Trial by Jury. TO INDUCE LENDER TO ACCEPT THE NOTE, MORTGAGOR HEREBY KNOWINGLY, VOLUNTARILY, INTENTIONALLY AND IRREVOCABLY WAIVES ANY AND ALL RIGHTS WHICH MORTGAGOR MAY HAVE TO TRIAL BY JURY IN RESPECT OF ANY LEGAL PROCEEDINGS IN WHICH MORTGAGOR AND LENDER ARE ADVERSE PARTIES, IN CONNECTION WITH OR RELATING TO OR ARISING OUT OF THE NOTE OR THIS MORTGAGE.

35. Governing Law. This Mortgage was accepted by Lender in the State of Illinois and the proceeds of the Note secured hereby were disbursed from the State of Illinois. Accordingly, in all respects, including, without limiting the generality of the foregoing, matters of construction, validity, enforceability and performance, this Mortgage, the Note and the other Loan Documents, and the obligations arising hereunder and thereunder shall be governed by, and construed in accordance with, the laws of the State of Illinois applicable to contracts made and performed in such state. Mortgagor hereby unconditionally and irrevocably waives, to the fullest extent permitted by law, any claim to assert that the law of any jurisdiction other than Illinois governs this Mortgage, the Note and other Loan Documents.

[Signature page follows.]

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IN WITNESS WHEREOF, Mortgagor has caused this Mortgage to be executed the day and year first above written.

MORTGAGOR:

DKM Holdings LLC (a/k/a DKM Holding LLC), an Illinois limited liability company

By: _____

Danny Mark, its member

By: _____

Dale Mark, its member

STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, do hereby certify that Danny Mark and Dale Mark the members of DKM HOLDINGS LLC (A/K/A DKM HOLDING LLC) who are personally known to me to be the same persons whose names are subscribed to the foregoing instrument as such members, appeared before me this day in person and acknowledged that they signed and delivered the said instrument as their own free and voluntary act and as the free and voluntary act of said company, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal, this 21 day of Dec, 2009.



Tina Reninger
NOTARY PUBLIC

My commission expires: 10-26-2011

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EXHIBIT A

LEGAL DESCRIPTION

LOT 8 IN BLOCK 8 IN HODGE'S SUBDIVISION OF BLOCKS 2 AND 8 AND PARTS OF BLOCKS 1 AND 9 OF F.C. SHERMAN AND OTHERS' SUBDIVISION OF THE EAST HALF OF THE WEST HALF OF THE SOUTHEAST QUARTER OF SECTION 28, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

COMMONLY KNOWN AS: 2918 SOUTH WENTWORTH AVENUE
CHICAGO, ILLINOIS 60616

PERMANENT INDEX NUMBER: 17-28-427-027

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