

# UNOFFICIAL COPY

THIS DOCUMENT PREPARED BY  
AND AFTER RECORDING RETURN TO:

Wildman, Harrold, Allen & Dixon LLP  
225 West Wacker Drive ✓  
Suite 2800  
Chicago, Illinois 60606  
Attn: David Fischer, Esq.



Doc#: 1033322078 Fee: \$48.25  
Eugene "Gene" Moore RHSP Fee: \$10.00  
Cook County Recorder of Deeds  
Date: 11/29/2010 01:59 PM Pg: 1 of 6

*This space reserved for Recorder's use only*

## SECOND MODIFICATION OF SECOND MORTGAGE

THIS SECOND MODIFICATION OF MORTGAGE (this "Agreement") is made as of the 3rd day of November, 2010 by MKM PROPERTIES, LLC, an Illinois limited liability company, having its principal place of office at 3901 N. Carnation St., Franklin Park, Illinois 60131 ("Mortgagor"), in favor of MERCHANTS AND MANUFACTURERS BANK, an Illinois banking association, having its principal office at 801 S. Briggs Street, Joliet, Illinois, its successors and assigns ("Mortgagee").

### RECITALS:

WHEREAS, MMG Engineered Components, LLC, an Illinois limited liability company ("MMG"), MMG Engineered Components II, Inc., an Illinois corporation ("MMG II"), and Mortgagor, entered into that certain Credit Agreement (as amended, modified, restated or supplemented from time to time, the "Credit Agreement") with Mortgagee on April 4, 2007;

WHEREAS, as security for the obligations of Mortgagor under the Credit Agreement and other Loan Documents (as defined by the Credit Agreement), Mortgagor executed (i) that certain Second Mortgage in favor of Mortgagee on April 4, 2007, which has been filed with the Cook County, Illinois Recorder of Deeds as document number 0710357105 and (ii) that certain First Modification of Second Mortgage on June 18, 2008, which has been filed with the Cook County, Illinois Recorder of Deeds as document number 0830522057 (collectively, the "Mortgage"); and

WHEREAS, Mortgagee, Mortgagor and First National Bank, f/k/a First National Bank of Illinois and its successors and/or assigns ("FNB") have entered into that certain Intercreditor, Subordination and Standstill Agreement as of the date hereof (the "Intercreditor Agreement") pursuant to which Mortgagee and Mortgagor have agreed to further amend the Mortgage, as hereinafter set forth.

Unless otherwise defined herein, all capitalized terms shall have the meanings ascribed to them in the Mortgage.

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## AGREEMENTS:

NOW, THEREFORE, in consideration of (i) the facts set forth hereinabove (which are hereby incorporated into and made a part of this Agreement), (ii) the agreements by Mortgagee to modify the Mortgage and other Loan Documents, as provided herein and in the Intercreditor Agreement, (iii) the covenants and agreements contained herein, and (iv) for other good and valuable consideration, the receipt, adequacy and sufficiency of which are hereby acknowledged, the parties hereby agree to modify the Mortgage as follows:

### 1. Modifications to Mortgage.

(a) The "WITNESSETH" paragraph of the first page of the Mortgage is hereby deleted in its entirety and is hereby replaced with the following:

"WITNESSETH, Mortgagor (as hereinafter defined) hereby mortgages, conveys, transfers and grants a security interest in the Mortgaged Premises (as defined herein) to Mortgagee as security for (i) the payment of indebtedness in the maximum amount of FIVE HUNDRED TEN THOUSAND NINE HUNDRED FORTY-THREE AND 95/100 DOLLARS (\$510,943.95) lawful money of the United States, to be paid with interest accrued on the actual amount outstanding according to the Notes (hereafter defined) bearing the date set forth thereon, and any amendments, modifications, renewals or replacements thereof; (ii) the Indebtedness (hereinafter defined); (iii) any other sums of money secured hereby, as hereinafter provided and (iv) performance of Mortgagor's (hereafter defined) obligations under the Loan Documents. All capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Credit Agreement (hereinafter defined)."

(b) Section 1.1(I) of the Mortgage is hereby deleted in its entirety and is hereby replaced with the following:

"Loan" shall mean the loans as evidenced by the Mortgage Loan Note in the original principal amount of \$1,050,000.00 (but shall not include that certain Mortgage Loan Note in the original principal amount of \$1,000,000.00 (the "First Mortgage Loan Note"), and any renewals, extensions, modifications or amendments thereto."

(c) Section 1.1(T) of the Mortgage is hereby deleted in its entirety and is hereby replaced with the following:

"Principal Sum" shall mean as of the date hereof Five Hundred Ten Thousand Nine Hundred Forty-Three and 95/100 Dollars (\$510,943.95)."

2. Continuation of Mortgage. The Indebtedness secured by the Mortgage is a continuing mortgage lien against the Property, and nothing in this Agreement shall be deemed to be a release of, in whole or in part, or otherwise adversely affect, the lien, mortgage, or security interest of the Mortgage.

3. Representations and Warranties of Mortgagor. Mortgagor hereby represents, covenants and warrants to Mortgagee as follows:

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(a) The representations and warranties in the Mortgage and the other Loan Documents are true and correct as of the date hereof.

(b) There is currently no Default under the Credit Agreement and no default or event of default under the other Loan Documents and Mortgagor does not know of any event or circumstance which with the giving of notice or passing of time, or both, would constitute a default or an event of default under the Credit Agreement or any other Loan Document.

(c) The Credit Agreement and the other Loan Documents are in full force and effect and, following the execution and delivery of this Agreement, they continue to be the legal, valid and binding obligations of Mortgagor enforceable in accordance with their respective terms, subject to limitations imposed by general principles of equity.

(d) There has been no material adverse change in the financial condition of Mortgagor or any other party whose financial statement has been delivered to Mortgagee in connection with the Credit Agreement from the date of the most recent financial statement received by Mortgagee.

(e) As of the date hereof, Mortgagor has no claims, counterclaims, defenses, or set-offs with respect to the loans or the Loan Documents as modified herein.

(f) Mortgagor validly exists under the laws of the State of its formation or organization and has the requisite power and authority to execute and deliver this Agreement and to perform under the Credit Agreement and the Loan Documents as modified herein. The execution and delivery of this Agreement and the performance of the Credit Agreement and the Loan Documents as modified herein have been duly authorized by all requisite action by or on behalf of Mortgagor. This Agreement has been duly executed and delivered on behalf of Mortgagor.

#### 4. Miscellaneous.

(a) This Agreement shall be governed by and construed in accordance with the laws of the State of Illinois, without reference to the choice of law or conflicts of law principles.

(b) This Agreement shall not be construed more strictly against Mortgagee than against Mortgagor merely by virtue of the fact that the same has been prepared by counsel for Mortgagee, it being recognized that Mortgagor and Mortgagee have contributed substantially and materially to the preparation of this Agreement, and Mortgagor and Mortgagee each acknowledges and waives any claim contesting the existence and the adequacy of the consideration given by the other in entering into this Agreement. Each of the parties to this Agreement represents that it has been advised by its respective counsel of the legal and practical effect of this Agreement, and recognizes that it is executing and delivering this Agreement, intending thereby to be legally bound by the terms and provisions thereof, of its own free will, without promises or threats or the exertion of duress upon it. The signatories hereto state that they have read and understand this Agreement, that they intend to be legally bound by it and that they

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expressly warrant and represent that they are duly authorized and empowered to execute it.

(c) Notwithstanding the execution of this Agreement by Mortgagee, the same shall not be deemed to constitute Mortgagee as a venturer or partner of or in any way associated with Mortgagor nor shall privity of contract be presumed to have been established with any third party.

(d) Mortgagor and Mortgagee each acknowledges that there are no other understandings, agreements or representations, either oral or written, express or implied, that are not embodied in the Loan Documents, as the same may be amended, restated, modified or supplemented, and this Agreement, which collectively represent a complete integration of all prior and contemporaneous agreements and understandings of Mortgagor and Mortgagee; and that all such prior understandings, agreements and representations are hereby modified as set forth in this Agreement. Except as expressly modified hereby, the terms of the Loan Documents are, and remain, unmodified and in full force and effect.

(e) This Agreement shall bind and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, successors and assigns.

(f) Any references to the "Notes", the "Mortgage" or the "Loan Documents" contained in any of the Loan Documents shall be deemed to refer to the Notes, the Mortgage and the other Loan Documents, as the same may be amended, restated, modified or supplemented. The paragraph and section headings used herein are for convenience only and shall not limit the substantive provisions hereof. All words herein which are expressed in the neuter gender shall be deemed to include the masculine, feminine and neuter genders. Any word herein which is expressed in the singular or plural shall be deemed, whenever appropriate in the context, to include the plural and the singular.

(g) This Agreement may be executed in one or more counterparts, all of which, when taken together, shall constitute one original Agreement.

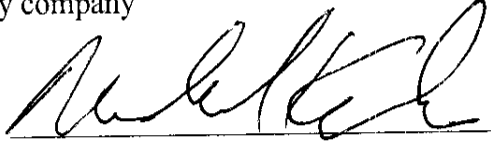
(h) Time is of the essence of each of Mortgagor's obligations under this Agreement.

[Signature appears on following page]

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

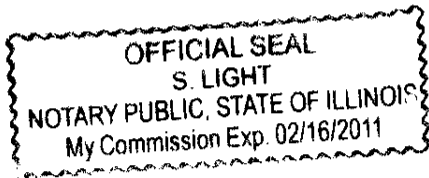
MKM PROPERTIES, LLC, an Illinois limited liability company

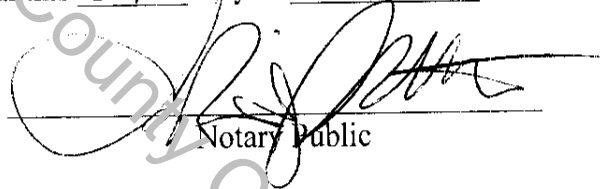
By:   
Michael Kuhns, its Manager

STATE OF ILLINOIS        )  
  ) ss.  
COUNTY OF COOK        )

I, the undersigned, a Notary Public, in and for the County and State aforesaid, DO HEREBY CERTIFY, that Michael Kuhns, personally known to me to be the Manager of MKM Properties, LLC, an Illinois limited liability company, appeared before me this day in person and severally acknowledged that he signed and delivered this instrument as, as his free and voluntary act, and as the free and voluntary act and deed of the Company for the uses and purposes therein set forth

Given under my hand and official seal this 29<sup>th</sup> day of October, 2010



  
Notary Public

My Commission Expires: 02/16/2011

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## EXHIBIT A

### LEGAL DESCRIPTION

LOT 3 (EXCEPT THAT PART THEREOF DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHEAST CORNER OF SAID LOT 3 AND RUNNING THENCE WEST ALONG THE NORTH LINE THEREOF A DISTANCE OF 10.00 FEET; THENCE SOUTHEASTWARDLY ALONG A STRAIGHT LINE, A DISTANCE OF 85.59 FEET TO A POINT ON THE EAST LINE OF SAID LOT WHICH IS 85.00 FEET SOUTH FROM THE NORTHEAST CORNER THEREOF, AND THENCE NORTH ALONG SAID EAST LOT LINE THE DISTANCE OF 85.00 FEET TO THE POINT OF BEGINNING) IN THE MILWAUKEE ROAD'S PLAT OF INDUSTRIAL LOTS IN THE NORTHEAST 1/4 OF SECTION 20, TOWNSHIP 40 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PIN #12-20-201-079-0000 ✓

Address: 3901 Carnation St., Franklin Park, IL 60131 ✓

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