

(1 of 3)

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## Illinois Anti-Predatory Lending Database Program



### Certificate of Exemption

Doc#: 1113822057 Fee: \$82.00  
Eugene "Gene" Moore RHSP Fee: \$10.00  
Cook County Recorder of Deeds  
Date: 05/18/2011 01:48 PM Pg: 1 of 24

**Report Mortgage Fraud**  
**800-532-8785**

The property identified as: **PIN: 18-09-416-023-0000**

**Address:**

**Street:** 5301 DANSHER ROAD

**Street line 2:**

**City:** COUNTRYSIDE

**State:** IL

**ZIP Code:** 60525

**Lender:** BRANCH BANKING AND TRUST COMPANY

**Borrower:** FAIRVIEW COMMERCIAL LENDING, INC

**Loan / Mortgage Amount:** \$453,165.00

This property is located within the program area and is exempt from the requirements of 765 ILCS 77/70 et seq. because it is commercial property.

**Certificate number:** 15F3F21C-B498-4432-B49A-5B32F1946CD1

**Execution date:** 05/18/2011

Property of Cook County Clerk's Office

C.T.I.C. 8426420 DR KARSA

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THIS INSTRUMENT WAS PREPARED BY  
AND, UPON RECORDATION, RETURN TO:  
Branch Banking and Trust Company  
200 West Second Street  
Winston-Salem, North Carolina 27101  
Attention: Wanda Grubb

**MORTGAGE AND SECURITY AGREEMENT**  
**(Collateral is or Includes Fixtures)**

THIS MORTGAGE AND SECURITY AGREEMENT (the "Mortgage") is made as of May 18, 2011, by and between:

MORTGAGOR:

FAIRVIEW COMMERCIAL  
LENDING, INC., a Georgia corporation  
1932 North Druid Hills Road  
Suite 250  
Atlanta, Georgia 30319

MORTGAGEE:

BRANCH BANKING AND TRUST COMPANY,  
a North Carolina banking corporation  
200 West Second Street, Third Floor  
Winston Salem, North Carolina 27101

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THE FOLLOWING INFORMATION APPLIES TO THIS MORTGAGE:

1. The original principal amount of the Debt (defined below), secured by this Mortgage is FOUR HUNDRED FIFTY-THREE THOUSAND ONE HUNDRED SIXTY-FIVE AND NO/100 DOLLARS (\$453,165.00), plus any present and future advances.
2. The Debt, on the date hereof, is evidenced by a variable rate Promissory Note and/or other Loan Documents (defined below) described by name, parties, dollar amount, and date as follows: Promissory Note of even date herewith in the amount of \$453,165.00 executed by Mortgagor (the "Note"); and may be evidenced by and shall be at all times deemed to include, any and all other notes or other documents now or hereafter evidencing any debt whatsoever incurred by Mortgagor and payable to Mortgagee, the terms of which are incorporated herein by reference.
3. This Mortgage secures the payment of the Debt, including present and future advances.
4. The Debt has a maturity date of September 30, 2011.
5. Any future advances shall be evidenced by a promissory note or modification agreement and shall be secured by this Mortgage.

**BBT 405 (9508)**  
WCSR 4200864v5  
Illinois

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6. The real property which is the subject of this Mortgage is located in Countryside, Cook County, Illinois, and the legal description is set forth as follows:

See Exhibit "A" attached hereto and incorporated herein by this reference.

STATEMENT OF PURPOSE: In this Mortgage reference shall be made to the "Loan Documents" and such a reference is deemed to apply to all of the instruments which evidence or describe the Debt, or which secure its payment, and to all renewals, extensions and modifications thereof, whether heretofore or hereafter executed, and includes without limitation all writings described generally and specifically in this Mortgage. This Mortgage shall secure the performance of all obligations of Mortgagor and of any third party to Mortgagee which are described in this Mortgage, in the Note or in the other Loan Documents, and such performance includes the payment of the Debt. In this Mortgage the definition of "Debt" includes: (i) the principal; (ii) all accrued interest including possible fluctuations of the interest rate if so provided in the Note or other Loan Documents; (iii) all renewals, modifications, additional advances, or extensions of any obligation under the Note or other Loan Documents (even if such renewals, modifications, additional advances, or extensions are evidenced by new notes or other documents); (iv) all other obligations of Mortgagor to Mortgagee which are described in this Mortgage, or in the Note or other Loan Documents (for example, payment of the reasonable attorneys fees of the Mortgagee, insurance premiums and ad valorem taxes); and (v) any and all other indebtedness, whether direct or indirect, owing or to be owed by Mortgagor to Mortgagee.

NOW, THEREFORE, for the purposes and under the conditions described in this Mortgage and in consideration of the Debt and the mutual promises of Mortgagor and Mortgagee, and other good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, Mortgagor hereby grants, bargains, sells, aliens, remises, releases, mortgages, transfers, assigns, conveys, warrants and confirms to Mortgagee the real property described in this Mortgage, together with any improvements, equipment and fixtures existing or hereafter placed on or attached to this real property, all proceeds thereof and all other appurtenant rights and privileges. The term the "Property" shall include this real property, any such improvements, fixtures, and also all appurtenant rights and privileges. This instrument also evidences the conveyance, pledge and grant of all personal property owned by Mortgagor and located on, or used in connection with the Property as described on Exhibit "B" attached hereto and incorporated herein by this reference.

This Mortgage is intended to constitute a security agreement under the Uniform Commercial Code of the State in which the Property is located (the "UCC") and is further intended to create a lien on and security interest in those items on Exhibit "B" attached hereto and incorporated herein by this reference. The goods are described by item or type on Exhibit "B" of this Mortgage. The Mortgagor is the debtor, and the Mortgagee is the secured party. The names of the debtor (Mortgagor) and the secured party (Mortgagee) are given in the first paragraph and in Section 22 of this Mortgage. This Mortgage is signed by the debtor (Mortgagor) as a fixture filing. The mailing address of the Mortgagee set out in Section 22 is an address of the secured party from which information concerning the security interest may be obtained. The mailing address of the Mortgagor set out in Section 22 is a mailing address for the debtor. A statement indicating the types, or describing the items, of collateral is set forth in this Exhibit "B" of this Mortgage. The real estate to which the goods are or are to become affixed is described in Exhibit "A". The Mortgagor is a record owner of the real estate.

TO HAVE AND TO HOLD the Property, together with all the rights, privileges, and appurtenances thereunto belonging to Mortgagee, its successors and assigns, under the terms and conditions of this Mortgage, to which Mortgagor and Mortgagee hereby agree:

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1. **PERFORMANCE BY MORTGAGOR.** Mortgagor shall fulfill all of Mortgagor's obligations as specified in this Mortgage, the Note or the other Loan Documents.

2. **TAXES, ASSESSMENTS, OTHER ENCUMBRANCES.** Mortgagor shall make timely payment of all ad valorem taxes, assessments or other charges or encumbrances which may constitute a lien upon the Property. Mortgagor shall timely pay and perform any obligation, covenant or warranty contained in any other Mortgage or writing (the "Other Mortgage") which gives rise to any or which may constitute a lien upon any of the Property. Mortgagor shall upon request of Mortgagee promptly furnish satisfactory evidence of such payment or performance. Notwithstanding the foregoing, Mortgagor may contest the validity and/or the amount of any such taxes, assessments or other charges referred to in this paragraph at Mortgagor's sole cost and expense and shall not be required to pay or discharge any such obligation imposed upon Mortgagor in any of this section so long as (i) Mortgagor shall in good faith contest the same by appropriate legal proceedings which shall operate to prevent the collection thereof or other realization thereon and the sale, levy, or forfeiture of or upon all or any part of the Property to satisfy the same; (ii) at Mortgagee's request, Mortgagor shall deposit in escrow with a title insurance company acceptable to Mortgagee or provide other security reasonably satisfactory to Mortgagee an amount equal to the amount being contested, plus a reasonable additional sum to cover possible costs, interests and penalties. Mortgagor shall not enter into, terminate, cancel or amend any lease affecting the Property or any part thereof without the prior written consent of Mortgagee. Mortgagor shall timely pay and perform all terms of any lease or sublease of the Property or any part thereof. Mortgagor shall promptly deliver to Mortgagee receipts showing payment in full of all of the above items. Any official receipt therefor shall be conclusive evidence of such payment and of the validity of such charges.

3. **INSURANCE.** Mortgagor shall keep insured all improvements which are now existing and which might hereafter become part of the Property, against loss by fire and other hazards, casualties and contingencies in such amounts and for such periods as may be required from time to time by Mortgagee; and Mortgagor shall pay promptly, when due, any premiums on the insurance. All insurance shall be carried with companies approved by Mortgagee and Mortgagor shall cause all policies and renewals thereof to be delivered to Mortgagee; and the policies shall contain mortgagee loss payable clauses in favor of and in form acceptable to Mortgagee and shall include a "New York" mortgage clause. In the event of loss, Mortgagor shall give immediate notice to Mortgagee, and Mortgagee may make proof of loss if such is not made promptly by Mortgagor. Any insurer is hereby expressly authorized and directed to make payment for the loss directly and solely to Mortgagee. Further, Mortgagee may apply the insurance proceeds, or any part thereof, in its sole discretion and at its option, either to the reduction of the Debt or to the restoration or repair of any portion of the Property damaged, or for any other purpose of object satisfactory the Mortgagee, but Mortgagee shall not be obligated to see to the proper application of any amount paid over to Mortgagor.

4. **ESCROW DEPOSITS.** Upon demand of Mortgagee, Mortgagor shall add to each payment required under the Note or the other Loan Documents the amount estimated by Mortgagee to be sufficient to enable Mortgagee to pay as they become due all taxes, charges, assessments, and insurance premiums which Mortgagor is required to pay. Further, any deficiency occasioned by an insufficiency of such additional payments shall be deposited by Mortgagor with Mortgagee upon demand.

5. **PRESERVATION AND MAINTENANCE OF THE PROPERTY.** Mortgagor shall keep the Property in as good order and repair as it now is (reasonable wear and tear excepted) and shall neither commit nor permit any waste or any other occurrence or use which might impair the value of the Property. Mortgagor shall not initiate or acquiesce in a change in the zoning classification of the Property or make or permit any structural alteration thereof without Mortgagee's prior written consent. In addition, Mortgagor shall submit to Mortgagee's approval (which approval shall not be unreasonably

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withheld) prior to the execution thereof by Mortgagor all proposed easements, declarations, licenses and other instruments which would or might affect title to the Property, accompanied in the case of easements by a survey showing the exact proposed location thereof and such other information as Mortgagee shall require; provided, however, that customary easements in standard form for public utilities (i.e., water, sewer, gas, electric and telephone) serving only the Property shall not require Mortgagee's approval. Mortgagor shall not subject the Property or any part thereof to any restrictive covenant without the prior written consent of Mortgagee, which consent shall not be unreasonably withheld. Mortgagor shall comply with all restrictive covenants and easements currently affecting the Property or hereafter placed upon the Property in accordance with the terms hereof.

6. **COMPLIANCE WITH LAWS.** Mortgagor shall regularly and promptly comply with any applicable legal requirements of the United States, the State of Illinois or other governmental entity, agency or instrumentality relating to the use or condition of the Property.

7. **CONDEMNATION AWARD.** Any award for the taking of, or damages to, all or any part of the Property or any interest therein upon the lawful exercise of the power of eminent domain shall be payable solely to Mortgagee, which may apply the sums so received to payment of the Debt.

8. **PAYMENTS BY MORTGAGEE.** If Mortgagor shall be in default in the timely payment or performance of any of Mortgagor's obligations, the Note or the other Loan Documents, under this Mortgage or the Other Mortgage, Mortgagee may, but is not obligated to, expend for the account of Mortgagor any sums, expenses and fees which Mortgagee believes appropriate for the protection of the Property and the maintenance and execution of this Mortgage. Any amounts so expended shall be deemed principal advances fully secured by this Mortgage, shall bear interest from the time expended until paid at the rate of interest accruing on the Debt, and shall be due and payable on demand.

9. **RENTS AND PROFITS.** Mortgagor hereby assigns to Mortgagee all future rents and profits from the Property as additional security for the payment of the Debt and for the performance of all obligations secured by this Mortgage. Mortgagor hereby appoints Mortgagee as Mortgagor's attorney-in-fact to collect any rents and profits, with or without suit, and to apply the same, less expenses of collection, to the Debt or to any obligations secured by this Mortgage, in any manner as Mortgagee may desire. However, until default under the Note or the other Loan Documents or under this Mortgage, Mortgagor may continue to collect and retain the rents and profits without any accountability to Mortgagee. Mortgagee's election to pursue the collection of the rents or profits shall be in addition to all other remedies which Mortgagee might have and may be put into effect independently of or concurrently with any other remedy.

10. **SECURITY INTEREST.** All the fixtures and equipment which comprise a part of the Property shall, as far as permitted by law, be deemed to be affixed to the aforesaid land and conveyed therewith. As to the balance of the fixtures and equipment, this Mortgage shall be considered to be a security agreement which creates a security interest in such fixtures and equipment for the benefit of Mortgagee. Mortgagor authorizes Mortgagee to file all financing statements and other documents reasonably required to perfect and maintain the security interest created hereby. Upon Mortgagor's breach of any covenant or agreement of Mortgagor contained in this Instrument, including the covenant to pay when due all sums secured by this Instrument, Mortgagee shall have the remedies of a Secured Party under the UCC, as well as the other remedies set forth in Section 19 of this Mortgage. Mortgagor and Mortgagee agree that the filing of any such financing statement or statements in the records normally having to do with personal property shall not in any way affect the agreement of Mortgagor and Mortgagee that everything used in connection with the production of income from the Property or adapted for use therein which is described or reflected in this Mortgage, is, and at all times and for all purposes

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and in all proceedings, both legal or equitable, shall be regarded as part of the real estate conveyed hereby regardless of whether (i) any such item is physically attached to the improvements; (ii) serial numbers are used for the better identification of certain items capable of being thus identified in an exhibit to this Mortgage; or (iii) any such item as referred to reflected in any such financing statement or statements so filed at any time. Similarly, the mention in any such financing statement or statements of the rights in and to (i) the proceeds of any fire and/or hazard insurance policy, or (ii) any award in eminent domain proceedings for a taking or for loss of value, or (iii) Mortgagee's interest as lessor in any present or future lease or rights to income growing out of the use and/or occupancy of the Property, whether pursuant to lease or otherwise, shall not in any way alter any of the rights of Mortgagee as determined by this Mortgage or affect the priority of Mortgagee's security interest and granted hereby or by any other recorded document, it being understood and agreed that such mention in such financing statement or statements is solely for the protection of Mortgagee in the event any court shall at any time hold with respect to the foregoing clauses (i), (ii) or (iii) of this sentence, that notice of Mortgagee's priority of interest, to be effective against a particular class of persons, must be filed in the appropriate Uniform Commercial Code records. Mortgagor warrants that the location of the collateral is or will be upon the Property (excepting materials intended to be located thereon and stored temporarily off site). Mortgagor covenants and agrees with Mortgagee as follows: (a) if an individual, Mortgagor will furnish Mortgagee with notice of any change in Mortgagor's principal residence within thirty (30) days of such change; (b) if an organization, Mortgagor will furnish Mortgagee with notice of any change in Mortgagor's place of business within thirty (30) days of such change or, if Mortgagor has more than one place of business, of any change of its chief executive office; (c) if a registered organization, Mortgagor will furnish Mortgagee with notice of any change of its state of organization within thirty (30) days of such change.

11. **MORTGAGOR'S CONTINUING OBLIGATION.** This Mortgage shall remain as security for full payment of the Debt and for performance of any obligation evidenced by the Note or the other Loan Documents, notwithstanding any of the following: (a) the sale or release of all or any part of the Property; (b) the assumption by another party of Mortgagor's obligations under this Mortgage, the Note or the other Loan Documents; (c) the forbearance or extension of time for payment of the Debt or for performance of any obligations under this Mortgage, the Note or the other Loan Documents, whether granted to Mortgagor or to a subsequent owner of the Property; or (d) the release of any party who has assumed payment of the Debt or who assumed any other obligations under this Mortgage, the Note or the other Loan Documents. None of the foregoing shall, in any way, affect the full force and effect of the lien of this Mortgage or impair Mortgagee's right to a deficiency judgment in the event of foreclosure against Mortgagor or any party who had assumed payment of the Debt or who assumed any other obligations the performance of which is secured by this Mortgage. Mortgagor shall execute and deliver (and pay for the costs of preparation and recording) to Mortgagee and to any subsequent holder from time to time, upon demand, any further instrument or instruments, including, but not limited to, mortgages, security agreements, financing statements, assignments and renewal and substitution notes, so as to reaffirm, to correct and to perfect the evidence of the obligation hereby secured and the legal security title of Mortgagee to all or any part of the Property intended to be hereby conveyed, whether now conveyed, later substituted for, or acquired subsequent to the date of this Mortgage and extensions or modifications thereof. Mortgagor, upon request, made either personally or by mail, shall certify by a writing, duly acknowledged, to Mortgagee or to any proposed Assignee of this Mortgage, the amount of principal and interest then owing on the Debt and whether or not any offset or defenses exist against the Debt, within six (6) days in case the request is made personally, or within ten (10) days after the mailing of such request in the case the request is made by mail.

12. **INDEMNIFICATION IN EVENT OF ADVERSE CLAIMS.** In the event that Mortgagee voluntarily or otherwise shall become parties to any suit or legal proceeding involving the Property, they shall be saved harmless and shall be reimbursed by Mortgagor for any amounts paid,

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including all costs, charges and reasonable attorney's fees incurred in any such suit or proceeding, and the same shall be secured by this Mortgage and payable upon demand.

13. **INSPECTION.** Mortgagee may at any reasonable time and from time to time make or cause to be made reasonable entries upon, investigations, and inspections of the Property, including without limitation any inspections or investigations such as sampling and testing which may be necessary or desirable to review compliance with Environmental Laws.

14. **WARRANTIES.** Mortgagor covenants with Mortgagee that Mortgagor is seized of the Property in fee simple, has the right to convey the same in fee simple, that title to the Property is marketable and free and clear of all encumbrances, and that Mortgagor will warrant and defend the title against the lawful claims of all persons whomsoever, subject only to any declarations, easements, restrictions or encumbrances listed in the title opinion or title insurance policy which Mortgagee obtained in the transaction in which Mortgagee obtained this Mortgage.

15. **ATTORNEYS' FEES.** In the event that Mortgagor shall default in its obligations under this Mortgage, the Note or the other Loan Documents, and Mortgagee employs an attorney to assist in the collection of the Debt or to enforce compliance of Mortgagor with any of the provisions of this Mortgage, the Note or the other Loan Documents or in the event Mortgagee shall become parties to any suit or legal proceeding (including any proceeding conducted before any United States Bankruptcy Court) concerning the Property, concerning the lien of this Mortgage, concerning collection of the Debt or concerning compliance by Mortgagor with any of the provisions of this Mortgage, the Note or the other Loan Documents, Mortgagor shall pay Mortgagee's reasonable attorneys' fees and all of the costs that may be incurred, and such fees and costs shall be secured by this Mortgage and its payment enforced as if it were a part of the Debt. Mortgagor shall be liable for such attorneys' fees and costs whether or not any suit or proceeding is commenced.

16. **ANTI-MARSHALLING PROVISIONS.** Mortgagee may grant releases at any time and from time to time of all or any portion of the Property (whether or not such releases are required by agreement among the parties) agreeable to Mortgagee without notice to or the consent, approval or agreement of other parties and interests, including junior lienors and purchasers subject to the lien of this Mortgage, and such releases shall not impair in any manner the validity of or priority of this Mortgage on that portion of the Property remaining subject to this Mortgage, nor release Mortgagor from personal liability for the Debt. Notwithstanding the existence of any other security interests in the Property held by Mortgagee or by any other party, Mortgagee shall have the right to determine the order in which any or all of the Property shall be subjected to the remedies available to Mortgagee, and Mortgagee shall further have the right to determine the order in which any or all portions of the Debt are satisfied from the proceeds realized upon the exercise of any remedy it has. Mortgagor, or any party who consents to this, or any party who has actual or constructive notice hereof, hereby waives any and all rights to require the marshalling of assets in connection with the exercise of any of the remedies permitted by applicable law or provided herein.

17. **ENVIRONMENTAL ISSUES.** Mortgagor for itself, its successors and assigns represents, warrants and agrees that (a) neither Mortgagor nor any other person has used or installed any Hazardous Material (as hereinafter defined) on the Property or received any notice from any governmental agency, entity or other person with regard to Hazardous Materials on, from or affecting the Property; (b) neither Mortgagor nor any other person has violated any applicable Environmental Laws (as hereinafter defined) relating to or affecting the Property; (c) the Property is presently in compliance with all Environmental Laws; there are no circumstances presently existing upon or under the Property, or relating to the Property which may violate any applicable Environmental Laws, and there is not now

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pending, or threatened, any action, suit, investigation or proceeding against Mortgagor relating to the Property (or against any other party relating to the Property) seeking to enforce any right or remedy under any of the Environmental Laws; (d) the Property shall be kept free of Hazardous Materials, and shall not be used to generate, manufacture, transport, treat, store, handle, dispose, or process Hazardous Materials; (e) Mortgagor shall not cause nor permit the installation of Hazardous Materials in the Property nor a release of Hazardous Materials on the Property; (f) Mortgagor shall at all times comply with and ensure compliance by all other parties with all applicable Environmental Laws relating to or affecting the Property and shall keep the Property free and clear of any liens imposed pursuant to any applicable Environmental Laws; (g) the Mortgagor has obtained and will at all times continue to obtain and/or maintain all licenses, permits, and/or other governmental or regulatory actions necessary to comply with Environmental Laws (the "Permits") and the Mortgagor is in full compliance with the terms and provisions of the Permits and will continue to comply with the terms and provisions of the Permits; (h) Mortgagor shall immediately give the Mortgagee oral and written notice in the event that Mortgagor receives any notice from any governmental agency, entity, or any other party with regard to Hazardous Materials on, from or affecting the Property and shall conduct and complete all investigations, sampling, and testing, and all remedial, removal, and other actions necessary to clean up and remove all Hazardous Materials on, from or affecting the Property in accordance with all applicable Environmental Laws. The Mortgagor hereby agrees to indemnify the Mortgagee and hold the Mortgagee harmless from and against any and all losses, liabilities, damages, injuries (including, without limitation, reasonable attorneys' fees and costs of collection) and claim, of any and every kind whatsoever paid, incurred or suffered by, or asserted against Mortgagee for, with respect to, or as a direct or indirect result of (a) the presence on, or under, or the escape, spillage, emission or release from the Property of any Hazardous Material regardless of whether or not caused by or within the control of Mortgagor, (b) the violation of any Environmental Laws relating to or affecting the Property, whether or not caused by or within the control of Mortgagor, (c) the failure by Mortgagor to comply fully with the terms and provisions of this paragraph, or (d) any warranty or representation made by Mortgagor in this paragraph being false or untrue in any material respect. For purposes of this Mortgage, "Hazardous Material" means and includes petroleum products, any flammable explosives, radioactive materials, asbestos or any material containing asbestos, and/or any hazardous, toxic or dangerous waste, substance or material defined as such in (or for the purpose of) the Environmental Laws. For the purposes of this Mortgage, "Environmental Laws" means the Comprehensive Environmental Response, Compensation and Liability Act, the Hazardous Materials Transportation Act, the Resource Conservation and Recovery Act, any "Super Fund" or "Super Lien" law, or any other federal, state, or local law, regulation or decree regulating, relating to or imposing liability or standards of conduct concerning any petroleum products, any flammable explosives, radioactive materials, asbestos or any material containing asbestos, and/or hazardous, toxic or dangerous waste, substance or material, as may now or at any time hereafter be in effect. The obligations and liabilities of Mortgagor under this paragraph shall survive the foreclosure of the Mortgage, the delivery of a deed in lieu of foreclosure, the cancellation of the Note; or if otherwise expressly permitted in writing by the Mortgagee, the sale or alienation of any part of the Property.

18. **EVENTS OF DEFAULT.** Mortgagor shall be in default under this Mortgage upon the occurrence of any of the following:

(a) Default in the payment or performance of any of the obligations, or of any covenant or warranty, in this Mortgage, in the Note or in the other Loan Documents, or in any other note of Mortgagor to Mortgagee or any contract between Mortgagor and Mortgagee; or in any contract between any third party and Mortgagee made for the benefit of Mortgagee; or



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(b) Any warranty, representation or statement made or furnished to Mortgagee by or on behalf of Mortgagor in connection with this transaction proving to have been false in any material respect when made or furnished; or

(c) Loss, theft, substantial damage, destruction to or of the Property, or the assertion or making of any levy, seizure, mechanic's or materialman's lien or attachment thereof or thereon; or

(d) Death, dissolution, termination of existence, insolvency, business failure, appointment of a Receiver for any part of the property of, assignment for the benefit of creditors by, or the inability to pay debts in the ordinary course of business of the Mortgagor or any co-maker, endorser, guarantor or surety for Mortgagor; or

(e) Failure of a Mortgagor or any co-maker, endorser, guarantor or surety for Mortgagor to maintain its existence as a corporation, partnership or limited partnership, or limited liability company, as applicable, in good standing; or

(f) Upon the entry of any monetary judgment or the assessment of filing of any tax lien against Mortgagor; or upon the issuance of any writ of garnishment or attachment against any property of debts due or rights of Mortgagor; or

(g) The sale (including sale by land contract upon delivery of possession), transfer or encumbrance of all or any part of the Property or any interest therein, or any change in the ownership or control of any Mortgagor which is a corporation, partnership or limited partnership, or limited liability company, without Mortgagee's prior written consent; or

(h) If Mortgagee should otherwise in good faith deem itself, its security interests, the Property or the Debt unsafe or insecure; or should Mortgagee otherwise believe in good faith that the prospect of payment or other performance is impaired; or

(i) Default in the payment or performance of any of the obligations, or of any covenant or warranty, in any other contract of Mortgagor with a lender; or

(j) Default under any of the documents evidencing, securing or otherwise relating to the Related Loans, as more fully described in Section 24 hereof.

19. **REMEDIES OF MORTGAGEE UPON DEFAULT.** Upon the occurrence of any event of default, Mortgagor agrees that Mortgagee may take such action, without notice or demand, as it deems advisable to protect and enforce its rights against Mortgagor and in and to the Property, including, but not limited to, the following actions, each of which may be pursued concurrently or otherwise at such time and in such order as Mortgagee may determine, in its sole discretion, without impairing or otherwise affecting the other rights and remedies of Mortgagee:

(a) Right to Perform Mortgagor's Covenants. If Mortgagor has failed to keep or perform any covenant whatsoever contained in this Mortgage, the Note or the other Loan Documents, Mortgagee may, but shall not be obligated to any person to do so, perform or attempt to perform said covenant and any payment made or expense incurred in the performance or attempted performance of any such covenant, together with any sum expended by Mortgagee that is chargeable to Mortgagor or subject to reimbursement by Mortgagor under the Note or the other Loan Documents, shall be and become a part of the Debt and Mortgagor promises, upon demand, to pay to Mortgagee, at the place where the Note is payable, all sums so incurred, paid or expended by Mortgagee, with interest from the date when paid,

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incurred or expended by Mortgagee at Mortgagee's Prime Rate plus five percent (5%) per annum (the "Default Rate").

(b) Right of Entry. Mortgagee may, prior or subsequent to the institution of any foreclosure proceedings, enter upon the Property, or any part thereof, and take exclusive possession of the Property and of all books, records, and accounts relating thereto and to exercise without interference from Mortgagor any and all rights which Mortgagor has with respect to the management, possession, operation, protection, or preservation of the Property, including without limitation the right to rent the same for the account of Mortgagor and to deduct from such rents all costs, expenses, and liabilities of every character incurred by Mortgagee in collecting such rents and in managing, operating, maintaining, protecting, or preserving the Property and to apply the remainder of such rents on the Debt in such manner as Mortgagee may elect. All such costs, expenses, and liabilities incurred by Mortgagee in collecting such rents and in managing, operating, maintaining, protecting, or preserving the Property, if not paid out of rents as hereinabove provided, shall constitute a demand obligation owing by Mortgagor and shall bear interest from the date of expenditure until paid at the Default Rate, all of which shall constitute a portion of the Debt. If necessary to obtain the possession provided for above, Mortgagee may invoke any and all legal remedies to dispossess Mortgagor, including specifically one or more actions for forcible entry and detainer, trespass to try title, and restitution. In connection with any action taken by Mortgagee pursuant to this Subsection, Mortgagee shall not be liable for any loss sustained by Mortgagor resulting from any failure to let the Property, or any part thereof, or from any other act or omission of Mortgagee in managing the Property unless such loss is caused by the willful misconduct of Mortgagee, nor shall Mortgagee be obligated to perform or discharge any obligation, duty, or liability under any lease or under or by reason hereof or the exercise of rights or remedies hereunder. Mortgagor shall and does hereby agree to indemnify Mortgagee for, and to hold Mortgagee harmless from, any and all liability, loss, or damage, which may or might be incurred by Mortgagee under any such lease or under or by reason hereof or the exercise of rights or remedies hereunder, and from any and all claims and demands whatsoever which may be asserted against Mortgagee by reason of any alleged obligations or undertakings on its part to perform or discharge any of the terms, covenants, or agreements contained in any such lease. Should Mortgagee incur any such liability, the amount thereof, including without limitation costs, expenses, and reasonable attorneys' fees, together with interest thereon from the date of expenditure until paid at the Default Rate, shall be secured hereby, and Mortgagor shall reimburse Mortgagee therefor immediately upon demand. Nothing in this Subsection shall impose any duty, obligation, or responsibility upon Mortgagee for the control, care, management, leasing, or repair of the Property, nor for the carrying out of any of the terms and conditions of any such lease; nor shall it operate to make Mortgagee responsible or liable for any waste committed on the Property by the tenants or by any other parties, or for any Hazardous Materials or environmental conditions on or under the Property, or for any dangerous or defective condition of the Property or for any negligence in the management, leasing, upkeep, repair, or control of the Property resulting in loss or injury or death to any tenant, licensee, employee, or stranger. Mortgagor hereby assents to, ratifies, and confirms any and all actions of Mortgagee with respect to the Property taken under this Subsection. In any case in which under the provisions of this Mortgage, Mortgagee has a right to foreclose the lien hereof, Mortgagor shall, forthwith, upon demand by Mortgagee, surrender to Mortgagee, and Mortgagee shall be entitled to take actual possession of, the Property or any part thereof personally or by its agent or attorneys. In such event, Mortgagee in its discretion may, in accordance with law, enter upon and take and maintain possession of all or any part of the Property together with all documents, books, records, papers and accruals of Mortgagor or the then owner of the Property relating thereto and may exclude Mortgagor its agents or servants wholly therefrom and may, as attorney in fact, as agent for Mortgagor or in its own name as Mortgagee, and under the powers herein granted, hold, operate, manage and control the Property 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

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enforce the payment or security of the rent of the Property, 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 leases for any cause or on any ground which would entitle Mortgagor to cancel the same; (b) to elect to disaffirm any leases which are then subordinate to the lien hereof, unless such leases are covered by a nondisturbance agreement signed by Mortgagee; (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 Property are subject to the lien hereof and upon the purchaser or purchasers at any foreclosure sale, notwithstanding any redemption from sale, discharge of the mortgage indebtedness, satisfaction of any foreclosure decree, or issuance of any certificate of sale or deed to any purchaser; (d) to make all necessary or proper repairs, decorating, renewals, replacements, alterations, additions, betterments and improvements to the Property as to it may seem judicious; (e) to insure and reinsure the same and all risks incidental to Mortgagee's possession, operation and management thereof; and (f) to receive all of such rent; Mortgagor hereby granting full power and authority to exercise each and every of the rights, privileges and powers herein granted at any and all times hereafter, without notice to Mortgagor. Without limitation on the foregoing, in addition to any rights granted Mortgagee hereunder or under applicable law, Mortgagee shall have all powers, rights and duties as provided for in Sections 15-1701, 15-1702 and 15-1703 of the Act (defined below).

(c) Right to Accelerate. Mortgagee may, without notice demand, presentment, notice of nonpayment or nonperformance, protest, notice of protest, notice of intent to accelerate, notice of acceleration, or any other notice or any other action, all of which are hereby waived by Mortgagor and all other parties obligated in any manner whatsoever on the Debt, declare the entire unpaid balance of the Debt immediately due and payable, and upon such declaration, the entire unpaid balance of the Debt shall be immediately due and payable.

(d) Foreclosure-Power of Sale. Mortgagee may institute a proceeding or proceedings, judicial, or nonjudicial, by advertisement or otherwise, for the complete or partial foreclosure of this Mortgage or the complete or partial sale of the Property under power of sale or under any applicable provision of law. Mortgagee may sell the Property, and all estate, right, title, interest, claim and demand of Mortgagor therein, and all rights of redemption thereof, at one or more sales, as an entirety or in parcels, with such elements of real and/or personal property, and at such time and place and upon such terms as it may deem expedient, or as may be required by applicable law, and in the event of a sale, by foreclosure or otherwise, of less than all of the Property, this Mortgage shall continue as a lien and security interest on the remaining portion of the Property.

(e) Rights Pertaining to Sales. Subject to the requirements of applicable law and except as otherwise provided herein, the following provisions shall apply to any sale or sales of all or any portion of the Property under or by virtue of Subsection (d) above, whether made under the power of sale herein granted or by virtue of judicial proceedings or of a judgment or decree of foreclosure and sale:

(i) Mortgagee may conduct any number of sales from time to time. The power of sale set forth above shall not be exhausted by any one or more such sales as to any part of the Property which shall not have been sold, nor by any sale which is not completed or is defective in Mortgagee's opinion, until the Debt shall have been paid in full.

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(ii) Any sale may be postponed or adjourned by public announcement at the time and place appointed for such sale or for such postponed or adjourned sale without further notice.

(iii) After each sale, Mortgagee or an officer of any court empowered to do so shall execute and deliver to the purchaser or purchasers at such sale a good and sufficient instrument or instruments granting, conveying, assigning and transferring all right, title and interest of Mortgagor in and to the property and rights sold and shall receive the proceeds of said sale or sales and apply the same as specified in the this Mortgage. Mortgagee is hereby appointed the true and lawful attorney-in-fact of Mortgagor, which appointment is irrevocable and shall be deemed to be coupled with an interest, in Mortgagor's name and stead, to make all necessary conveyances, assignments, transfers and deliveries of the property and rights so sold, Mortgagor hereby ratifying and confirming all that said attorney or such substitute or substitutes shall lawfully do by virtue thereof. Nevertheless, Mortgagor, if requested by Mortgagee, shall ratify and confirm any such sale or sales by executing and delivering to Mortgagee or such purchaser or purchasers all such instruments as may be advisable, in Mortgagee's judgment, for the purposes as may be designated in such request.

(iv) Any and all statements of fact or other recitals made in any of the instruments referred to in Subsection (e) given by Mortgagee shall be taken as conclusive and binding against all persons as to evidence of the truth of the facts so stated and recited.

(v) Any such sale or sales shall operate to divest all of the estate, right, title, interest, claim and demand whatsoever, whether at law or in equity, of Mortgagor in and to the properties and rights so sold, and shall be a perpetual bar both at law and in equity against Mortgagor and any and all persons claiming or who may claim the same, or any part thereof or any interest therein, by, through or under Mortgagor to the fullest extent permitted by applicable law.

(vi) Upon any such sale or sales, Mortgagee may bid for and acquire the Property and, in lieu of paying cash therefor, may make settlement for the purchase price by crediting against the Debt the amount of the bid made therefor, after deducting therefrom the expenses of the sale, the cost of any enforcement proceeding hereunder, and any other sums which Mortgagee is authorized to deduct under the terms hereof, to the extent necessary to satisfy such bid.

(vii) Upon any such sale, it shall not be necessary for Mortgagee or any public officer acting under execution or order of court to have present or constructively in its possession any of the Property.

(f) Mortgagee's Judicial Remedies. Mortgagee may proceed by suit or suits, at law or in equity, to enforce the payment of the Debt to foreclose the liens and security interests of this Mortgage as against all or any part of the Property, and to have all or any part of the Property sold under the judgment or decree of a court of competent jurisdiction. This remedy shall be cumulative of any other nonjudicial remedies available to Mortgagee under this Mortgage, the Note or the other Loan Documents. Proceeding with a request or receiving a judgment for legal relief shall not be or be deemed to be an election of remedies or bar any available nonjudicial remedy of Mortgagee.

(g) Mortgagee's Right to Appointment of Receiver. Mortgagee, as a matter of right and (i) without regard to the sufficiency of the security for repayment of the Debt and without notice to Mortgagor, (ii) without any showing of insolvency, fraud, or mismanagement on the part of Mortgagor, (iii) without the necessity of filing any judicial or other proceeding other than the proceeding for appointment of a receiver, and (iv) without regard to the then value of the Property, shall be entitled to

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the appointment of a receiver or receivers for the protection, possession, control, management and operation of the Property, including (without limitation), the power to collect the rents, enforce this Mortgage 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. Mortgagor hereby irrevocably consents to the appointment of a receiver or receivers. Any receiver appointed pursuant to the provisions of this Subsection shall have the usual powers and duties of receivers in such matters. Such appointment may be made either before or after sale, 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 Property, and Mortgagee hereunder may be appointed as such receiver. Such receiver shall have power: (a) to collect the rent during the pendency of such foreclosure suit and, in case of a sale and a deficiency, during the full statutory period of redemption, if any, 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 rent; (b) to extend or modify any 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 to renewal 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 Property are subject to the lien hereof and upon the purchaser or purchasers at any foreclosure sale, notwithstanding any redemption from any judgment or decree of foreclosure, discharge of the mortgage 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 Property 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 to: (x) the Debt 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 any foreclosure sale; and (y) the deficiency in case of a sale and deficiency.

(h) Commercial Code Remedies. Mortgagee may exercise any and all rights and remedies granted to a secured party upon default under the UCC, including, without limiting the generality of the foregoing: (i) the right to take possession of personal property or any part thereof, and to take such other measures as Mortgagee may deem necessary for the care, protection and preservation of personal property, and (ii) request Mortgagor at its expense to assemble personal property and make it available to Mortgagee at a convenient place acceptable to Mortgagee. Any notice of sale, disposition or other intended action by Mortgagee with respect to the Personal Property sent to Mortgagor in accordance with the provisions hereof at least ten (10) days prior to such action, shall constitute commercially reasonable notice to Mortgagor.

(i) Other Rights. Mortgagee shall have and may exercise any and all other rights and remedies which Mortgagee may have at law or in equity, or by virtue of any of the Mortgage, the Note or the other Loan Documents, or otherwise.

(j) Discontinuance of Remedies. In case Mortgagee shall have proceeded to invoke any right, remedy, or recourse permitted under the Mortgage, the Note or the other Loan Documents and shall thereafter elect to discontinue or abandon same for any reason, Mortgagee shall have the unqualified right so to do and, in such event, Mortgagor and Mortgagee shall be restored to their former positions with respect to the Debt, the Mortgage, the Note or the other Loan Documents, the Property or otherwise, and the rights, remedies, recourses and powers of Mortgagee shall continue as if same had never been invoked.

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(k) Remedies Cumulative. All rights, remedies, and recourses of Mortgagee granted in this Mortgage, the Note and the other Loan Documents, any other pledge of collateral, or otherwise available at law or equity: (i) shall be cumulative and concurrent; (ii) may be pursued separately, successively, or concurrently against Mortgagor, the Property, or any one or more of them, at the sole discretion of Mortgagee; (iii) may be exercised as often as occasion therefor shall arise, it being agreed by Mortgagor that the exercise or failure to exercise any of same shall in no event be construed as a waiver or release thereof or of any other right, remedy, or recourse; (iv) shall be nonexclusive; (v) shall not be conditioned upon Mortgagee exercising or pursuing any remedy in relation to the Property prior to Mortgagee bringing suit to recover the Debt; and (vi) in the event Mortgagee elects to bring suit on the Debt and obtains a judgment against Mortgagor prior to exercising any remedies in relation to the Property, all liens and security interests, including the lien of this Mortgage, shall remain in full force and effect and may be exercised thereafter at Mortgagee's option.

(l) Bankruptcy Acknowledgment. In the event the Property or any portion thereof or any interest therein becomes property of any bankruptcy estate or subject to any state or federal insolvency proceeding, then Mortgagee shall immediately become entitled, in addition to all other relief to which Mortgagee may be entitled under this Mortgage, to obtain (i) an order from the Bankruptcy Court or other appropriate court granting immediate relief from the automatic stay pursuant to § 362 of the Bankruptcy Code so to permit Mortgagee to pursue its rights and remedies against Mortgagor as provided under this Mortgage and all other rights and remedies of Mortgagee at law and in equity under applicable state law, and (ii) an order from the Bankruptcy Court prohibiting Mortgagor's use of all "cash collateral" as defined under § 363 of the Bankruptcy Code. In connection with such Bankruptcy Court orders, Mortgagor shall not contend or allege in any pleading or petition filed in any court proceeding that Mortgagee does not have sufficient grounds for relief from the automatic stay. Any bankruptcy petition or other action taken by the Mortgagor to stay, condition, or inhibit Mortgagee from exercising its remedies are hereby admitted by Mortgagor to be in bad faith and Mortgagor further admits that Mortgagee would have just cause for relief from the automatic stay in order to take such actions authorized under state law.

(m) Application of Proceeds. The proceeds from any sale, lease, or other disposition made pursuant to this Mortgage, or the proceeds from the surrender of any insurance policies pursuant hereto, or any rents collected by Mortgagee from the Property, or proceeds from insurance which Mortgagee elects to apply to the Debt, shall be applied by Mortgagee to the Debt in the following order and priority: (i) to the payment of all expenses of advertising, selling, and conveying the Property or part thereof, and/or prosecuting or otherwise collecting rents, proceeds, premiums or other sums including reasonable attorneys' fees; (ii) to the remainder of the Debt as follows: first, to the remaining accrued but unpaid interest, second, to the matured portion of principal of the Debt, and third, to prepayment of the unmatured portion, if any, of principal of the Debt applied to installments of principal in inverse order of maturity; (iii) the balance, if any or to the extent applicable, remaining after the full and final payment of the Debt to the holder or beneficiary of any inferior liens covering the Property, if any, in order of the priority of such inferior liens (Mortgagee shall hereby be entitled to rely exclusively on a commitment for title insurance issued to determine such priority); and (iv) the cash balance, if any, to the Mortgagor. The application of proceeds of sale or other proceeds as otherwise provided herein shall be deemed to be a payment of the Debt like any other payment. The balance of the Debt remaining unpaid, if any, shall remain fully due and owing in accordance with the terms of the Note and the other Loan Documents.

20. RELEASE AND CANCELLATION. Upon fulfillment of all of obligations, the performance of which is secured by this Mortgage, and upon payment of the Debt, this Mortgage and the Note or the other Loan Documents shall be marked "Satisfied" and returned to Mortgagor, and this conveyance shall be null and void and may be cancelled of record at the request and cost of Mortgagor.

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21. MISCELLANEOUS. The captions and headings of the paragraphs of this Mortgage are for convenience only and shall not be used to interpret or define any provisions. All remedies provided herein are distinct and cumulative to any other right or remedy under this Mortgage or afforded by law or equity, and may be exercised concurrently, independently or successively. All covenants contained herein shall bind, and the benefits and advantages shall inure to, the respective heirs, executors, administrators, successors or assigns of the parties to this Mortgage, and the designations "Mortgagor" and "Mortgagee" include the parties, their heirs, executors, administrators, successors and assigns. Whenever used, the singular number shall include the plural, and the plural the singular, and the use of any gender shall be applicable to all genders. This Mortgage shall be governed by and construed under Illinois law. Any forbearance by Mortgagee in exercising any right or remedy hereunder, or otherwise afforded by applicable law, shall not be a waiver of or preclude the exercise of any such right or remedy. The procurement of insurance or the payment of taxes or other liens or charges by Mortgagee shall not be a waiver of Mortgagee's right to accelerate the maturity of the Debt. Time is of the essence in the payment or performance of any of the obligations, or of any covenant or warranty contained in this Mortgage, in the Note, or in the other Loan Documents. Any Riders, Exhibits or Addenda attached hereto shall be incorporated herein by this reference.

22. NOTICE. Except as otherwise expressly set forth herein, all notices, requests and other communications to any party hereunder shall be in writing (including facsimile or similar teletransmission or writing) and shall be given to such party at its address or facsimile number set forth below or such other address or facsimile number as such party may hereafter specify by notice to the other party. Each such notice, request or other communication shall be effective (a) if given by facsimile, when such facsimile is transmitted to the facsimile number specified herein and the receipt thereof is confirmed by the recipient, (b) if given by mail, seventy-two (72) hours after such communication is deposited in the U.S. mails with first class postage prepaid, addressed as aforesaid, or (c) if given by any other means (including by overnight delivery), when delivered at the address specified pursuant to this Section. The addresses for notice are:

Notice to Mortgagor:	Fairview Commercial Lending, Inc. 1932 North Druid Hills Road Suite 250 Atlanta, Georgia 30319 Attention: Lawrence Weinberg Facsimile No.: 404.634.0319
Notice to Mortgagee:	Branch Banking and Trust Company 401 West Main Street, 2 <sup>nd</sup> Floor Louisville, Kentucky 40202 Attention: Kevin M. Zemanski, Senior Vice President Facsimile No.: 502.562.6995
With a copy to:	Womble Carlyle Sandridge & Rice, PLLC 271 17 <sup>th</sup> Street, N.W. Suite 2400 Atlanta, Georgia 30363-1017 Attention: Laura L. Seidel, Esq. Facsimile No.: 404.870.4865

23. **WAIVER OF MORTGAGOR'S RIGHTS.** BY EXECUTION OF THIS MORTGAGE AND BY INITIALING THIS SECTION, MORTGAGOR EXPRESSLY:

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(A) ACKNOWLEDGES THE RIGHT TO ACCELERATE THE INDEBTEDNESS EVIDENCED BY THE NOTE AND POWER OF ATTORNEY GIVEN HEREIN TO MORTGAGEE TO SELL THE PROPERTY BY NONJUDICIAL FORECLOSURE UPON DEFAULT BY MORTGAGOR WITHOUT ANY JUDICIAL HEARING AND WITHOUT ANY NOTICE;

(B) WAIVES TO THE EXTENT PERMITTED BY APPLICABLE LAW ANY AND ALL RIGHTS WHICH MORTGAGOR MAY HAVE UNDER THE CONSTITUTION OF THE UNITED STATES (INCLUDING THE 5<sup>TH</sup> AND 14<sup>TH</sup> AMENDMENTS THERETO), THE VARIOUS PROVISIONS OF THE CONSTITUTION OF THE STATE OF ILLINOIS OR ANY OTHER APPLICABLE STATE, OR BY REASON OF ANY OTHER APPLICABLE LAW, TO NOTICE AND TO JUDICIAL HEARING PRIOR TO THE EXERCISE BY MORTGAGEE OF ANY RIGHT OR REMEDY HEREIN PROVIDED TO MORTGAGEE;

(C) ACKNOWLEDGES THAT MORTGAGOR HAS READ THIS MORTGAGE, AND ITS PROVISIONS HAVE BEEN FULLY EXPLAINED TO MORTGAGOR, AND MORTGAGOR HAS CONSULTED WITH COUNSEL OF MORTGAGOR'S CHOICE IF MORTGAGOR SO DESIRES, PRIOR TO EXECUTING THIS MORTGAGE;

(D) ACKNOWLEDGES THAT ALL WAIVERS OF THE AFORESAID RIGHTS OF MORTGAGOR HAVE BEEN MADE KNOWINGLY, INTENTIONALLY AND WILLINGLY BY MORTGAGOR AS PART OF A BARGAINED-FOR LOAN TRANSACTION;

(E) ACKNOWLEDGES THAT MORTGAGOR'S RIGHTS TO NOTICE SHALL BE LIMITED TO THOSE RIGHTS TO NOTICE PROVIDED IN THIS MORTGAGE AND NO OTHER; AND

(F) AGREES THAT THE PROVISIONS HEREOF ARE INCORPORATED INTO AND MADE A PART OF THE MORTGAGE.

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 MORTGAGOR'S INITIALS

## 24. CROSS-COLLATERALIZATION AND CROSS-DEFAULT

(a) Related Loans. Mortgagee has made, and will continue to make, loans (collectively, the "Related Loans") evidenced by Promissory Notes made by Mortgagor to the order of Mortgagee (collectively, the "Related Notes") secured by certain real property (collectively, the "Related Properties" and collectively, along with the Property, the "Properties") more particularly described in those certain security instruments recorded in the public records in the Counties where the Related Properties are located (collectively, the "Related Security Instruments" and collectively, along with this Mortgage, the "Security Instruments"). Mortgagor and Mortgagee are consummating the loan evidenced by the Note made by Mortgagor to the order of Mortgagee and secured by the Property described in this Mortgage (the "Loan").

(b) Cross-Collateralization. The Loan and the Related Loans are hereby cross-collateralized. Specifically, Mortgagor agrees that, in the event that any of the Security Instruments is foreclosed, and the proceeds of such foreclosure exceed the primary indebtedness secured thereby (the Loan being the primary indebtedness secured by this Mortgage and the Related Loans being the primary indebtedness secured by the Related Security Instruments), the excess proceeds shall be retained by Mortgagee and applied to the outstanding indebtedness secured by the other Security Instruments. Mortgagee shall be



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entitled to retain all proceeds of any foreclosure sale until all indebtednesses secured by the Security Instruments shall have been paid in full.

(c) Cross-Default. The Security Instruments are hereby cross-defaulted. Specifically, Mortgagor agrees that:

(i) a default under any of the documents evidencing, securing or otherwise relating to the Loan (including, without limitation, the Note and this Mortgage) shall also constitute a default under the documents evidencing, securing or otherwise relating to the Related Loans (including, without limitation, the Related Notes and the Related Security Instruments) and shall entitle Mortgagee to exercise any and all rights provided in the documents evidencing, securing or otherwise relating to the Related Loans, or otherwise available at law or in equity; and

(ii) a default under any of the documents evidencing, securing or otherwise relating to the Related Loans (including, without limitation, the Related Notes and the Related Security Instruments) shall also constitute a default under the documents evidencing, securing or otherwise relating to the Loan (including, without limitation, the Note and this Mortgage) and shall entitle Mortgagee to exercise any and all rights provided in the documents evidencing, securing or otherwise relating to the Loan, or otherwise available at law or in equity.

Mortgagor hereby acknowledges and agrees that, in the case of a default under any of the loan documents evidencing, securing or otherwise relating to the Loan or the Related Loans, Mortgagee may, at its option, foreclose this Mortgage, the Related Security Instruments or all Security Instruments. If Mortgagee shall foreclose any one or more Security Instruments, then the sale of either the Property or the Related Properties shall not exhaust Mortgagee's power of sale as to the other of such Properties, and Mortgagee is specifically empowered to make a successive sale or sales under such powers until all of the Properties shall be sold or the entire indebtedness extinguished.

## 25. SPECIAL STATE OF ILLINOIS PROVISIONS

(a) Protective Advances. Without limitation on the foregoing, all advances, disbursements and expenditures made by Mortgagee before and during a foreclosure, and before and after judgment of foreclosure, and at any time prior to sale, and, where applicable, after sale, and during the pendency of any related proceedings, for the following purposes, in addition to those otherwise authorized by this Mortgage or by the Illinois Mortgage Foreclosure Act, 735 ILCS 5/15-1101 et seq. (the "Act"), shall have the benefit of all applicable provisions of the Act, including those provisions of the Act hereinbelow referred to (collectively, the "Protective Advances"):

(i) all advances by Mortgagee in accordance with the terms of this Mortgage to: (A) preserve or maintain, repair, restore or rebuild any improvements upon the Property; (B) preserve the lien of this Mortgage or the priority thereof; or (C) enforce this Mortgage, as referred to in Subsection (b)(5) of Section 15-1302 of the Act;

(ii) payments by Mortgagee of: (A) when due installments of principal, interest or other obligations in accordance with the terms of any senior mortgage or other prior lien or encumbrance; (B) when due installments of real estate taxes and assessments, general and special and all other taxes and assessments of any kind or nature whatsoever which are assessed or imposed upon the Property or any part thereof; (C) other obligations authorized by this Mortgage; or (D) with court approval, any other amounts in connection with other liens, encumbrances or interests reasonably necessary to preserve the status of title, as referred to in Section 15-1505 of the Act;

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(iii) advances by Mortgagee in settlement or compromise of any claims asserted by claimants under senior mortgages or any other prior liens;

(iv) reasonable attorneys' fees and other reasonable out-of-pocket expenses incurred: (A) in connection with the foreclosure of this Mortgage as referred to in Sections 15-1504(d)(2) and 15-1510 of the Act; (B) in connection with any action, suit or proceeding brought by or against the Mortgagee for the enforcement of this Mortgage or arising from the interest of the Mortgagee hereunder; or (C) in the preparation for the commencement or defense of any such foreclosure or other action;

(v) Mortgagee's reasonable out-of-pocket fees and costs, including reasonable attorneys' fees, arising between the entry of judgment of foreclosure and confirmation hearing as referred to in Subsection (b)(1) of Section 15-1508 of the Act;

(vi) reasonable out-of-pocket expenses deductible from proceeds of sale as referred to in subsections (a) and (b) of Section 15-1512 of the Act; and

(vii) reasonable out-of-pocket expenses incurred and expenditures made by Mortgagee for any one or more of the following (A) if all or any portion thereof constitutes one or more units under a condominium declaration, assessments imposed upon the unit owner thereof; (B) if any interest in the Property is a leasehold estate under a lease or sublease, rentals or other payments required to be made by the lessee under the terms of the lease or sublease; (C) premiums for casualty and liability insurance paid by Mortgagee whether or not Mortgagee or a receiver is in possession, if reasonably required, in reasonable amounts, and all renewals thereof, without regard to the limitation to maintaining of existing insurance in effect at the time any receiver or Mortgagee takes possession of the Property imposed by subsection (c)(1) of Section 15-1704 of the Act; (D) repair or restoration of damage or destruction in excess of available insurance proceeds or condemnation awards; (E) payments required or deemed by Mortgagee to be for the benefit of the Property or required to be made by the owner of the Property under any grant or declaration of easement, easement agreement, agreement with any adjoining land owners or instruments creating covenants or restrictions for the benefit of or affecting the Property; (F) shared or common expense assessments payable to any association or corporation in which the owner of the Property is a member if any way affecting the Property; (G) costs incurred by Mortgagee for demolition, preparation for and completion of construction; and (H) pursuant to any lease or other agreement for occupancy of the Property.

This Mortgage shall be a lien for all Protective Advances as to subsequent purchasers and judgment creditors from the time this Mortgage is recorded pursuant to subsection (b)(1) of Section 15-1302 of the Act. All Protective Advances shall, except to the extent, if any, that any of the same is contrary to or inconsistent with the provisions of the Act, apply to and be included in: (i) determination of the amount of indebtedness secured by this Mortgage at any time; (ii) the indebtedness found due and owing to the Mortgagee in the judgment of foreclosure and any subsequent supplemental judgments, orders, adjudications or findings by the court of any additional indebtedness becoming due after such entry of judgment, it being agreed that in any foreclosure judgment, the court may reserve jurisdiction for such purpose; (iii) if right of redemption is deemed not to be waived by this Mortgage, computation of amount required to redeem, pursuant to subsections (d)(2) and (e) of Section 15-1603 of the Act; (iv) determination of amounts deductible from sale proceeds pursuant to Section 15-1512 of the Act; (v) application of income in the hands of any receiver or Mortgagee in possession; and (vi) computation of any deficiency judgment pursuant to subsections (b)(2) and (e) of Section 15-1508 and Section 15-1511 of the Act.

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(b) Business Loan Recital/Statutory Exemption.

(i) Mortgagor acknowledges and agrees that (A) the proceeds of the loan will be used in conformance with subparagraph (1)(l) of Section 4 of "An Act in relation to the rate of interest and other charges in connection with sales on credit and the lending of money," approved May 24, 1879, as amended (815 ILCS 205/4(1)(1)); (B) that the indebtedness secured hereby constitutes a business loan which comes within the purview of said Section 4; and (C) that the secured indebtedness is an exempted transaction under the Truth-in-Lending Act, 15 U.S.C. Sec. 1601 et seq.

(ii) Mortgagor acknowledges and agrees that the transaction of which this Mortgage is a part is a transaction which does not include either agricultural real estate (as defined in 735 ILCS 5/15-1201 (1992)) or residential real estate (as defined in 735 5/15-1219 (1992)).

(c) Maximum Mortgage Loan Secured. In no event shall the total amount of the Debt plus such additional amounts secured hereby exceed 300% of the original principal amount of the Note.

(d) WAIVER OF STATUTORY RIGHTS. TO THE FULLEST EXTENT PERMITTED UNDER APPLICABLE LAW, MORTGAGOR SHALL NOT AND WILL NOT APPLY FOR OR AVAIL ITSELF OF ANY HOMESTEAD, APPRAISEMENT, VALUATION, STAY, EXTENSION OR EXEMPTION LAWS, OR ANY SO-CALLED "MORATORIUM LAW," NOW EXISTING OR HEREAFTER ENACTED, IN ORDER TO PREVENT OR HINDER THE ENFORCEMENT OR FORECLOSURE OF THIS MORTGAGE, BUT HEREBY WAIVES THE BENEFIT OF SUCH LAWS. MORTGAGOR FOR ITSELF AND ALL WHO MAY CLAIM THROUGH OR UNDER IT WAIVES ANY AND ALL RIGHT TO HAVE THE PROPERTY AND ESTATES COMPRISING THE PROPERTY MARSHALLED UPON ANY FORECLOSURE OF THE LIEN HEREOF AND AGREE THAT ANY COURT HAVING JURISDICTION TO FORECLOSE SUCH LIEN MAY ORDER THE PROPERTY SOLD AS AN ENTIRETY. MORTGAGOR HEREBY WAIVES AND ANY ALL RIGHTS OF REDEMPTION FROM SALE UNDER ANY ORDER OR DECREE OF FORECLOSURE OF THIS MORTGAGE ON ITS BEHALF AND ON BEHALF OF EACH AND EVERY PERSON ACQUIRING ANY INTEREST IN OR TITLE TO THE PROPERTY SUBSEQUENT TO THE DATE OF THIS MORTGAGE. THE FOREGOING WAIVER OF THE RIGHT OF REDEMPTION IS MADE PURSUANT TO SECTION 15-1601 OF THE ACT. TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, MORTGAGOR FURTHER WAIVES DILIGENCE, DEMAND, PRESENTMENT, PROTEST AND NOTICE OF EVERY KIND IN CONNECTION WITH THE DELIVERY, ACCEPTANCE, PERFORMANCE, DEFAULT OR ENFORCEMENT OF THIS MORTGAGE AND THE DEBT.

(e) Future Advances and Revolving Credit Advances. This Mortgage also secures future advances and Protective Advances made within five (5) years from the date hereof made or to be made under the Loan Documents, which future advances shall, to the extent permitted by law, have the same priority as if all such future advances were made or issued on the date of execution hereof. Nothing in this Section or in any other provision of this Mortgage shall be deemed either (i) an obligation on the part of Mortgagee to make any future advances, or (ii) an agreement on the part of Mortgagee to increase the principal amount of the loan or the aggregate principal amount of the loan.

[SIGNATURE PAGE FOLLOWS]

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IN TESTIMONY WHEREOF, Mortgagor has hereunto set his/her hand and seal as of the date first above written.

**MORTGAGOR:**

FAIRVIEW COMMERCIAL LENDING, INC., a Georgia corporation

By: *Lawrence Weinberg*  
Lawrence Weinberg, President

[CORPORATE SEAL]

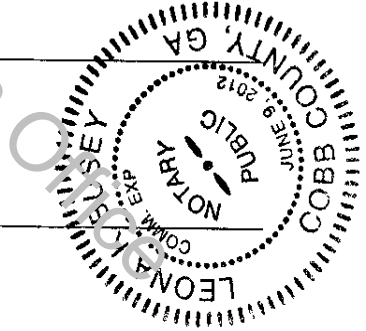
STATE OF GEORGIA )  
COUNTY OF obb ) SS.

I, *Leona K. Brusey*, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Lawrence Weinberg, the President of Fairview Commercial Lending, Inc., a Georgia corporation, personally known to me to be the same person whose name is subscribed to the foregoing instrument as such President, appeared before me this day in person and acknowledged that he signed and delivered said instrument as such officer of said corporation, as his own free and voluntary act and as the free and voluntary act of the corporation for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 17 day of May, 2011.

*Leona K. Brusey*  
Notary Public

My Commission Expires:  
6/9/12



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## EXHIBIT "A"

### Legal Description

LOT "B" IN RESUBDIVISION OF LOT 4 IN TRACT 2 OF DANSHER INDUSTRIAL PARK, COUNTRYSIDE, ILLINOIS, BEING A SUBDIVISION OF PART OF THE EAST ½ OF THE SOUTHEAST ¼ OF SECTION 9, TOWNSHIP 38 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN, AS SHOWN ON THE RESUBDIVISION PLAT THEREOF FILED JUNE 28, 1968 AND RECORDED IN THE RECORDER'S OFFICE OF COOK COUNTY, ILLINOIS AS DOCUMENT 20535220 AND CORRECTED IN DOCUMENT 20716680, IN COOK COUNTY, ILLINOIS

COMMONLY KNOWN AS 5301 DANSHER ROAD, COUNTRYSIDE, ILLINOIS 60525

P.I.N. 18-09-416-023-0000

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## EXHIBIT "B"

- (i) Accounts, including all contract rights and health-care-insurance receivables;
- (i-a) The Account(s), contract right(s) and/or Health Care Insurance Receivables specifically described as follows:

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- (ii) Inventory, including all returned inventory;
- (ii-a) The Inventory specifically described as follows:

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- (iii) Equipment, including all Accessions thereto, and all manufacturer's warranties, parts and tools therefor;
- (iii-a) The Equipment, including all Accessions thereto, all manufacturer's warranties therefor, and all parts and tools therefor, specifically described as follows:

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- (iv) Investment Property, including the following certificated securities and/or securities account(s) specifically described as follows:

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- (v) Instruments, including all promissory notes and certificated certificates of deposit specifically described as follows:

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- (vi) Deposit Accounts with Secured Party specifically described below (list account number(s)): 0005147243164

- (vi-a) The Deposit Accounts with other financial institutions specifically described as follows (list financial institution and account numbers):

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- (vii) Chattel Paper (whether tangible or electronic);

- (vii-a) The Chattel Paper specifically described as follows:

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- (viii) Goods, including all Fixtures and timber to be cut, located or situated on the real property specifically described as follows (list legal description as shown on deed including county and state):  
See Exhibit "A" attached hereto and incorporated herein by this reference.
- (ix) Farm Products, including all crops grown, growing or to be grown, livestock (born and unborn), supplies used or produced in a farming operation, and products of crops and livestock;
  - (ix-a) The Farm Products specifically described as follows:
- (x) As Extracted Collateral from the following location(s) (list legal description including county and state):  
See Exhibit "A" attached hereto and incorporated herein by this reference.
- (xi) The Letter of Credit Rights under the following letter(s) of credit (list issuer, number and amount):
- (xii) Documents of Title, including all warehouse receipts and bills of lading specifically described as follows:
- (xiii) Commercial Tort Claim(s) more specifically described as follows:
- (xiv) Money, including currency and/or rare coins delivered to and in possession of the Secured Party specifically described as follows:
- (xv) Software specifically described as follows:

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- (xvi) Manufactured Home(s):

Model	Year	Serial Number 1	Doublewide Serial Number 2
1.			
2.			

- (xvii) Vehicles, including recreational vehicles and watercraft described below:

New/Used	Year/Make	Model/Body Type	VIN Number/ Serial Number
1.			
2.			
3.			
4.			
5.			

- (xviii) General Intangibles, including all Payment Intangibles, copyrights, trademarks, patents, trade names, tax refunds, company records (paper and electronic), rights under equipment leases, warranties, software licenses, and the following, if any:

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- (xix) Supporting Obligations;

- (xx) to the extent not listed above as original collateral, all proceeds (cash and non-cash) and products of the foregoing.