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Illinois Anti-Predatory Lending Database Program

Certificate of Exemption



Doc#: 1223712026 Fee: \$56.00
Eugene "Gene" Moore RHSP Fee: \$10.00
Cook County Recorder of Deeds
Date: 08/24/2012 08:58 AM Pg: 1 of 10

201233004/8979308AA
30th 42

Report Mortgage Fraud
800-532-8785

The property identified as: PIN: 06-26-366-001-0000

Address:

Street: 350 AND 380 ROMA JEAN PARKWAY

Street line 2:

City: STREAMWOOD

State: IL

ZIP Code: 60107

Lender: THE ELTON PARTNERSHIP AN ILLINOIS PARTNERSHIP

Borrower: TORYON TECHNOLOGIES, INC., AN ILLINOIS CORPORATION

Loan / Mortgage Amount: \$1,000,000.00

This property is located within the program area and is exempt from the requirements of 765 ILCS 770 et seq. because it is commercial property.

S Y
P 10
S N
SC Y
INT 240

Certificate number: EFBB3417-FFE5-4F82-BD4C-5143FD1E129D

Execution date: 07/20/2012

EX 333-CT

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WHEN RECORDED RETURN TO:**

Peter A. Pacione
 Storino, Ramello & Durkin
 9501 West Devon Avenue, 8th Floor
 Rosemont, Illinois 60018

 (Space Above For Recorder's Use)
REAL ESTATE MORTGAGE

THIS AGREEMENT (the "Mortgage") made as of this 20th day of July, 2012, between Toryon Technologies, Inc., an Illinois corporation (the "Mortgagor") and The Elton Partnership, an Illinois partnership (the "Mortgagee").

WITNESSETH:

That to secure the payment of that certain Balloon Note of even date herewith executed by Mortgagor (sometimes referred to herein as the "Borrower") in the principal amount of One Million and No/100 Dollars (\$1,000,000.00) and any modifications, extensions, renewals or substitutions thereof (collectively the "Note"), together with interest thereon and the payment of any and all sums heretofore loaned by Mortgagee to Borrower in the principal amount of One Million and No/100 Dollars (\$1,000,000.00), and bearing interest on such principal at the per annum rate of five (5) percent interest amortized over 20 years, with a Maturity Date of September 1, 2015, and the performance and observance by the Mortgagor of all of the covenants, agreements, and conditions contained in the Note and this Mortgage, the Mortgagor hereby mortgages and conveys to the Mortgagee:

All those certain lots, pieces, or parcels of land with the buildings and improvements thereon situated, lying and being in the County of Cook, in the State of Illinois as set forth in **Exhibit "A"**, attached hereto and made a part hereof (the "Premises").

TOGETHER with all improvements, tenements, hereditaments, gas, oil, minerals, easements, fixtures and appurtenances thereunto belonging or pertaining; all apparatus, equipment and appliances now or hereafter therein or thereon used to supply heat, gas, air

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conditioning, water, light, power, ventilation, and also all the estate, right, title and interest of the Mortgagor in and to the Premises;

TO HAVE AND HOLD the Premises unto Mortgagee, its successors and assigns, forever, for the purposes and uses herein set forth, free from all rights and benefits under the Homestead Exemption Laws of the State of Illinois, which said rights and benefits Mortgagor does hereby expressly release and waive.

Mortgagor covenants and agrees:

1. To pay, when due, all sums secured hereby.
2. Not to abandon the Premises; to keep the Premises in good condition and repair and not to commit or suffer waste; to pay for and complete within a reasonable time any building at any time in the process of erection upon the Premises; to promptly repair, restore, or rebuild any building or improvement now or hereafter on the Premises which may become damaged or destroyed; to refrain from impairing or diminishing the value of the security and to make no material alterations of the Premises.
3. To comply with all requirements of law or municipal ordinances governing the Premises and the use thereof; and to permit Mortgagee to inspect the Premises at all reasonable times upon written notice to Mortgagor subject to a tenant's rights under any valid lease of the Premises.
4. To keep the Premises free from mechanics or other liens or claims for liens of any kind; to pay when due any indebtedness which may be secured by a lien or charge on the Premises, and, upon request, to exhibit to Mortgagee satisfactory evidence of the payment and discharge of such liens or claims.
5. To pay, before any penalty attaches, all general taxes and to pay, when due, all special taxes, special assessments, water charges, drainage charges, sewer service charges and other charges against the Premises, of any kind whatsoever, which may be levied, assessed, charged or imposed on the Premises or any part thereof. Nothing contained herein shall be deemed to prohibit Mortgagor from challenging or contesting taxes in the ordinary course of its business.
6. To promptly pay all taxes and assessments assessed or levied under or by virtue of any state, federal or municipal law or regulation now existing or hereafter adopted against Mortgagee upon this Mortgage, or the debt hereby secured, or upon Mortgagee's interest under this Mortgage.
7. To exhibit to Mortgagee, at least annually within ninety (90) days after the end of each calendar year, and at any time upon request, official receipts showing full payment of all taxes, assessments and charges which Mortgagor is required or shall elect to pay hereunder.
8. To keep the Premises continuously insured until the indebtedness secured hereby is fully paid (or in case of foreclosure until expiration of the period of redemption, if any) against

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loss or damage under such types of hazard, liability and environmental hazard insurance, in such forms and amounts and written by such companies as may be approved or reasonably required from time to time by Mortgagee; all policies whether or not required by the terms of this Mortgage, shall contain loss payable clauses in favor of the Mortgagee (or, in case of foreclosure sale, in favor of the owner of the certificate of sale); in the event of loss, penalty or judgment, Mortgagor shall immediately notify Mortgagee in writing and Mortgagor hereby authorizes and directs each and every insurance company concerned to make payments for such loss, penalty or judgment jointly to Mortgagor and Mortgagee, and the insurance proceeds or any part thereof may be applied by Mortgagee, at its option, either to the reduction of the indebtedness hereby secured, or to the restoration or repair of the property damaged, or to the payment of any fine, penalty, judgment or clean-up costs assessed against Mortgagor or Mortgagee and any application thereof to the indebtedness shall not relieve Mortgagor from making any payments herein required until the indebtedness is paid in full.

9. To deliver to Mortgagee all policies of insurance, with evidence of premiums prepaid renewal policies to be delivered not less than ten (10) days prior to the respective dates of expiration), and title guarantee policies and other evidence of title to the Premises, all of which shall be held by Mortgagee without liability, and in the event of foreclosure of this Mortgage or transfer of title to the Premises to Mortgagee in extinguishment of said indebtedness, shall become the absolute property of Mortgagee. Mortgagee may, from time to time, at its option, waive, and after any such waiver, reinstate, any or all provisions hereof requiring deposit of insurance policies, by notice to Mortgagor in writing.

10. Intentionally Omitted.

11. To pay to Mortgagee any awards of damage resulting from condemnation proceedings or the taking or injury of the Premises for public use, less reasonable costs and associated attorneys' fees and expenses of Mortgagor and the proceeds or any part thereof shall be applied by Mortgagee after the payment of all of its expenses, including reasonable costs and attorneys' fees, to the reduction of the indebtedness hereby secured.

12. Any of the following shall constitute an Event of Default: (a) a default for a period of fifteen (15) days in the payment when due of principal or interest on the Note after notice thereof to the Mortgagor by the Mortgagee, whether at the stated maturity thereof or at any other time provided in this Mortgage, or of any fee payable by the Mortgagor hereunder; and/or (b) or in case of any non-monetary event of default, any default in the observance or performance of any other provision, covenant, or agreements contained herein which is not remedied within thirty (30) days after notice thereof to the Mortgagor by the Mortgagee. In the event of the foregoing, then, Mortgagee may, but need not, make any payment or perform any act hereinbefore 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 any other lien, encumbrance, suit title or claim thereof, or redeem from any tax sale or forfeiture affecting the Premises or contest any tax or assessment. All monies paid for any of the purposes herein authorized and all expenses paid or incurred in connection therewith, including reasonable attorneys' fees, and any other monies advanced by Mortgagee to protect the Premises and the lien hereof shall be so much additional indebtedness

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secured hereby and shall become immediately due and payable without notice and with interest thereon at the rate in effect after maturity as set forth in the Note described above. Mortgagee, making any payment hereby authorized relating to taxes or assessments, shall be the sole judge of the legality and validity thereof and of the amount necessary to be paid in satisfaction thereof.

13. Intentionally deleted.

14. If (a) default beyond any applicable notice and cure periods be made in payment, when due, of any sum secured hereby, or in any of the other covenants or agreements herein contained to be performed by Mortgagor, or (b) if there be a default beyond any applicable notice and cure periods in the terms and/or conditions of any agreement between, Borrower and the Mortgagee relating to the sum hereby secured or to any indebtedness of Borrower to Mortgagee, or (c) if any proceedings be instituted or process issued (i) to enforce any other lien, charge, or encumbrance against the Premises, or (ii) against the Mortgagor or Borrower under any bankruptcy or insolvency laws, or (iii) to place the Premises or any part thereof in the custody or control of any court through its receiver or other officer, and such proceedings are not dismissed or stayed on appeal or such process withdrawn within thirty (30) days after written notice to Mortgagor, or (e) in the event the Mortgagor shall create or permit to exist any mortgage, lien or other encumbrance on the Premises other than the encumbrance represented by this Mortgage, or (f) in the event the Mortgagor shall convey title to any person or persons other than the Mortgagee, enter into any lease or other agreement containing an option to purchase or receive title to the Premises, or shall suffer or permit Mortgagor's equity of redemption to become vested in any person or persons other than the Mortgagee, except as otherwise approved or agreed to by Mortgagee, or (g) if the Mortgagor makes an assignment for the benefit of creditors, or is at any time insolvent, or (h) if, at any time litigation is commenced or reinstated contesting Mortgagor's ownership of the Premises or the validity of the lien of Mortgagee in the Premises, or (i) if by or with the consent or at the instance of the Mortgagor proceedings to extend the time of payment of any sums secured hereby or to change the terms of this Mortgage be instituted; then

- I. All sums secured hereby shall, at the option of Mortgagee, become immediately due and payable upon fifteen (15) days' notice to Mortgagor by Mortgagee, with interest thereon at the default rate set forth in the Balloon Note.
- II. Mortgagee may immediately foreclose this Mortgage or any other mortgage, deed of trust, or similar real property security instrument granted by Borrower in favor of Mortgagee. The Court in which any proceeding is pending for that purpose may, at once or at any time thereafter, either before or after sale, and without regard to the solvency or insolvency of any person liable for payment of the indebtedness secured hereby, and without regard to the then value of the Premises, appoint a receiver (the provisions for the appointment of a receiver and assignment of rents being an express condition upon which the loan hereby secured is made) for the benefit of Mortgagee, with power to collect the rents, issues and profits of the Premises, if any, due and to become due during such foreclosure suit and the full statutory period of redemption notwithstanding any redemption. The receiver, out of such rents, issues and profits when collected,

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may pay costs incurred in the management and operation of the Premises, prior and subordinate liens, if any, and taxes, assessments, water and other utilities and insurance, then due or thereafter accruing, and may make and pay for any necessary repairs to the Premises, and may pay all or any part of the indebtedness secured hereby or any deficiency decree, and Mortgagor hereby grants to Mortgagee the right, acting through itself, its agents or attorneys, either with or without process of law, forcibly or otherwise, to enter upon and take possession of the Premises and property, expel and remove any persons, goods or chattels, occupying or upon the same, and to collect or receive all the rents, issues and profits thereof, and to manage and control the same, and to lease the same or any part thereof from time to time, and after deducting all reasonable attorneys' fees, and all expenses incurred in the protection, care, maintenance, management and operation of the Premises, apply the remaining net income upon the indebtedness secured hereby, or upon any deficiency decree entered by virtue of any sale held pursuant to a decree of foreclosure.

15. In any foreclosure of this Mortgage there shall be allowed and included in the decree for sale, to be paid out of the rents or proceeds of such sale:

- (a) All sums secured hereby and remaining unpaid,
- (b) All sums advanced or paid by Mortgagee pursuant to this Mortgage with interest, and
- (c) All court costs, reasonable attorneys' fees, appraisers' fees, expenditures 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 abstracts of title, title searches and examinations, title guarantee policies, and similar data with respect to title, as Mortgagee may deem necessary in connection with (i) any proceeding, including probate and bankruptcy proceedings, to which Mortgagee shall be a party, either as plaintiff, claimant, or defendant, by reason of this Mortgage or any indebtedness hereby secured; or (ii) preparations for the commencement of any suit for the foreclosure hereof after accrual of such right to foreclose whether or not actually commenced; or (iii) preparations for the defense of any threatened suit or proceeding which might affect the Premises or the security hereof, whether or not actually commenced. All expenditures and expenses of this type mentioned in this subparagraph (c) shall become so much additional indebtedness secured hereby and immediately due and payable, with interest thereon at the default rate set forth in the Balloon Note. The proceeds of any foreclosure sale shall be distributed and applied to the items described in subparagraphs (a), (b), and (c) in order of priority inversely to the manner in which said subparagraphs are above listed and any surplus of the proceeds of such sale shall be paid to Mortgagor.

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16. Mortgagor hereby waives any and all rights of redemption from sale under any order or decree of foreclosure of this Mortgage, on their own behalf and on behalf of each and every person.

17. No remedy or right of Mortgagee shall be exclusive of but shall be in addition to every other remedy of right now, or hereafter, existing at law or in equity. No delay in exercising, or omission to exercise, any remedy or right, accruing on any default shall impair any such remedy or right, or shall be construed to be a waiver of any such default, or acquiescence therein, nor shall it affect any subsequent default of the same or a different nature. Every such remedy or right may be exercised concurrently or independently, and when and as often as may be deemed expedient by Mortgagee.

18. Without affecting the liability of Mortgagor or any other person (except any person expressly released in writing) for payment of any indebtedness secured hereby or for performance of any obligation contained herein, and without affecting the rights of Mortgagee with respect to any security not expressly released in writing, Mortgagee may, at any time and from time to time, either before or after the maturity of said Note, and without notice or consent:

- (a) release any person liable for payment of all or any part of the indebtedness or for performance of any obligation,
- (b) make any agreement extending the time or otherwise altering the terms of payment of all or any part of the indebtedness, or modifying or waiving any obligation, or subordinating, modifying or otherwise dealing with the lien or charge hereof,
- (c) exercise or refrain from exercising or waive any right Mortgagee may have,
- (d) accept additional security of any kind, or
- (e) release any property, real or personal, securing the indebtedness, including all or any part of the property mortgaged hereby.

Upon full payment of all sums secured hereby at the time and in the manner provided, then this conveyance shall be null and void and a reconveyance or release of the Premises shall be made by Mortgagee to Mortgagor.

19. Intentionally Omitted.

20. Intentionally Omitted.

21. Mortgagor agrees that it shall not knowingly conduct, any business, operations or activity on the Premises, or employ or use the personal property or facilities, to manufacture, use, generate, treat, store, transport or dispose of any hazardous substance (including without limitation, petroleum, its derivatives or by-products, or other hydrocarbons), or any other substance which is prohibited, controlled or regulated under applicable law, or which poses a

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threat or nuisance to safety, health or the environment, including, without limitation, any business, operation or activity which would bring Mortgagor, its property or facilities, within the ambit of the Resource Conservation and Recovery Act of 1976, as amended by the Solid and Hazardous Waste Amendments of 1984, 42 U.S.C. §6901 et seq., the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986, 42 U.S.C. §9601 et seq., the Clean Air Act of 1966, as amended, 42 U.S.C. §7401 et seq., or any similar, state, county regional or local statute, law, regulation, rule or ordinance, including, without limitation, any state statute providing for financial responsibility for cleanup for the release or threatened release of substances provided for thereunder; provided, however, Mortgagor may engage in operations in the ordinary course of business consistent with all or as exempted or permitted under any applicable environmental laws, and under circumstances where no liability under any environmental laws could reasonably be anticipated.

22. All notices, reports, requests, demands or other instruments required or contemplated to be given or furnished under this Mortgage to Mortgagor or Mortgagee shall be directed to Mortgagor or Mortgagee, as the case may be, at the following addresses:

Mortgagee: The Elton Partnership
1554 Wood Creek Trail
Bartlett, Illinois 60103

with a copy to: Peter A. Pacione
Storino, Ramello & Durkin
9501 W. Devon Avenue, 8th Floor
Rosemont, Illinois 60018
Fax: 847-318-9500

Mortgagor: Toryon Technologies, Inc.
Attn: Dale C. Pray
1115 Hilltop Drive
Itasca, Illinois 60143

with a copy to: G. Alexander McTavish
Myler, Ruddy & McTavish
105 E. Galena Blvd., Suite 800
Aurora, Illinois 60505
Fax: 847-630-897-8076

Notices shall be either (i) personally delivered to the addresses set forth above, in which case they shall be deemed delivered on the date of such delivery or (ii) sent by certified mail, return receipt requested, in which case they shall be deemed delivered on the date of delivery set forth in the return receipt, unless delivery is delayed or refused by the addressee, in which event they shall be deemed delivered on the date mailed to such addressee. Any party may change the address to which any such notice, report, demand or other instrument is to be delivered by

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furnishing written notice of such change to the other parties in compliance with the foregoing provisions.

23. All provisions hereof shall inure to and bind the respective successors, vendees and assigns of the parties hereto, and the word Mortgagor shall include all persons claiming under or through Mortgagor (including, if this Mortgage is executed by a trust or trustee, any beneficiary thereof) and all persons liable for the payment of the indebtedness or any part thereof, whether or not such persons shall have executed the Note, any guaranty or this Mortgage. Wherever used, the singular number shall include the plural and the singular, and the use of any gender shall be applicable to all genders.

24. Mortgagee shall release this Mortgage upon payment or other satisfaction of the debt this Mortgage secures.

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

MORTGAGOR:

Toryon Technologies, an Illinois corporation

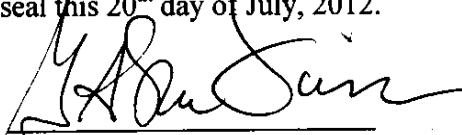
By: 
Name: Dale C. Pray
Title: President

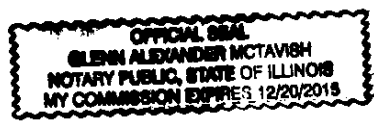
ACKNOWLEDGMENT

STATE OF ILLINOIS)
) *KANE*) ss.
COUNTY OF COOK)

I, G.A. McTavish, a Notary Public in and for and residing in said County and State, DO HEREBY CERTIFY that Dale C. Pray, personally known to me to be the President of Toryon Technologies, Inc., an Illinois corporation, and the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he or she signed and delivered said instrument as his or her own free and voluntary act and the free and voluntary act of the company for the uses and purposes set forth therein.

GIVEN under my hand and notarial seal this 20th day of July, 2012.


Notary Public



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EXHIBIT "A"

LEGAL DESCRIPTION:

LOTS 1 AND 2 IN STREAMWOOD CENTER FOR INDUSTRY UNIT 1, BEING A SUBDIVISION IN SECTION 26, TOWNSHIP 41 NORTH, RANGE 9 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

COMMON ADDRESS:

350 and 380 Roma Jean Parkway, Streamwood, Illinois 60107

PINs:

06-26-366-001-0000 and 06-26-366-002-0000