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MORTGAGE, SECURITY AGREEMENT,  
ASSIGNMENT OF RENTS AND FIXTURE FILING

Dated: as of March 21, 2013

<u>Mortgagor:</u> PAV2, LLC 24501 Ecorse Road Taylor, Michigan 48180	<u>Mortgagee:</u> Wells Fargo Bank, National Association (as administrative agent for the "Secured Creditors" hereinafter identified and defined) 34100 Woodward Avenue, Suite 300 Birmingham, Michigan 48009
<u>Mortgaged Property:</u> - 1309 N. 25 <sup>th</sup> Avenue, Melrose Park, Illinois 60160 - 8596 W. Dempster Street, Niles, Illinois 60714  P.I.N. Numbers: 15-03-308-006-0000, 15-03-308-007-0000, 15-03-308-008-0000, 15-03-308-009-0000, 15-03-308-010-0000, and 09-14-309-011-0000.	
<u>This Instrument was prepared by:</u> Eric S. Bergeron, Esq. Dickinson Wright PLLC 500 Woodward Ave., Suite 4000 Detroit, MI 48226	<u>When recorded, please return to:</u> Eric S. Bergeron, Esq. Dickinson Wright PLLC 500 Woodward Ave., Suite 4000 Detroit, MI 48226  <b>When Recorded Return to:</b> <b>Title Source, Inc. -</b> <b>Commercial Team</b> <b>662 Woodward Avenue</b> <b>Detroit, MI 48226</b>

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## MORTGAGE SECURITY AGREEMENT, ASSIGNMENT OF RENTS AND FIXTURE FILING

THIS MORTGAGE, SECURITY AGREEMENT, ASSIGNMENT OF RENTS AND FIXTURE FILING dated as of March 21, 2013 (the "*Mortgage*") by **PAV2, LLC**, an Illinois limited liability company, whose address is 24501 Ecorse Road, Taylor, Michigan 48180 (the "*Mortgagor*") to **Wells Fargo Bank, National Association**, a national banking association ("*Wells Fargo*"), having an office located at 34100 Woodward Avenue, Suite 300, Birmingham, Michigan 48009, acting as administrative agent for the Secured Creditors hereinafter identified and defined (Wells Fargo acting as such administrative agent and any successor or successors to Wells Fargo acting in such capacity being hereinafter referred to as the "*Mortgagee*" and as the "*Agent*").

### WITNESSETH:

WHEREAS, Atlas Oil Holding Company, a Michigan corporation ("*Holdco*"), Atlas Oil Company, a Michigan corporation ("*Atlas*"), Atlas Oil Transportation, Inc., a Michigan corporation ("*Transportation*"), Simon Holdings, LLC, a Michigan limited liability company ("*Simon*"), Fast Track Ventures, LLC, a Michigan limited liability company ("*FTV*"), B&R Oil Company, Inc. ("*B&R*"), and Mortgagor (Mortgagor, B&R, Holdco, Atlas, Transportation, Simon, and FTV being herein collectively referred to as the "*Borrowers*" and each a "*Borrower*"), the lenders party thereto (the "*Lenders*"), and Wells Fargo Bank, National Association, as administrative agent for the Lenders (the "*Agent*") have entered into that certain Credit Agreement dated as of December 14, 2010 (as amended or modified from time to time, including any agreement entered into in substitution therefor, the "*Credit Agreement*") pursuant to which the Agent and the Lenders have agreed, subject to the terms and conditions thereof, to extend credit and make certain other financial accommodations available to the Borrowers (the Agent and the Lenders, together with any Affiliates of the Lenders party to any Hedge Agreement or any Specified Cash Management Arrangement to any of the Borrowers or any Subsidiary, being hereinafter referred to collectively as the "*Secured Creditors*" and individually as a "*Secured Creditor*");

WHEREAS, as a condition to extending credit to the Borrowers under the Credit Agreement or entering into any Hedge Agreement or Specified Cash Management Arrangement, the Secured Creditors have required, among other things, that (i) the Borrowers and certain of their Subsidiaries enter into a guaranty agreement (as amended or modified from time to time, including any agreement entered into in substitution therefor, the "*Guaranty*") wherein the Mortgagor has agreed to guaranty payment of all indebtedness, liabilities and other obligations of the Borrowers to the Secured Creditors as more particularly described in the Guaranty and (ii) the Mortgagor grant to the Agent for the benefit of the Secured Creditors a mortgage lien on and security interest in the Mortgaged Premises described herein subject to the terms and conditions hereof;

WHEREAS, the capitalized terms used and not otherwise defined herein shall have the meanings given to them under the Credit Agreement.

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NOW, THEREFORE, to secure (a) the prompt and complete payment of the principal sum of One Hundred Million Dollars (\$100,000,000), together with interest thereon, whether presently outstanding or advanced in the future, under or on account of the Credit Agreement, any Security Document, any other Loan Document, or any letters of credit, notes or other instruments issued pursuant thereto, (b) any and all Indebtedness (as defined in the Credit Agreement), including any indebtedness, obligations and liabilities of any Borrower or the Mortgagor, and of any of them individually, to the Secured Creditors, and to any of them individually, under or in connection with or evidenced by the Credit Agreement, the Guaranty or any other Loan Documents, including, without limitation, all obligations evidenced by the Notes of the Borrowers heretofore or hereafter issued under the Credit Agreement, all obligations of the Borrowers to reimburse the Secured Creditors for the amount of all drawings on all Letters of Credit issued pursuant to the Credit Agreement and all other obligations of the Borrowers under all applications for Letters of Credit, all obligations of the Borrowers, and of any of them individually, with respect to any Hedge Agreement, all obligations of the Borrowers or any Subsidiary, and of any of them individually, with respect to any Specified Cash Management Arrangement, and all obligations of the Mortgagor arising under any guaranty issued by it relating to the foregoing or any part thereof, in each case whether now existing or hereafter arising (and whether arising before or after the filing of a petition in bankruptcy and including all interest accrued after the petition date), due or to become due, direct or indirect, absolute or contingent, and howsoever evidenced, held or acquired, and (c) any and all expenses and charges, legal or otherwise, suffered or incurred by the Secured Creditors, and any of them individually, in collecting or enforcing any of such indebtedness, obligations, and liabilities or in realizing on or protecting or preserving any security therefor, including, without limitation, the lien and security interest granted hereby (all of the aforesaid indebtedness, obligations and liabilities of Mortgagor being herein called the "*Mortgage Indebtedness*" and this Mortgage, the Credit Agreement and all of the other documents, agreements and instruments evidencing or securing the repayment of, or otherwise pertaining to, the Mortgage Indebtedness, including without limitation the Credit Agreement, the Guaranty and the Loan Documents (as defined in the Credit Agreement), being herein collectively called the "*Loan Documents*"), Mortgagor does hereby MORTGAGE, WARRANT and CONVEY unto MORTGAGEE, and its successors and assigns, the following described property (the "*Mortgaged Premises*"):

(A) the land situated in the County of Cook, in the State of Illinois, more specifically described in Exhibit A hereto (the "*Land*");

(B) all easements, rights-of-way, licenses and privileges, thereunto belonging or in anywise appertaining, including without limitation all Mortgagor's right, title and interest in and to those easements, rights-of-way, licenses and privileges described in Exhibit A hereto, if any;

(C) all buildings and improvements now or hereafter situated upon the Land or any part thereof;

(D) all minerals, royalties, gas rights, water, water rights, water stock, flowers, shrubs, lawn plants, crops, trees, timber and other emblements now or hereafter located on, under or above all or any part of the Land;

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(E) all and singular the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining, and the reversion or reversions, remainder and remainders thereof; and also all the estate, right, title, interest, property, claim and demand whatsoever of Mortgagor, of, in and to the same and of, in and to every part and parcel thereof;

(F) all the rents, issues and profits thereof under present or future leases, or otherwise, which are hereby specifically assigned, transferred and set over to Mortgagee, and including, but not limited to, all cash or securities deposited under any such leases to secure performance by the tenants of their obligations thereunder, whether said cash or securities are to be held until the expiration of the terms of such leases or applied to one or more of the installments of rent coming due thereunder;

(G) all right, title and interest of Mortgagor, if any, in and to the land lying in the bed of any street, road, avenue, alley or walkway, opened or proposed or vacated, or any strip or gore, in front of or adjoining the Land;

(H) all machinery, apparatus, equipment, fittings, fixtures, and articles of personal property of every kind and nature whatsoever, other than consumable goods, now or hereafter located in or upon the Land or any part thereof and used or useable in connection with any present or future operation of the Land or any building or buildings now or hereafter on the Land and now owned or hereafter acquired by Mortgagor (all of which is herein called "*Equipment*"), including, but without limiting the generality of the foregoing, all lighting, heating, cooling, ventilating, air-conditioning, incinerating, refrigerating, plumbing, sprinkling, communicating and electrical systems, and the machinery, appliances, fixtures and Equipment pertaining thereto, it being understood and agreed that all Equipment is part and parcel of the Land and appropriated to the use of said real estate and, whether affixed or annexed or not, shall for the purposes of this Mortgage, unless Mortgagee shall otherwise elect, be deemed conclusively to be real estate and mortgaged hereby;

(I) any and all awards or payments, including interest thereon, and the right to receive the same, which may be made with respect to the Land as a result of (a) the exercise of the right of eminent domain, (b) the alteration of the grade of any street, (c) any loss of or damage to any building or other improvement on the Land, (d) any other injury to or decrease in the value of the Land or (e) any refund due on account of the payment of real estate taxes, assessments or other charges levied against or imposed upon the Land, to the extent of all amounts which may be secured by this Mortgage at the date of receipt of any such award or payment by Mortgagee, and of the reasonable counsel fees, costs and disbursements incurred by Mortgagee in connection with the collection of such award or payment, Mortgagor hereby agreeing to execute and deliver, from time to time, such further instruments as may be requested by Mortgagee to confirm such assignment to Mortgagee of any such award or payment; and

(J) all products and proceeds, both cash and noncash, of the foregoing.

TO HAVE AND TO HOLD the Mortgaged Premises, and each and every part thereof, unto Mortgagee and its successors and assigns forever. Any reference herein to the "Mortgaged Premises" shall, unless the context shall require otherwise, be deemed to include and apply to the

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above described land and said buildings, improvements, equipment, rents, issues, profits, leases, easements, tenements, hereditaments and appurtenances and all other rights, privileges and interests hereinabove described, whether now existing or hereafter acquired.

SUBJECT only to those matters set forth in Exhibit B hereto ("*Permitted Encumbrances*").

AND Mortgagor does hereby covenant and warrant as follows:

1. Payment of Mortgage Indebtedness; Performance of Agreements. Mortgagor shall pay the principal of and interest on the Mortgage Indebtedness according to the terms thereof, with the balance of the principal and interest due on or before June 30, 2019 or the applicable maturity date in the Credit Agreement, and will keep and perform all the covenants, promises and agreements in (a) the Credit Agreement and the Notes or any other promissory note or notes at any time hereafter issued to evidence all or any portion of the Mortgage Indebtedness, (b) this Mortgage and (c) any and all other Loan Documents, all in the manner herein or therein set forth. THIS MORTGAGE SECURES A CREDIT AGREEMENT AND ONE OR MORE PROMISSORY NOTES WHICH PROVIDE FOR VARIABLE ADJUSTMENTS TO THE INTEREST RATE.

2. Covenants of Title. Mortgagor has good and indefeasible title to the entire Mortgaged Premises in fee simple and with good right and full power to sell, mortgage and convey the same; the Mortgaged Premises are free and clear of liens and encumbrances except Permitted Encumbrances; whether presently existing or which may hereafter be created in accordance with the terms hereof, and Mortgagor will warrant and defend the Mortgaged Premises against all lawful claims and demands whatsoever. Mortgagee shall have the right, at its option and at such time or times as it, in its sole discretion, shall deem necessary, to take whatever action it may deem necessary to defend or uphold the lien of this Mortgage or otherwise enforce any of the rights of Mortgagee hereunder or any obligation secured hereby, including without limitation, the right to institute appropriate legal proceedings for such purposes.

3. Payment of Taxes, Assessments and Charges. Mortgagor shall pay before any interest, collection fees or penalties shall accrue all real estate taxes, assessments (general and special), water and sewer charges or other governmental charges and impositions levied or assessed with respect to the Mortgaged Premises or any part thereof. Should Mortgagor fail to pay such taxes, assessments, water and sewer charges or other governmental charges or impositions, Mortgagee may, at its option, pay the same for the account of Mortgagor, which amounts shall be part of the Mortgage Indebtedness.

4. Reserves for Taxes and Insurance Premiums. Upon the occurrence and during the continuation of an Event of Default, Mortgagor shall pay to Mortgagee, at the times provided in the Loan Documents or any other promissory note or notes at any time hereafter issued to evidence all or any portion of the Mortgage Indebtedness for the payment of installments of principal and interest, and in addition thereto, installments of the taxes and assessments levied or to be levied upon the Mortgaged Premises, and installments of the premiums that will become

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due and payable to renew the insurance hereinafter provided, said installments to be substantially equal and to be in such amount as will assure to Mortgagee that not less than 30 days before the time when such taxes and premiums, respectively, become due Mortgagor will have paid to Mortgagee a sufficient amount to pay the same in full. Said amounts paid to Mortgagee hereunder need not be segregated nor kept in a separate fund, and no interest shall be payable thereon. Said amounts shall be held by Mortgagee as additional security for the Mortgage Indebtedness and, except as provided in the following sentence, be applied to the payment of said taxes and assessments when the same become due and payable; provided however, Mortgagee shall have no liability for any failure to so apply such amounts for any reason whatsoever. Upon the occurrence and during the continuation of an Event of Default, Mortgagee may, at its option, but without any obligation on its part so to do, apply said amounts upon said taxes and assessments or insurance premiums or toward the payment of the Mortgage Indebtedness or any portion thereof, whether or not then due or payable.

Upon an assignment of this Mortgage, Mortgagee shall have the right to pay over the balance of such deposits in its possession to the assignee, and Mortgagee shall thereupon be completely released from all liability with respect to such deposits and Mortgagor or owner of the Mortgaged Premises shall look solely to the assignee or transferee in reference thereto. This provision shall apply to every transfer of such deposits to a new assignee. Upon full payment and satisfaction of the Mortgage Indebtedness or at any prior time upon the election of Mortgagee, the balance of the unapplied deposits in its possession shall be paid over to the Mortgagor and no other party shall have any right or claim thereto in any event, provided that in the event of a foreclosure of the Mortgaged Premises, the purchaser at such foreclosure shall have the right to receive such unapplied deposits. Upon and during the continuation of an Event of Default, Mortgagor agrees, at Mortgagee's request, to deliver the aforesaid deposits to such servicer or financial institution as Mortgagee shall from time to time designate.

5. Payment of Other Obligations. Except as otherwise provided herein, Mortgagor shall also pay any and all other obligations, liabilities or debts which may become liens, security interests, or encumbrances upon or charges against the Mortgaged Premises for any repairs or improvements that are now completed or are in progress or which may hereafter be made thereon, or for any other goods, services, or utilities furnished to the Mortgaged Premises prior to the time such obligations, liabilities or debts become a lien, security interest or encumbrance against the Mortgaged Premises, and shall not permit any lien, security interest, encumbrance or charge of any kind securing the repayment of borrowed funds (including the deferred purchase price for any property) to accrue and remain outstanding against the Mortgaged Premises or any part thereof, or any improvements thereon other than Permitted Encumbrances, if any.

6. Maintenance and Repair; Compliance with Laws; Inspection. Mortgagor will keep the Mortgaged Premises and all the improvements thereon in good order and repair (ordinary wear and tear excepted), and Mortgagor expressly agrees that it will not do or permit waste on the Mortgaged Premises nor do any other act whereby the Mortgaged Premises or the lien hereof may be impaired. Should Mortgagor fail to effect the necessary repairs, Mortgagee may at its option upon ten-days' notice to Mortgagor make such repairs for the account of Mortgagor. Mortgagor will promptly comply, and cause the Mortgaged Premises and the occupants or users thereof to comply, with all present and future laws, ordinances, orders, rules

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and regulations and other requirements of any governmental authority affecting the Mortgaged Premises or any part thereof or the use or occupancy thereof and with all instruments and documents of record or otherwise affecting the Mortgaged Premises, or any part thereof, or the use or occupancy thereof except where such non-compliance could not be reasonably expected to have a Material Adverse Effect. Mortgagee, and any person authorized by Mortgagee, shall have the right to enter upon and inspect the Mortgaged Premises at all reasonable times, upon reasonable notice. Notwithstanding anything contained herein to the contrary, Mortgagor shall have the right, consistent with and subject to the terms and conditions of the Credit Agreement, to sell and/or dispose of any portion of the Mortgaged Premises that become obsolete or worn out in the ordinary course of business.

7. Insurance. (a) Mortgagor shall maintain property insurance (“causes of loss – special form”) on the buildings and other improvements on the Land, or which may hereafter be erected thereon, with such company or companies as may be reasonably acceptable to Mortgagee and in an amount reasonably satisfactory to Mortgagee, which amount shall not be less than 100% of the then full replacement cost of such building and improvements. Such policies shall be without deduction for depreciation and be subject to the payment of a deductible not in excess of an amount reasonably satisfactory to Mortgagee, until the Mortgage Indebtedness and all interest thereon and all of the amounts due hereunder are fully paid. Mortgagor shall further provide flood insurance (if the Mortgaged Premises are situated in an area designated as a “special flood hazard area” by the Director of the Federal Emergency Management Agency or as otherwise required by the Flood Disaster Protection Act of 1973, as amended, and regulations issued thereunder), and such other appropriate insurance as Mortgagee may reasonably require from time to time. Such property insurance policies shall include a standard mortgagee clause in favor of Mortgagee and shall provide that the proceeds thereof shall be paid to Mortgagee, all as may be reasonably satisfactory to Mortgagee. During any construction, repair or restoration of the buildings and other improvements on the Mortgaged Premises, Mortgagor shall carry or cause to be carried builder’s risk insurance which names Mortgagee as a loss payee as its interests may appear. Mortgagor also shall carry commercial general liability insurance with respect to the Mortgaged Premises, on an occurrence basis, in such amount and with such deductible as is satisfactory to Mortgagee, which policy shall name Mortgagee as an additional insured. All such insurance policies shall provide that the same may not be cancelled or terminated without giving Mortgagee at least 30 days prior written notice of such cancellation or termination.

(b) Mortgagor shall deliver to Mortgagee at its address for notices pursuant to paragraph 24 hereof or at such other place as may be designated by Mortgagee certificates evidencing such policies or, if requested by Mortgagee, a copy of such insurance policies. Renewals thereof shall likewise be delivered to Mortgagee at least 15 days before the expiration of any existing policies. Should Mortgagor fail to insure or fail to pay the premiums on any such insurance or fail to deliver the policies or renewals thereof as provided above, Mortgagee at its option may, after three-days’ notice to Mortgagor, have such insurance written or renewed and pay the premiums thereon for the account of Mortgagor, which amounts shall be part of the Mortgage Indebtedness.

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(c) In the event of loss or damage, exceeding \$200,000 for any single occurrence, the proceeds of said property and builders' risk insurance on the buildings and improvements shall be paid to Mortgagee alone. Losses less than \$200,000 shall be dealt with solely by Mortgagor. No such loss or damage shall itself reduce the Mortgage Indebtedness. In the event of loss or damage exceeding \$200,000 for any single occurrence, Mortgagee is authorized to adjust and compromise such loss without the consent of Mortgagor, to collect, receive and receipt for such proceeds in the name of Mortgagee and Mortgagor and to endorse Mortgagor's name upon any check in payment thereof. Upon and during the continuance of an Event of Default, such proceeds shall be applied first toward reimbursement of all reasonable costs and expenses of Mortgagee in collecting said proceeds and then toward payment of the Mortgage Indebtedness or any portion thereof, whether or not then due or payable, or if no Event of Default shall have occurred and no event shall have occurred which, after notice or the passage of time or both, would constitute an Event of Default, Mortgagee at its option may apply said insurance proceeds, or any part thereof, to the repair or rebuilding of the Mortgaged Premises consistent with and subject to the terms and conditions of the Credit Agreement. No such application of proceeds by Mortgagee toward payment of the Mortgage Indebtedness shall reduce the amount of any installment payments which may be required to be made on the Mortgage Indebtedness in accordance with its terms. Any excess proceeds after payment in full of the Mortgage Indebtedness will be remitted to the Mortgagor.

(d) In the event of a foreclosure of this Mortgage, the purchaser of the Mortgaged Premises shall succeed to all of the rights of Mortgagor under said insurance policies payable to Mortgagee, including any right to unearned premiums and the right to receive the proceeds of any insurance payable by reason of any loss theretofore or thereafter occurring.

(e) The following notice is given pursuant to the Illinois Collateral Protection Act, Illinois Compiled Statutes ("ILCS"), Chapter 815, Section 1801, *et. seq.* As used herein, the terms "you" and "your" shall refer to MORTGAGOR and the terms "we" and "us" shall refer to MORTGAGEE. **UNLESS YOU PROVIDE US WITH EVIDENCE OF THE INSURANCE COVERAGE REQUIRED BY YOUR AGREEMENT WITH US, WE MAY PURCHASE INSURANCE AT YOUR EXPENSE TO PROTECT OUR INTERESTS IN YOUR COLLATERAL. THIS INSURANCE MAY, BUT NEED NOT, PROTECT YOUR INTERESTS. THE COVERAGE THAT WE PURCHASE MAY NOT PAY ANY CLAIM THAT YOU MAKE OR ANY CLAIM THAT IS MADE AGAINST YOU IN CONNECTION WITH THE COLLATERAL. YOU MAY LATER CANCEL ANY INSURANCE PURCHASED BY US, BUT ONLY AFTER PROVIDING US WITH EVIDENCE THAT YOU HAVE OBTAINED INSURANCE AS REQUIRED BY OUR AGREEMENT. IF WE PURCHASE INSURANCE FOR THE COLLATERAL, YOU WILL BE RESPONSIBLE FOR THE COSTS OF THAT INSURANCE, INCLUDING INTEREST AND ANY OTHER CHARGES WE MAY IMPOSE IN CONNECTION WITH THE PLACEMENT OF THE INSURANCE, UNTIL THE EFFECTIVE DATE OF THE CANCELLATION OR EXPIRATION OF THE INSURANCE. THE COSTS OF THE INSURANCE MAY BE ADDED TO YOUR TOTAL OUTSTANDING BALANCE OR OBLIGATION. THE COSTS OF THE INSURANCE MAY BE MORE THAN THE COST OF INSURANCE YOU MAY BE ABLE TO OBTAIN ON YOUR OWN.**



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8. Eminent Domain. Notwithstanding any taking under the power of eminent domain, alteration of the grade of any street, or other injury to or decrease in value of the Mortgaged Premises by any public or quasi-public authority or corporation, Mortgagor shall continue to pay the Mortgage Indebtedness in accordance with the terms of the Loan Documents, and any reduction in the principal sum resulting from the application by Mortgagee of such award or payment as hereinafter set forth shall be deemed to take effect only upon the receipt by Mortgagee of such award. Mortgagor hereby assigns the entire proceeds of any award or payment to Mortgagee. Upon the occurrence and during the continuation of an Event of Default, Mortgagee is authorized to commence, appear in and prosecute, in its own or in Mortgagor's name, any action or proceeding relating to any such taking, and to settle or compromise any claim in connection therewith. Upon the occurrence and during the continuation of an Event of Default, such proceeds shall be applied first toward reimbursement of all costs and expenses of Mortgagee in collecting said proceeds and then toward payment of the Mortgage Indebtedness or any portion thereof, whether or not then due or payable, or if no Event of Default shall have occurred and no event shall have occurred which, after notice or the passage of time or both, would constitute an Event of Default, Mortgagee at its option shall apply said proceeds, or any part thereof, to the alteration, restoration or rebuilding of the Mortgaged Premises consistent with and subject to the terms and conditions of the Credit Agreement. No such application of proceeds by Mortgagee toward payment of the Mortgage Indebtedness shall reduce the amount of any installment payments which may be required to be made on the Mortgage Indebtedness in accordance with its terms. Any excess proceeds after payment in full of the Mortgage Indebtedness will be remitted to the Mortgagor.

9. Waste. The failure of Mortgagor to pay any taxes or assessments assessed against the Mortgaged Premises, or any installment thereof, or any premiums payable with respect to any insurance policy covering the Mortgaged Premises in accordance herewith, shall constitute waste.

10. Reimbursement of Advances by Mortgagee. Mortgagor shall pay to Mortgagee, upon demand, in accordance with the applicable provisions in this Mortgage, all sums expended by Mortgagee, or by a receiver appointed at the request of Mortgagee, unless such sums shall be paid out of the rents, income and profits from the Mortgaged Premises, (a) to pay insurance premiums, taxes, assessments, water and sewer charges and other governmental charges and impositions with respect to the Mortgaged Premises, (b) to maintain, repair or improve the Mortgaged Premises, (c) to defend the lien of this Mortgage as a lien against the Mortgaged Premises subject only to the Permitted Encumbrances, (d) to discharge any lien or encumbrance affecting the Mortgaged Premises other than Permitted Encumbrances, (e) to cure any default of Mortgagor under any lease or other agreement covering the Mortgaged Premises, (f) to cure any default of Mortgagor hereunder or under any of the Loan Documents or (g) for or in connection with any other action taken by Mortgagee to preserve the security of this Mortgage or any other security for the Mortgage Indebtedness or to protect any of Mortgagee's rights hereunder. All such expenditures as shall be made by Mortgagee or such receiver or pursuant to any other provision of this Mortgage or the other Loan Documents, including any reasonable attorneys' fees and disbursements incurred by Mortgagee or such receiver in connection with the foregoing, shall be payable upon demand and be secured by this Mortgage and shall bear interest at Overdue Rate set forth in the Credit Agreement.

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11. **Change in Taxes.** In the event any tax shall be due or become due and payable to the United States of America, the State of Illinois or any political subdivision thereof with respect to the execution and delivery or recordation of this Mortgage or any note or other instrument or agreement evidencing or securing repayment of the Mortgage Indebtedness or the interest of Mortgagee in the Mortgaged Premises, Mortgagor shall pay such tax at the time and in the manner required by applicable law and Mortgagor shall hold Mortgagee harmless and shall indemnify Mortgagee against any liability of any nature whatsoever as a result of the imposition of any such tax.

In the event of the passage after the date of this Mortgage of any law in the State of Illinois deducting from the value of real property for purposes of taxation any lien thereon, or changing in any way the laws now in force for the taxation of mortgages or debts secured thereby (including the interest thereon) for state or local purposes, or changing the manner of collection of any such taxes, and imposing a tax, either directly or indirectly, on this Mortgage, the Notes or any of the other Loan Documents, the holder of this Mortgage shall have the right to declare the entire unpaid amount of the Mortgage Indebtedness, together with accrued and unpaid interest thereon, to be due and payable on a date to be specified by not less than 60 days written notice to Mortgagor, provided, however, that such election shall not be effective if Mortgagor is permitted by law to pay the whole of such tax in addition to all other payments required thereunder and if Mortgagor, prior to such specified date, makes payment of such tax then due and agrees to pay any such tax when thereafter levied or assessed against the Mortgaged Premises, this Mortgage, the Notes or any of the other Loan Documents.

12. **Events of Default.** The occurrence of any of the following events shall be deemed an “*Event of Default*” hereunder and shall entitle Mortgagee to exercise its remedies hereunder and under any of the other Loan Documents or as otherwise provided by law:

(a) Any Default or Event of Default under the Credit Agreement or any other Loan Document;

(b) Default in the observance or performance of any covenant, promise or agreement set forth in paragraphs 3, 4, 7(a) or 17 hereof;

(c) Default in the observance or performance of any other covenant, promise or agreement provided herein and continuance thereof for 30 days after notice of such default is given by Mortgagee to Mortgagor, or for such other period of grace, if any, as shall be provided herein with respect to such default; provided, however, that if any such default cannot be cured within such grace period, an Event of Default shall not be deemed to have occurred hereunder if, within such period of grace, Mortgagor shall have commenced appropriate action to cure the default and shall be continuing action to complete such cure with diligence and without interruption;

(d) Any representation or warranty of Mortgagor contained herein, in any of the other Loan Documents or in any report, certificate or financial statement furnished to Mortgagee by or

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on behalf of Mortgagor proves to be untrue in any material respect as of the date hereof when made; or

(e) Mortgagor shall become insolvent or bankrupt or shall make an assignment for the benefit of creditors or shall consent to the appointment of a trustee, custodian or receiver for Mortgagor or for the greater part of Mortgagor's properties or a trustee, custodian or receiver shall be appointed by a court of competent jurisdiction for Mortgagor or for the greater part of the properties of Mortgagor without its consent and shall not be discharged within 60 days; or bankruptcy, reorganization, or other similar proceedings shall be instituted by or against Mortgagor and, if instituted against Mortgagor, shall be consented to by Mortgagor or remain undismissed for 60 days.

13. Remedies upon Default. Immediately upon the occurrence of any Event of Default, Mortgagee shall have the option, in addition to and not in lieu of or substitution for all other rights and remedies provided in this Mortgage, the Notes or any other Loan Documents or provided by law or in equity, and is hereby authorized and empowered by Mortgagor, to do any or all of the following:

(a) Declare the entire unpaid amount of the Mortgage Indebtedness, together with accrued and unpaid interest thereon, and any and all charges payable by Mortgagor to Mortgagee pursuant to any of the Loan Documents, immediately due and payable and, at Mortgagee's option, (i) to bring suit therefor, or (ii) to bring suit for any delinquent payment of or upon the Mortgage Indebtedness, or (iii) to take any and all steps and institute any and all other proceedings that Mortgagee deems necessary to enforce payment of the Mortgage Indebtedness and performance of other obligations secured hereunder, and to protect the lien of this Mortgage.

(b) Exercise any and all rights and remedies provided herein or in the Loan Documents or available at law or in equity, including without limitation the right to commence foreclosure proceedings against the Mortgaged Premises pursuant to the common law of the State of Illinois or pursuant to the statutes in such case made and provided, and to sell the Mortgaged Premises or to cause the same to be sold at public sale, and to convey the same to the purchaser, in accordance with said statutes or common law, in a single parcel or in several parcels at the option of the Mortgagee. The Mortgagor further agrees that the Mortgagee is authorized and empowered to retain out of the sale proceeds such moneys as are necessary to pay in full the Mortgage Indebtedness, the costs and charges of such sale, and also the attorneys' fees provided by statute, returning the surplus moneys (if any there should be) to the Mortgagor.

(c) Upon, or at any time after the filing of a complaint to foreclose this Mortgage, the court in which such complaint is filed may appoint a receiver of the Mortgaged Premises. Such appointment may be either before or after the sale, without notice, without regard to the solvency or insolvency of the Mortgagor at the time of application for such receiver and without regard to the then value of the Mortgaged Premises or whether the same shall then be occupied as a homestead or not and the Mortgagee or any holder of any note evidencing the Mortgage Indebtedness may be appointed such receiver. Such receiver shall have the power to collect the rents, issues and profits of the Mortgaged Premises during the pendency of such foreclosure suit and, in the case of a sale and a deficiency during the full statutory period of redemption, whether

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there be redemption or not, as well as during any further times when the Mortgagor, except for the intervention of such receiver, would be entitled to collect such rents, issues and profits, and all other powers which may be necessary or are usual in such cases for the protection, possession, control, management and operation of the Mortgaged Premises during the whole of said period. The court from time to time may authorize the receiver to apply the net income from the Mortgaged Premises in whole or in part to: (i) the indebtedness secured hereby or by any decree foreclosing this Mortgage, or any tax, special assessment or other lien which may be or become superior to the lien hereof or of such decree, provided such application is made prior to the foreclosure; or (ii) the deficiency in case of a sale and deficiency.

(d) In any case in which under the provisions of this Mortgage, Mortgagee has a right to institute foreclosure proceedings, whether before or after the whole principal sum secured hereby is declared to be immediately due, or whether before or after the institution of legal proceedings to foreclose the lien hereof or before or after sale thereunder, forthwith, upon demand of Mortgagee, Mortgagor shall surrender to Mortgagee and Mortgagee shall be entitled to take actual possession of the Mortgaged Premises or any part thereof personally, or by its agent or attorneys, as for condition broken. In such event Mortgagee in its discretion may, with or without process of law, enter upon and take and maintain possession of all or any part of said Mortgaged Premises, together with all documents, books, records, papers and accounts of Mortgagor or then owner of the Mortgaged Premises relating thereto, and may exclude Mortgagor, its agents or servants, wholly therefrom and may as attorney in fact or agent of Mortgagor, or in its own name as mortgagee and under the powers herein granted, hold, operate, manage and control the Mortgaged Premises and conduct the business, if any, thereof, either personally or by its agents, and with full power and to use such measures, legal or equitable, as in its discretion or in the discretion of its successors or assigns may be deemed proper or necessary to enforce the payment or security of the avails, rents, issues, and profits of the Mortgaged Premises, including liens for the recovery of rent, actions in forcible detainer and actions in distress for rent, and with full power: (i) to cancel or terminate any lease or sublease for any cause or on any ground which would entitle Mortgagor to cancel the same; (ii) to elect to disaffirm any lease or sublease which is then subordinate to the lien hereof; (iii) 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 Mortgaged Premises are subject to the lien hereof and upon the purchaser or purchasers at any foreclosure sale, notwithstanding any redemption from sale, discharge of the Mortgage Indebtedness, satisfaction of any foreclosure decree, or issuance of any certificate of sale or deed to any purchaser; (iv) to make all necessary or proper repairs, decorating, renewals, replacements, alterations, additions, betterments and improvements to the Mortgaged Premises as it may deem proper; (v) to insure and reinsure the same and all risks incidental to Mortgagee's possession, operation and management thereof; and (vi) to receive all of such avails, rents, issues and profits; 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. Mortgagee shall not be obligated to perform or discharge, nor does it hereby undertake to perform or discharge, any

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obligation, duty or liability under any leases. Mortgagor shall and does hereby agree to indemnify and hold Mortgagee harmless of and from any and all liability, loss or damage which it may or might incur under said leases or under or by reason of the assignment thereof, and of and from any and all claims and demands whatsoever which may be asserted against it by reason of any alleged obligations or undertakings on its part to perform or discharge any of the terms, covenants or agreements contained in said leases. Should Mortgagee incur any such liability, loss or damage, under said leases or under or by reason of the assignment thereof, or in the defense of any claims or demands, the amount thereof, including costs, expenses and reasonable attorneys' fees, shall be secured hereby, and Mortgagor shall reimburse Mortgagee therefor immediately upon demand.

(e) Mortgagee, in the exercise of the rights and powers hereinabove conferred upon it by this Mortgage shall have full power to use and apply the avails, rents, issues and profits of the Mortgaged Premises to the payment of or on account of the following, in such order as Mortgagee may determine:

(i) to the payment of the operating expenses of said Mortgaged Premises, including cost of management and leasing thereof (which shall include reasonable compensation to Mortgagee, its agent or agents, and attorneys, if management be delegated to an agent or agents, and shall also include lease commissions and other compensation and expenses of seeking and procuring tenants and entering into leases), established claims of damages, if any, and premiums on insurance hereinabove authorized;

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

(iii) to the payment of all repairs, decorating, renewals, replacements, alterations, additions, betterments, and improvements of the Mortgaged Premises, including the cost from time to time of installing or replacing personal property such as appliances therein, and of placing the Mortgaged Premises in such condition as will, in the judgment of Mortgagee, make it readily rentable; and

(iv) to the payment of any Mortgage Indebtedness secured hereby or any deficiency which may result from any foreclosure sale.

In the event of any sale of the Mortgaged Premises by foreclosure apply the proceeds of any such sale in the order following to: (i) all expenses incurred for the collection of the Mortgage Indebtedness and the foreclosure of this Mortgage, including reasonable attorneys' fees and disbursements, or such attorneys' fees and disbursements as are permitted by law, (ii) all sums expended or incurred by Mortgagee for any environmental audits, inspections or tests of the Mortgaged Premises or the removal of Hazardous Materials, (iii) all sums expended or incurred by Mortgagee directly or indirectly in carrying out the terms, covenants and agreements of the Credit Agreement, Notes, this Mortgage and the other Loan Documents, together with interest thereon as therein provided, (iii) all accrued and unpaid interest upon the Mortgage Indebtedness, (iv) fees, expenses and other sums (excluding principal) due in connection with the

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Mortgage Indebtedness, (v) the unpaid principal amount of the Mortgage Indebtedness, and (vi) the surplus, if any there be, unless a court of competent jurisdiction decrees otherwise, to Mortgagor. If any provision of this Mortgage is inconsistent with any applicable provision of the Illinois Mortgage Foreclosure Law, 735 ILCS 5/15-1101, *et seq.*, as may be amended from time to time or any successor statute thereto (the "Act"), the provisions of the Act shall take precedence over the provisions of this Mortgage, but shall not invalidate or render unenforceable any other provision of this Mortgage that can fairly be construed in a manner consistent with the Act. If any provision of this Mortgage shall grant to Mortgagee any rights or remedies upon any default by Mortgagor which are more limited than the rights that would otherwise be vested in Mortgagee under Act in the absence of said provision, Mortgagee shall be vested with the rights granted in the Act to the full extent permitted by law. Without limiting the generality of the foregoing, all expenses incurred by Mortgagee to the extent reimbursable under the Act, whether incurred before or after any decree or judgment of foreclosure, and whether or not encumbered in this Mortgage, shall be added to the obligations secured by this Mortgage or by judgment of foreclosure.

14. Successors in Ownership. In the event ownership of the Mortgaged Premises or any part thereof becomes vested in a person or persons other than Mortgagor without the prior written approval of Mortgagee, Mortgagee may (but shall not be obligated to) deal with such successor or successors in interest with reference to this Mortgage and the other Loan Documents in the same manner as with Mortgagor, without in any manner discharging or otherwise affecting Mortgagor's liability hereunder or upon the Mortgage Indebtedness.

15. Security Agreement. (a) Mortgagor represents and warrants that Mortgagor owns all Equipment and other personal property described in this Mortgage free and clear of any and all liens and security interests except for the lien and security interest granted by this Mortgage, Permitted Encumbrances and Permitted Liens (as defined in the Credit Agreement). Mortgagor further represents and warrants that, as to Equipment and other personal property hereafter acquired, Mortgagor will own all such Equipment and other personal property at the time it is brought on the Land and thereafter free and clear of any and all liens and security interests except for the lien and security interest granted by this Mortgage, any other security instrument or agreement in favor of Mortgagee, Permitted Encumbrances and Permitted Liens (as defined in the Credit Agreement).

(b) Mortgagor does hereby grant a security interest to Mortgagee pursuant to the Uniform Commercial Code in any Equipment and other personal property covered hereby. Mortgagor agrees, upon request of Mortgagee, to furnish an inventory of personal property owned by Mortgagor and subject to this Mortgage and, upon request by Mortgagee, to execute any supplements to this Mortgage, any separate security agreement and any financing statements to include specifically said inventory of personal property. Upon the occurrence and during the continuation of an Event of Default, Mortgagee shall have all of the rights and remedies therein provided or otherwise provided by law or by this Mortgage, including but not limited to the right to require Mortgagor to assemble such personal property and make it available to Mortgagee at a place to be designated by Mortgagee which is reasonably convenient to both parties, the right to take possession of such personal property with or without demand and with or without process of law and the right to sell and dispose of the same and distribute the proceeds according to law.

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The parties hereto agree that any requirement of reasonable notice shall be met if Mortgagee sends such notice to Mortgagor at least 5 days prior to the date of sale, disposition or other event giving rise to the required notice, and that the proceeds of any disposition of any of such personal property may be applied by Mortgagee first to the reasonable expenses in connection therewith, including reasonable attorneys' fees and disbursements and then to payment of the Mortgage Indebtedness.

16. Assignment of Leases and Rents. As of the date of this Mortgage, as security in addition to the property described in this Mortgage, Mortgagor hereby assigns to Mortgagee all its right, title and interest in and to all written and oral leases, whether now in existence or which may hereafter come into existence during the term of this Mortgage, or any extension hereof, covering the Mortgaged Premises or any part thereof (but without an assumption by Mortgagee of liabilities of Mortgagor under any such leases by virtue of this assignment), and Mortgagor hereby assigns to Mortgagee the rents, issues and profits of the Mortgaged Premises. Subject to the next succeeding sentence, Mortgagor shall have the right to receive and collect such rents, issues and profits. The assignment of the rents, issues and profits of Mortgaged Premises in this Section 16 is intended to be an absolute assignment from Mortgagor to Mortgagee and not merely the passing of a security interest. Upon the occurrence and during the continuation of an Event of Default, Mortgagee may elect upon written notice to Mortgagor to receive and collect said rents, issues and profits personally or through a receiver so long as any such Event of Default shall exist and during the pendency of any foreclosure proceedings and during any redemption period, and Mortgagor agrees to the appointment of a receiver if believed necessary or desirable by Mortgagee to enforce its rights under this paragraph. The collection of rents by Mortgagee shall in no way waive the right of Mortgagee to foreclose this Mortgage in the event of any Event of Default.

17. Prohibition of Transfer and Further Encumbrances Mortgagor shall not, without the prior written consent of Mortgagee, which consent shall not be unreasonably withheld, permit or suffer the Mortgaged Premises, or any part thereof, to be sold, assigned, transferred or encumbered in any way, whether by operation of law or otherwise.

18. Environmental Matters. The representations, warranties, covenants, indemnification and agreements made by the Mortgagor to the Mortgagee in the Environmental Indemnity Agreement dated December 1, 2006, as amended (as amended, the "*Environmental Indemnity Agreement*") delivered by the Mortgagor to the Mortgagee in connection with the Credit Agreement are incorporated herein by reference. The Mortgagor agrees that any default under the terms of the Environmental Indemnity Agreement will constitute a default under this Mortgage.

19. Severability. If any provision hereof is in conflict with any statute or rule of law of the State of Illinois or is otherwise unenforceable for any reason whatsoever, then such provision shall be deemed null and void to the extent of such conflict or unenforceability and shall be deemed severable from but shall not invalidate any other provisions of this Mortgage.

20. Waiver. No waiver by Mortgagee of any right or remedy granted hereunder or failure to insist on strict performance by Mortgagor hereunder shall affect or extend to or act as a

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waiver of any other right or remedy of Mortgagee hereunder, nor affect the subsequent exercise of the same right or remedy by Mortgagee for any further or subsequent default by Mortgagor hereunder, and all such rights and remedies of Mortgagee hereunder are cumulative.

21. Marshalling and Homestead Rights. Mortgagor hereby waives, in the event of foreclosure of this Mortgage or the enforcement by Mortgagee of any other rights and remedies hereunder, any right otherwise available in respect to marshalling of assets which secure the Mortgage Indebtedness or to require Mortgagee to pursue its remedies against any other such assets. Mortgagor hereby waives and releases all rights and benefits under and by virtue of the Homestead Exemption laws of the State of Illinois.

22. Waiver of Redemption Rights. Pursuant to Section 15-1601 of the Act, the Mortgagor hereby expressly waives any and all rights of redemption arising under Section 15-1603 of the Act, together with any and all other statutory rights of redemption on behalf of itself and on behalf of each and every person acquiring any interest or title in the Mortgaged Premises subsequent to the date of this Mortgage.

23. Further Instruments. Mortgagor shall execute, acknowledge and deliver any and all such further conveyances, documents, mortgages and assurances, and do or cause to be done all such further acts, as Mortgagee may reasonably require to confirm and protect the lien of this Mortgage or otherwise to accomplish the purposes hereof forthwith upon the reasonable request of Mortgagee, whether in writing or otherwise.

24. Notices. All notices, demands, requests, consents and other communications shall be delivered and shall be effective in the manner specified in the Credit Agreement.

25. Governing Law; Binding Effect; Definitions. This Mortgage shall be governed by and construed in accordance with the laws of the State of Illinois; provided, however, that all of the other Loan Documents are, by their terms, governed by and shall be construed in accordance with the laws thereof. This Mortgage shall be binding upon Mortgagor and its successors and assigns and any subsequent owners of the Mortgaged Premises, and all of the covenants herein contained shall run with the land, and this Mortgage and all of the covenants herein contained shall inure to the benefit of Mortgagee, its successors and assigns.

26. Headings. The headings in this Mortgage are for convenience of reference only and shall not limit or otherwise affect the meaning of any provision of this Mortgage.

27. Fixture Filing. This Mortgage also constitutes a financing statement filed as a fixture filing under the Uniform Commercial Code with respect to goods which are or are to become fixtures relating to the Land and as to which Mortgagor is the debtor and record owner of the Land and Mortgagee is the secured party. It is to be recorded in the real estate records of the County in which the Land is located. The Mortgagor is the record owner of the Mortgaged Premises. The address of the Mortgagor (Debtor) and Mortgagee (Secured Party) are hereinafter set forth:



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Debtor:	PAV2, LLC 24501 Ecorse Road Taylor, Michigan 48180
Secured Party:	Wells Fargo Bank, National Association 34100 Woodward Avenue, Suite 300 Birmingham, Michigan 48009
Description of types (or items) of property covered by this financing statement:	All of the property described in the definition of "Mortgaged Premises" which is or is to become a fixture
Description of real estate to which collateral is attached or upon which it is located:	The real property described in <u>Exhibit A</u> hereto
State identification number of the Debtor:	02733749

28. Use of Insurance and Condemnation Proceeds. Notwithstanding other provisions of this Mortgage, all insurance proceeds recovered by Mortgagee on account of damage or destruction to the Mortgaged Premises and all proceeds of any condemnation award recovered by Mortgagee for any building or equipment taken or damaged, less the cost, if any, to Mortgagee of such recovery and of paying out such proceeds (including reasonable attorneys' fees and costs allocable to inspecting the work and the plans and specifications therefor), shall, upon the written request of Mortgagor, be applied by Mortgagee to the payment of the cost of repairing, restoring or rebuilding the improvements on the Mortgaged Premises so damaged or destroyed or of the portion or portions of the Mortgaged Premises not so taken (hereinafter referred to as the "work") and shall be paid out from time to time to Mortgagor as the work progresses, but subject to the following conditions:

(a) If the work is structural or if the cost of the work, estimated by Mortgagee, shall exceed \$250,000, the work shall be in charge of an architect or engineer (who may be an employee of Mortgagor) and before Mortgagor commences any work, other than temporary work to protect property or prevent interference with business, Mortgagee shall have approved the plans and specifications for the work to be submitted by Mortgagor, which approval shall not be unreasonably withheld or delayed, it being nevertheless understood that to the extent feasible said plans and specifications shall provide for such work that, upon completion thereof, the improvements shall be at least equal in value and general utility to the improvements constituting the Mortgaged Premises prior to the damage, destruction or taking;

(b) Each request for payment shall be made on 10 business days' prior notice to Mortgagee and shall be accompanied by a certificate of the architect or engineer (if any), required under clause (a) of this paragraph 28 otherwise by Mortgagor, stating (i) that all of the

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work completed has been done in compliance with the approved plans and specifications if any be required under said clause (a), (ii) that the sum requested is justly required to reimburse Mortgagor for payments by Mortgagor to, or is justly due to, the contractor, subcontractors, materialmen, laborers, engineers, architects or other persons rendering services or materials for the work (giving a brief description of such services and materials), and that when added to all sums previously paid out by Mortgagee does not exceed 90% of the value of the work done to the date of such certificate and (iii) that the amount of such proceeds remaining in the hands of Mortgagee will be sufficient on completion of the work to pay for the same in full (giving in such reasonable detail as Mortgagee may require an estimate of the cost of such completion);

(c) The Mortgagor shall provide the Mortgagee with evidence of compliance with all requirements of the Illinois Mechanics Lien Act, 770 ILCS 60/.01, *et. seq.*, necessary to protect the Mortgaged Premises from mechanics' liens, and each request for payment shall be accompanied by waivers of lien satisfactory to Mortgagee covering that part of the work for which payment or reimbursement is being requested and by a search prepared by a title company or licensed abstractor or by other evidence satisfactory to Mortgagee that there has not been filed with respect to the Mortgaged Premises any mechanic's or other lien or instrument for the retention of title in respect of any part of the work which has not been discharged, and the title insurance company shall have committed to issue an endorsement to the mortgage policy of title insurance on the Mortgaged Premises insuring the continued priority of this Mortgage as a first lien upon the Mortgaged Premises as to the full amount of the Mortgage Indebtedness then outstanding;

(d) No lease of space in the Mortgaged Premises immediately prior to the damage, destruction or taking shall have been cancelled, nor shall any of the obligations of the parties under any such leases be otherwise affected except by temporary cessation of operation or of other obligations during the period of rebuilding, due to such damage, destruction or taking;

(e) There shall be no Event of Default on the part of Mortgagor under this Mortgage, the Notes or any of the other Loan Documents; and

(f) The request for any payment after the work has been completed shall be accompanied by a copy of any certificate or certificates required by law to render occupancy of the Mortgaged Premises legal.

Upon the completion of the work and payment in full therefor, or upon any failure on the part of Mortgagor promptly to commence or continue the work, or at any time upon request by Mortgagor, Mortgagee may, at its option, either apply the amount of any such proceeds then or thereafter in the hands of Mortgagee to the payment of the Mortgage Indebtedness or any portion thereof, whether or not then due and payable, or remit such amount to Mortgagor.

29. Protection of Mortgagee's Interest. Mortgagee is authorized and empowered to do all things provided to be done by a mortgagee necessary or useful for the protection of Mortgagee's interest in the Mortgaged Property.

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30. **Permitted Contests.** The Mortgagor shall not be required to pay, discharge or remove any lien or encumbrance or the taxes or assessments referenced in paragraph 3 or 5 hereof so long as Mortgagor shall, in good faith, contest the same or the validity thereof by appropriate legal proceedings which shall operate to prevent the collection of the taxes, assessments or liens so contested and the sale of the Mortgaged Premises, or any part thereof, to satisfy the same, provided that Mortgagor, prior to the date such taxes, assessments or lien are due and payable, shall have given such reasonable security as may be required by Mortgagee to insure such payments plus interest or penalties thereon and to prevent any sale or forfeiture of the Mortgaged Premises by reason of such non-payment. Any such contest shall be prosecuted with due diligence and Mortgagor shall promptly after final determination thereof, pay the amount of any such taxes, assessments or lien so determined, together with all interest and penalties which may be payable in connection therewith. Notwithstanding the foregoing, Mortgagor shall, and Mortgagee may, but shall not be required to, pay any such taxes, assessments, or lien notwithstanding such contest if in the reasonable opinion of Mortgagee, the Mortgaged Premises shall be in jeopardy or in danger of being forfeited or foreclosed. Any such payments shall be for the account of Mortgagor and shall be added to the Mortgage Indebtedness.

31. **Severability of Provisions.** If the lien of this Mortgage is invalid or unenforceable as to any part of the debt, or if the lien is invalid or unenforceable as to any part of Mortgaged Property, the unsecured or partially secured portion of the debt shall be completely paid prior to the payment of the remaining and secured or partially secured portion of the debt, and all payments made on the debt, whether voluntary or under foreclosure or other enforcement action or procedure, shall be considered to have been first paid on and applied to the full payment of that portion of the debt which is not secured or fully secured by the lien of this Mortgage.

32. **Subrogation.** To the extent that proceeds of the Notes are owed to pay any outstanding lien, charge or prior encumbrance against Mortgaged Premises, such proceeds have been or will be advanced by Mortgagee at Mortgagor's request and Mortgagee shall be subrogated to any and all rights and liens owed by any owner or holder of such outstanding liens, charges and prior encumbrances, irrespective of whether said liens, charges or encumbrances are released.

33. **Business Purpose Loan.** The Mortgagor represents that the proceeds of the loan secured by this Mortgage have been and will be used for the purposes specified in 815 ILCS 205/4(1)(c) or any successor statute, and that the principal obligation secured hereby constitutes a business loan which comes within the purview of said statute. Mortgagor, on behalf of itself and all persons now or hereafter interested in the Mortgaged Premises, voluntarily and knowingly hereby acknowledges that this Mortgage is a part of a transaction that does not include either Agricultural real estate (as defined in the Act), or Residential real estate (as defined in the Act).

34. **Amount of Indebtedness; Revolving Credit.** The aggregate amount of principal indebtedness secured by this Mortgage, exclusive of interest thereon and sums advanced to remedy defaults and protect the security of this Mortgage (which sums shall include, without limitation, any disbursements made for payment of taxes, special assessments or insurance on the Mortgaged Premises and interest thereon) will not in the aggregate exceed an amount equal to

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One Hundred Fifty Million Dollars (\$150,000,000.00). This Mortgage is given to secure, among other obligations, a revolving credit loan and shall secure not only existing indebtedness hereby secured but also such future advances, whether such advances are obligatory or to be made at the option of the Mortgagee, or otherwise, as are made within five years from the date hereof, to the same extent as if such future advances were made on the date of the execution of this Mortgage, although there may be no advance made at the time of execution of this Mortgage and although there may be no indebtedness secured hereby outstanding at the time any advance is made, as provided in the Illinois Banking Act, approved May 11, 1955, as amended. The lien of this Mortgage shall be valid as to all indebtedness secured hereby, including future advances, from the time of its filing for record in the office of the Recorder of Deeds of Cook County, Illinois. The total amount of indebtedness secured hereby may increase or decrease from time to time.

35. **WAIVER OF JURY TRIAL.** THE MORTGAGEE AND THE MORTGAGOR, AFTER CONSULTING OR HAVING HAD THE OPPORTUNITY TO CONSULT WITH COUNSEL, KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVE ANY RIGHT ANY OF THEM MAY HAVE TO A TRIAL BY JURY IN ANY LITIGATION BASED UPON OR ARISING OUT OF THIS MORTGAGE OR ANY RELATED INSTRUMENT OR AGREEMENT OR ANY OF THE TRANSACTIONS CONTEMPLATED BY THIS MORTGAGE OR ANY COURSE OF CONDUCT, DEALING, STATEMENTS (WHETHER ORAL OR WRITTEN) OR ACTIONS OF ANY OF THEM. NEITHER THE MORTGAGEE NOR THE MORTGAGOR SHALL SEEK TO CONSOLIDATE, BY COUNTERCLAIM OR OTHERWISE, ANY SUCH ACTION IN WHICH A JURY TRIAL HAS BEEN WAIVED WITH ANY OTHER ACTION IN WHICH A JURY TRIAL CANNOT BE OR HAS NOT BEEN WAIVED. THESE PROVISIONS SHALL NOT BE DEEMED TO HAVE BEEN MODIFIED IN ANY RESPECT OR RELINQUISHED BY EITHER THE MORTGAGEE OR THE MORTGAGOR EXCEPT BY A WRITTEN INSTRUMENT EXECUTED BY ALL OF THEM.

36. **Construction Loan.** To the extent this Mortgage secures obligations incurred for the construction of improvement on the Land, this Mortgage shall constitute a construction mortgage as such term is defined in 810 ILCS 5/9-334(h) of the Illinois Uniform Commercial Code.

37. **Revolving Credit.** This Mortgage secures "Revolving credit" as that term is defined in 815 ILCS 205/4.1, as amended, and will secure not only existing indebtedness, but also future advances, whether such advances are obligatory or to be made at the option of the Mortgagor or the secured parties, or otherwise, as are made within twenty (20) years from the date hereof, to the same extent as if such future advances were made on the date of execution of this Mortgage, although there may be no advance made at the time of execution hereof, and although there may be no indebtedness outstanding at the time any advance is made.

*[Signature Page Follows]*

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IN WITNESS WHEREOF, Mortgagor has duly executed this Mortgage on the date notarized below, and this Mortgage is made effective as of the date first above written.

PAV2, LLC

By: *[Signature]*  
Print Name: *C. Kirk Haggarty*  
Title: *EVP & CFO*

STATE OF MICHIGAN )  
                                  ) SS  
COUNTY OF *Oakland* )

The foregoing instrument was acknowledged before me on this *19<sup>th</sup>* day of March, 2013 by *C. Kirk Haggarty*, the *EVP & CFO* of PAV2, LLC, an Illinois limited liability.



**NICOLE R. LERNER**  
**NOTARY PUBLIC - STATE OF MICHIGAN**  
**COUNTY OF OAKLAND**  
My Commission Expires January 8, 2017  
Acting in the County of *Oakland*

*[Signature]*  
Print Name: *Nicole R Lerner*  
Notary Public, \_\_\_\_\_ County, Michigan  
Acting in \_\_\_\_\_ County, Michigan  
My Commission Expires: \_\_\_\_\_

County Clerk's Office

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## EXHIBIT A

### Legal Description of Land

#### **1309 N. 25<sup>th</sup> Avenue, Melrose Park, Illinois**

Lots 6, 7, 8, 9 and 10 in Block 148, in Melrose, a subdivision of Lots 3, 4 and 5 in the subdivision of the South 1/2 of Section 3 and all of Section 10, lying North of the Chicago and Northwestern Railroad Galena Division, all in Township 39 North, Range 12 East of the Third Principal Meridian, in Cook County, Illinois.

Commonly known as: 1309 N. 15th Avenue, Melrose Park, IL

Tax Id Number(s): 15-03-308-006-0000, 15-03-308-007-0000, 15-03-308-008-0000, 15-03-308-009-0000, 15-03-308-010-0000

#### **8596 W. Dempster Street, Niles, Illinois**

Lot 5 (except the North 100 feet thereof) in Dempster-Greenwood Acres, a subdivision of part of the Southwest quarter of Section 14, Township 41 North, Range 12, East of the third Principal Meridian, according to the plat thereof recorded in Book 321 of Plats, Page 19, as Document 11999316 in Cook County, except the portion falling Southwesterly of a line described as follows: Beginning at a point on the West line of said Lot 5 which is 15 feet Northerly from the Southwest corner thereof; thence Southeasterly along a straight line to a point lying in the South line of said Lot 5 and 15 feet Easterly from the Southwest corner thereof.

Commonly known as: 8596 W. Dempster Street, Niles, IL

Tax Id Number: 09-14-309-011-0000

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## EXHIBIT B

### Permitted Encumbrances

#### 1309 N. 25<sup>th</sup> Avenue, Melrose Park, Illinois

1. Subject to the Land Contract Vendee's interest of Ghazi Petrol, Inc., an Illinois corporation, as evidenced by Memorandum of Land Contract dated September 27, 2012 and recorded October 23, 2012, as Document No. 1229704100.
2. Environmental Disclosure Document for Transfer of Real Property recorded August 11, 1999, as Document No. 99767636.
3. Covenants, conditions and restrictions contained in the Quit Claim Deed August 20, 2003 and recorded September 12, 2003, as Document No. 0325532138.

#### 8596 W. Dempster Street, Niles, Illinois

1. Subject to the Land Contract Vendor's Interest of DG Mart, Inc., an Illinois corporation, as evidenced by Memorandum of Land Contract dated July 12, 2012 and recorded December 26, 2012, as Document No. 1236150008.
2. Covenants, conditions and restrictions contained in Deed recorded July 19, 1943, as Document No. 1310619.
3. Environmental Disclosure Document for Transfer of Real Property recorded November 9, 1992, as Document No. 92833918.
4. Environmental No Further Remediation Letter recorded September 18, 1997, as Document No. 97690993.
5. Covenants, conditions and restrictions contained in Quit Claim Deed dated October 13, 2006 and recorded October 18, 2006, as Document No. 0629110150.
6. Terms, conditions and provisions contained in Assignment and Assumption of Intangible Property and Other Rights recorded July 26, 2012, as Document No. 1220757209.