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Illinois Anti-Predatory Lending Database Program

Certificate of Exemption

Report Mortgage Fraud
800-532-8785



1315416077

Doc#: 1315416077 **Fee:** \$58.00
RHSP Fee: \$10.00 Affidavit Fee:
Karen A. Yarbrough
Cook County Recorder of Deeds
Date: 06/03/2013 03:52 PM Pg: 1 of 11

AP 130163 / VK 4074

The property identified as: **PIN:** 13-07-130-059-0000

Address:

Street: 5211-5215 N Harlem Ave

Street line 2:

City: Chicago

State: IL

ZIP Code: 60656

Lender: Alexander Kogan, as Trustee of the Alexander Kogan Trust under Trust Agreement dated April 28, 2008 and Mark Two Enterprises LLC

Borrower: Barbara Szymanska

Loan / Mortgage Amount: \$100,000.00

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

Certificate number: A263FF48-DC69-40BE-AC10-C6C9C67A12CD

Execution date: 05/29/2013

COOK COUNTY RECORDER OF DEEDS
612 N. LaSalle
CHICAGO, IL 60610

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**PREPARED BY AND
AFTER RECORDING MAIL TO:**
SMITH NICOLAU, P.C.
C/O DAVID T. WALLACH
162 N. FRANKLIN STREET
SUITE 201
CHICAGO, IL 60606

----- [Space Above This Line For Recording Data] -----

MORTGAGE

This Mortgage ("Mortgage") is made as of this 29th day of May, 2013 between BARBARA SZYMANSKA* ("Mortgagor"), and Alexander Kogan, as trustee of the Alexander Kogan Trust, u/t/a dated April 28, 2008, 2324 Castilian Circle, Northbrook, IL 60062, and Mark Two Enterprises, LLC, 4023 Church Street, Skokie, IL 60076 ("Lender" or "Secured Party," as applicable).

*A MARRIED WOMAN, NOT HOMESTEAD PROPERTY

WITNESSETH: Mortgagor irrevocably mortgages, grants, conveys, transfers, and assigns to Lender that real property in Cook County, Illinois commonly known as 5211-5215 N. Harlem Avenue with a tax identification number of 13-07-130-059-000 and 5117 N. East River Road, Unit 3E, Chicago, IL 60656 with a tax identification number of 12-11-310-086-1029 (the "Property") and legally described as:

PARCEL 1:

LOTS 22 AND 23 IN BLOCK 12 IN MCCOLLAM AND KRUGGEL'S ADDITION TO NORWOOD PARK IN THE WEST 1/2 OF SECTION 7, TOWNSHIP 40 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PARCEL 2:

UNIT 3E IN THE 5117 N. EAST RIVER ROAD CONDOMINIUM IN SECTION 11, TOWNSHIP 40 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS, WHICH PLAT OF SURVEY IS ATTACHED AS EXHIBIT "B" TO THE DECLARATION OF CONDOMINIUM OWNERSHIP RECORDED SEPTEMBER 7, 2001 IN THE OFFICE OF THE RECORDER OF DEEDS OF COOK COUNTY, ILLINOIS AS DOCUMENT NUMBER 0010833560, AS AMENDED FROM TIME TO TIME, TOGETHER WITH ITS UNDIVIDED PERCENTAGE INTEREST IN THE COMMON ELEMENTS, IN COOK COUNTY, ILLINOIS.

TOGETHER with all interest that Mortgagor now has or may hereafter acquire in or to said Property, and in and to all easements and rights of way appurtenant thereto, SUBJECT, HOWEVER, to the terms and conditions herein set forth. Mortgagor agrees to execute and deliver, from time to time, such further instruments as may be requested by Lender to evidence or confirm the lien of this Mortgage on the Property.

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I. FOR THE PURPOSE OF SECURING:

1. Payment of the sums due pursuant to the terms of certain notes ("Notes") dated the date of this Mortgage made by Mortgagor, which calls for the total principal amount of the Notes of ONE HUNDRED THOUSAND AND 00/100 Dollars (\$100,000.00) to be repaid payable to Lender pursuant to and in a manner consistent with all of the terms of the Notes, and all modifications, extensions, or renewals thereof and of that certain Loan and Security Agreement dated the date of this Mortgage (the "Loan Agreement" and together with the Notes, and any and all guaranties supporting the Notes, the "Loan Documents"). The terms of the Loan Documents, are hereby incorporated herein by reference.

This Mortgage is given in part to secure the acquisition of the Property as evidenced and witnessed by the Notes. The lien of this Mortgage as to third persons without actual notice thereof shall be valid as to all indebtedness from the time this Mortgage is filed for record in the Office of the Recorder of Deeds of the County set forth on Exhibit A attached hereto. The total amount of indebtedness that may be secured by this Mortgage may increase or decrease from time to time, but the total unpaid balances of the Notes secured at any one time, shall not exceed the maximum principal amount of the aggregate of the Notes (as amended, extended, substituted, restated, replaced or renewed from time to time), plus interest thereon and any disbursements made by the Mortgagee for the payment of taxes, special assessments, or insurance on the above described real estate, with interest on such disbursements.

2. Performance of each agreement of Mortgagor contained herein or incorporated herein by reference or contained in any other agreements or covenants executed by Mortgagor relating to the loan secured hereby.

3. Performance by Mortgagor with each and every monetary obligation to be performed by Mortgagor under any recorded covenants, conditions, and restrictions pertaining to the Property.

4. Payment of any and all amounts owed by Mortgagor to Lender under any other loan, promissory Notes, guaranty or document, whether now existing or hereafter arising.

5. Mortgagor covenants that Mortgagor is lawfully seized of the estate hereby conveyed and has the right to grant, convey, transfer, and assign the Property to Lender.

II. TO PROTECT THE SECURITY TO THIS MORTGAGE, MORTGAGOR COVENANTS AND AGREES AS FOLLOWS:

1. Payment of Principal and Interest. Mortgagor shall pay, when due, the principal of and interest on the indebtedness evidenced by the Loan Documents, any fees and costs provided in the Loan Documents, and all other sums secured by this Mortgage (together, the "Obligations").

2. Application of Payments. Unless applicable law requires otherwise, all payments received by Lender from Mortgagor under the Loan Documents or this Mortgage shall be applied by Lender in the following order of priority: (a) costs payable as provided in the Loan Documents; (b) interest payable on the Notes as provided in the Loan Documents; and (c) principal of the Notes as provided in the Loan Documents.

3. Charges; Liens. Mortgagor shall pay all water and sewer rates, rents, taxes, assessments, insurance premiums, and other impositions attributable to the Property, when due, directly to the appropriate payee.

4. Hazard Insurance. Mortgagor shall keep the improvements now existing or hereafter erected on the Property insured by carriers at all times satisfactory to Lender against loss by fire, hazards included within the term "extended coverage," and such other hazards, casualties, liabilities, and contingencies as

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Lender shall require. All premiums on insurance policies shall be paid by Mortgagor making payment, when due, directly to the carrier.

A. All insurance policies and renewals thereof shall be in a form acceptable to Lender, and shall include a standard mortgagee loss payable clause in a form acceptable to Lender. When requested by Lender, Mortgagor shall promptly furnish to Lender written evidence of such insurance policies, all renewal notices and all receipts of paid premiums. At least thirty (30) days prior to the expiration date of a policy, Mortgagor shall deliver to Lender a renewal policy in form satisfactory to Lender.

B. In the event of any loss covered by any such policies, Mortgagor shall give immediate written notice to the insurance carrier and to Lender.

5. Preparation and Maintenance of Property. Mortgagor (a) shall not commit waste or permit any physical deterioration of the Property; (b) shall restore or repair promptly and in a good and workmanlike manner all or any part of the Property to the equivalent of its original condition in the event of any damage, injury, or loss thereto; (c) shall keep the Property in good repair; (d) shall keep the Property free from mechanic's or other liens or claims for lien not expressly subordinated to the lien thereof; (e) shall pay when due any indebtedness which may be secured by a lien or charge on the premises superior to the lien hereof, and upon request exhibit satisfactory evidence of the discharge of such prior lien to the Lender; (f) shall comply with all laws, ordinances, regulations, and requirements of any governmental body applicable to the Property.

6. Mortgagor shall permit Mortgagee and its representatives and agents to inspect the Property from time to time during normal business hours and as frequently as Mortgagee considers reasonable.

7. Assignment of Rents and Leases. Mortgagor hereby assigns, transfers and sets over unto Mortgagee all the rents, fees or payments now or hereafter due, under or by virtue of any lease, either oral or written, or any letting of, or any agreement for the use or occupancy of any part of the Property, whether heretofore, now or hereafter agreed to and all leases and modifications thereof, now existing or hereafter made relating to the Property; together with the right to let and relet the Property or any part thereof, in Mortgagee's sole discretion, and to do anything with respect to the Property as Mortgagor might do. Any proceeds received hereunder may be applied by Mortgagee as otherwise provided in this Mortgage. Mortgagor hereby directs all tenants, lessees and occupants of the Property to pay all rental, payments or fees for use and occupancy of the Property in accordance herewith. Mortgagee agrees not to exercise its rights granted in this paragraph until a Default, as hereafter defined, shall have occurred. Mortgagor shall execute, acknowledge, and deliver to Mortgagee, within 10 days after request by Mortgagee, such assignment of rent documents required by Mortgagee, in form and of content satisfactory to Mortgagee. Mortgagor further agrees to pay to Mortgagee all costs and expenses incurred by Mortgagee in connection with the preparation, execution and recording of any such document.

8. Inspection of Books and Records. Mortgagor shall keep and maintain such books and records as required by the Mortgagee and shall permit Mortgagee reasonable access to and rights of inspection of said books and records.

9. Environmental Conditions. Mortgagor hereby represents and warrants to Mortgagee that no hazardous or toxic substances, within the meaning of any applicable statute or regulation, whether federal, state or local, are presently stored or otherwise located on the Property, or to the best of its knowledge on any real estate adjacent to the Property, except in accordance with all applicable laws, regulations and rules.

Mortgagor covenants and agrees that all hazardous and toxic substances within the definition of any applicable statute, regulation or rule (whether federal, state or local), which may be used by any person for any purpose upon the Property, shall be used or stored thereon only in a safe, approved

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manner, in accordance with all industrial standards and all laws, regulations, and requirements for such storage promulgated by any governmental authority, that the Property will not be used for the principal purpose of storing such substances, and that no such storage or use will otherwise be allowed on the Property which cause or which will increase the likelihood of causing the release of such substances onto the Property. Upon the written request of Mortgagee to Mortgagor, Mortgagee, its attorneys, employees, agents or other persons or entities designated by Mortgagee shall, from time to time, and at any time, be allowed to enter upon the Property and conduct environmental examinations and environmental audits of the Property, all in form, manner and type as Mortgagee may then require in its sole discretion. Mortgagor shall fully cooperate and make the Property available to Mortgagee at such times as Mortgagee may reasonably request in order to conduct such environmental examinations and environmental audits.

Mortgagor hereby agrees to give immediate notice of any violation of any federal, state or local statute, rule or regulation dealing with the presence or suspected presence of any hazardous or toxic substances or conditions affecting the Property. Mortgagor covenants and agrees to promptly contain and clean up any and all releases of hazardous substances on the Property to the extent required by law. Notwithstanding any language or provision of this Mortgage to the contrary, Mortgagor hereby unconditionally gives the Mortgagee the right, but not the obligation, and Mortgagee does not so obligate itself, to undertake to contain and clean up releases of hazardous substances on the Property. Mortgagor hereby indemnify and saves Mortgagee harmless of and from any and all loss, costs (including reasonable attorneys' fees), liability and damage whatsoever incurred by Mortgagee, by reason of any violation of any applicable statute, rule or regulation for the protection of the environment which occurs upon the Property or by reason of the imposition of any governmental lien for the recovery of environmental clean-up costs related to the Property expended by reason of such violation; provided that, to the extent that Mortgagee is strictly liable under any such statute, Mortgagor's obligation to Mortgagee under this indemnity shall likewise be without regard to fault on the part of Mortgagor with respect to the violation of law which results in liability to the Mortgagee. Mortgagor further agrees that this indemnity shall continue and remain in full force and effect beyond the term of the indebtedness or obligation which is secured by this Mortgage and shall be terminated only when there is no further obligation of any kind whether in law or in equity or otherwise of Mortgagee in connection with any such environmental clean-up costs, environmental liens, or environmental matters involving the Property.

10. Protection of Lender's Security. If Mortgagor fails to perform any of the covenants and agreements contained in this Mortgage, or if any action or proceeding is commenced that affects the Property or title thereto or the interest of Lender therein, including, but not limited to, eminent domain, insolvency, building code enforcement, or arrangements or proceedings involving a bankrupt or decedent, then Lender at Lender's option may make such appearances, disburse such sums, and take such action as Lender deems necessary, in its sole discretion, to protect Lender's interest, including, but not limited to disbursement of attorneys' fees, entry upon the Property to make repairs or otherwise to protect the Property as security for the indebtedness secured by this Mortgage; and procurement of satisfactory insurance as provided in paragraph 4 hereof.

A. Any amounts disbursed by Lender pursuant to this paragraph 10 shall become additional indebtedness secured by this Mortgage.

11. Condemnation. Mortgagor shall promptly notify Lender of any action or proceeding relating to any condemnation or other taking of the Property, or part thereof, and Mortgagor shall appear in, and prosecute any such action or proceeding. The proceeds of any award, payment, or claim for damages, direct or consequential, in connection with any such condemnation or other taking of the Property or part thereof; or for conveyances in lieu of condemnation, are hereby assigned to and shall be paid to Lender subject to the following paragraph 11A. Mortgagor authorizes Lender to apply such awards, payments, proceeds, or damages, after the deduction of Lender's expenses incurred in the collection of such amounts, at Lender's option, for restoration or repair of the Property or to payment of the sums secured by

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this Mortgage, whether or not then due, in the order of application set forth in paragraph 2 hereof, with the balance, if any, to Mortgagor. Mortgagor agrees to execute such further evidence of assignment of any awards, proceeds, damages, or claims arising in connection with such condemnation or taking as Lender may require.

12. Lien Not Released. From time to time, Lender may, at Lender's option, extend the time for payment of the indebtedness or any part thereof, reduce the payments thereon, accept a renewal Notes or Notes therefor, modify the terms and time of payment of said indebtedness. Any actions taken by Lender pursuant to the terms of this paragraph shall not affect the obligations of Mortgagor or Mortgagor's successors or assigns to pay the sums secured by this Mortgage and to observe the covenants of Mortgagor contained herein and shall not affect the lien or priority of lien hereof on the Property.

13. Forceance by Lender Not a Waiver. No waiver by Lender of any right under this Mortgage shall be effective unless in writing. By accepting payment of any sum secured hereby after its due date or by making any payment or performing any act on behalf of Mortgagor that Mortgagor was obligated hereunder but failed to make or perform, or by adding any payment so made by Lender to the indebtedness secured hereby, Lender does not waive its right to require prompt payment when due of all sums so secured or to require prompt performance of all other acts required hereunder, or to declare a default for failure so to pay.

14. Acceleration in Case of Insolvency. Notwithstanding anything in this Mortgage or the Loan Documents to the contrary, if Mortgagor or any guarantor shall voluntarily file a petition under the Federal Bankruptcy Act, as such Act may from time to time be amended, or under any similar or successor federal statute relating to bankruptcy, insolvency, arrangements, or reorganizations, or under any state bankruptcy or insolvency act, or file an answer in an involuntary proceeding admitting insolvency or inability to pay debts, or if the Mortgagor or any guarantor shall fail to obtain a vacation or stay of involuntary proceedings brought for the reorganization, dissolution, or liquidation under a bankruptcy or insolvency act within a reasonably prompt time after such filing or if the Mortgagor or any guarantor shall be adjudged a bankrupt, or if a trustee or receiver shall be appointed for either of them or their Property, or if the Property shall become subject to the jurisdiction of a federal bankruptcy court or similar state court, or if the Mortgagor or any guarantor shall make an assignment for the benefit of their respective creditors, or if there is an attachment, execution, or other judicial seizure of any portion of their respective assets and such seizure is not discharged within ten (10) days, then Lender may, at Lender's option, declare all indebtedness due under this Mortgage and the Notes secured hereby to be immediately due and payable without prior notice, and Lender may invoke any remedies permitted by this Mortgage. Any attorneys' fees and other expenses incurred by Lender in connection with such bankruptcy or any of the other aforesaid events shall be additional indebtedness of Mortgagor secured by this Mortgage and payable on demand.

15. Transfers of the Property. On sale or transfer of all or any part of the Property, or any interest therein, Lender may, at Lender's option, declare all of the sums secured by this Mortgage to be immediately due and payable, and Lender may invoke any remedies permitted by this Mortgage.

16. Acceleration; Remedies. Upon Mortgagor's breach of any covenant or agreement of Mortgagor in this Mortgage or the Loan Documents, including, but not limited to, the covenants to pay when due any sums secured by this Mortgage, Lender, at Lender's option, may declare all of the sums secured by this Mortgage to be immediately due and payable without further demand.

A. When the indebtedness hereby secured shall become due whether by acceleration or otherwise, the Lender shall have the right to foreclose the lien hereof. In any suit to foreclose the lien hereof, there shall be allowed and included as additional indebtedness in the order of foreclosure or sale all expenditures and expenses that may be paid or incurred by or on behalf of Lender for reasonable attorneys' fees, appraisers' fees, outlays for documentary and expert evidence, charges, publication cost,

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and costs of procuring all abstracts of title or commitments for title insurance. Such fees, charges, and costs may be estimated as to items to be expended after entry of the order of foreclosure or sale as Lender may deem reasonably necessary either to prosecute such suit or to evidence to bidders at any sale that may be had pursuant to such decree the true condition of the title to or the value of such Property. All expenditures and expenses of the nature mentioned in this paragraph shall become so much additional indebtedness secured hereby and shall be immediately due and payable with interest thereon at the rate specified in the Loan Documents and the Notes secured hereby. Such expenditures and expenses shall include expenditures made in connection with (i) any proceeding to which Lender shall be a party by reason of this Mortgage or any indebtedness hereby secured; (ii) preparation for the commencement of any suit for foreclosure hereof after accrual of the right to foreclose, whether or not actually commenced; (iii) any efforts for collection of any past due indebtedness secured hereby. The proceeds of any foreclosure sale of the Property shall be distributed and applied in the following order of priority: first, on account of all costs and expenses incident to the foreclosure proceedings, including all such items as are mentioned in this paragraph; second, all other items that under the terms hereof constitute indebtedness secured by this Mortgage; third, any surplus to Mortgagor, its successors, or its assigns, as their rights may appear.

B. **Right of Possession.** In any case in which, under the provisions of this Mortgage, Mortgagee has a right to institute foreclosure proceedings, whether or not the entire principal sum secured hereby becomes immediately due and payable as aforesaid, or whether before or after the institution of proceedings to foreclose the lien hereof or before or after sale thereunder, Mortgagor shall, forthwith upon demand of Mortgagee, surrender to Mortgagee, and Mortgagee shall be entitled to take actual possession of, the Property or any part thereof, personally or by its agent or attorneys, and Mortgagee, in its discretion, may enter upon and take and maintain possession of all or any part of the Property, together with all documents, books (or copies thereof) records (or copies thereof), papers, and accounts of Mortgagor or the then owner of the Property relating thereto, and may exclude Mortgagor, such owner, and any agents and servants thereof wholly therefrom and may, as attorney-in-fact or agent of Mortgagor or such owner, or in its own name as Mortgagee and under the powers herein granted:

- i. hold, operate, manage, and control all or any part of the Property and conduct the business, if any, thereof, either personally or by its agents, with full power to use such measures, legal or equitable, as in its sole and arbitrary discretion may be deemed proper or necessary to enforce the payment or security of the rents, issues, deposits, profits, and avails of the Property, including without limitation actions for recovery of rent, actions in forcible detainer, and actions in distress for rent, all without notice to Mortgagor;
- ii. cancel or terminate any lease or sublease of all or any part of the Property for any cause or on any ground that would entitle Mortgagor to cancel the same;
- iii. elect to disaffirm any lease or sublease of all or any part of the Property made subsequent to this Mortgage or subordinated to the lien hereof;
- iv. extend or modify any then existing leases and make new leases of all or any part of the Property, 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 loan evidenced by the Notes and 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, all persons whose interests in the Property are subject to the lien hereof, and the purchaser or purchasers at any foreclosure sale, notwithstanding any redemption from sale, discharge of the indebtedness secured

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hereby, satisfaction of any foreclosure decree, or issuance of any certificate of sale or deed to any such purchaser; and make all necessary or proper repairs, decorations, renewals, replacements, alterations, additions, betterments and improvements in connection with the Property as may reasonably necessary, to insure and reinsure the Property and all risks incidental to Mortgagee's possession, operation, and management thereof, and to receive all rents, issues, deposits, profits and avails therefrom.

17. Priority of Payments. Any rents, issues, deposits, profits, and avails of the Property received by Mortgagee after taking possession of all or any part of the property, or pursuant to any assignment thereof to Mortgagee under the provisions of this Mortgage, shall (unless otherwise required pursuant to order of court) be applied in the following order of priority: (a) to the Obligations in such order and manner as determined by Mortgagee in Mortgagee's sole discretion; and (b) the balance to Mortgagor or its successors or assigns, as their interests and rights may appear.

18. Appointment of Receiver. Upon or at any time after the filing of any complaint to foreclose the lien of this Mortgage the court may, upon application, appoint a receiver of the Property. Such appointment may be made either before or after foreclosure sale, without notice; without regard to the solvency or insolvency, at the time of application for such receiver, of the person or persons, if any, liable for the payment of the indebtedness secured hereby; without regard to the value of the Property at such time and whether or not the same is then occupied as a homestead; and without bond being required of the applicant. Such receiver shall have the power to take possession, control and care of the Property and to collect all rents, issues, deposits, profits and avails thereof during the pendency of such foreclosure suit and, in the event of a sale and a deficiency where Mortgagor has not waived its statutory rights of redemption, during the full statutory period of redemption, as well as during any further times when Mortgagor or its devisees, legatees, heirs, executors, administrators, legal representatives, successors or assigns, except for the intervention of such receiver, would be entitled to collect such rents, issues, deposits, profits and avails, and shall have all other powers that may be necessary or useful in such cases for the protection, possession, control, management and operation of the Property during the whole of any such period. To the extent permitted by law, such receiver may be authorized by the court to extend or modify any then existing leases and to make new leases of the Property or any part thereof, 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 secured hereby, it being understood and agreed that any such leases, and the options or other such provisions to be contained therein, shall be binding upon Mortgagor and all persons whose interests in the Property are subject to the lien hereof, and upon the purchaser or purchasers at any such foreclosure sale, notwithstanding any redemption from sale, discharge of indebtedness, satisfaction of foreclosure decree, or issuance of certificate of sale or deed to any purchaser.

19. Foreclosure Sale. In the event of any foreclosure sale of the Property, the same may be sold in one or more parcels. Mortgagee may be the purchaser at any foreclosure sale of the Property or any part thereof.

20. Application of Proceeds. The proceeds of any foreclosure sale of the Property, or any part thereof, shall be distributed and applied in the following order of priority: (a) to the Obligations in such order and manner as determined by Mortgagee in Mortgagee's sole discretion; and (b) the balance to Mortgagor or its successors or assigns, as their interests and rights may appear.

21. Rent. During the continuance of any Default and if Mortgagee or any judicially appointed representative has a right to exclude Mortgagor from all or any part of the Property, Mortgagor agrees to pay the fair and reasonable rental value for the use and occupancy of the Property, or any portion thereof which are in its possession and being occupied for such period and, upon default of any such payment, will vacate and surrender possession of the Property to Mortgagee or to a receiver, if any, and in default

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thereof may be evicted by any summary action or proceeding for the recovery or possession of premises for non-payment of rent, however designated.

22. Remedies Cumulative. Each remedy provided herein shall be exclusive of any other remedy herein or now or hereafter existing by law and may be exercised concurrently, independently, or successively in any order whatsoever. Every power or remedy hereby given to Lender may be exercised from time to time and as often as deemed expedient by the Lender.

23. Notice. Except for any notice required under applicable law to be given in another manner, all notices and other communications required or permitted under this Mortgage shall be in writing and shall be delivered personally or sent by registered or certified mail, return receipt requested, and if mailed shall be deemed received on the third business day after deposit in the mail in the continental United States, postage prepaid, addressed to the party to receive such notice at the address set forth above. Notice of change of address shall be given by written notice in the manner set forth in this paragraph 23.

24. Successors and Assigns Bound; Joint and Several Liability; Agents; Captions. The covenants and agreements herein contained shall bind, and the rights hereunder shall inure to, the respective successors and assigns of Lender and Mortgagor. In exercising any rights hereunder or taking any actions provided for herein, Lender may act through its employees, agents, or independent contractors as authorized by Lender. The captions and headings of the paragraphs of this instrument are for convenience only and are not to be used to interpret or define the provisions hereof.

25. Governing Law; Severability. The loan secured by this Mortgage is made pursuant to, and shall be construed and governed by, the laws of the State of Illinois. If any paragraph, clause, or provision of this Mortgage, or the Loan Documents or any other Notes or obligations secured by this Mortgage, is determined by a court of competent jurisdiction to be void, invalid, or unenforceable, such decision shall affect only those paragraphs, clauses, or provisions so determined and shall not affect the remaining paragraphs, clauses, and provisions of this Mortgage or the Loan Documents or other Notes secured by this Mortgage.

26. Waiver of Statute of Limitations; Waiver of Right of Redemption. Time is of the essence for all of Mortgagor's obligations hereunder, and to the extent permitted by law, Mortgagor waives all present or future statutes of limitation with respect to any debt, demand, or obligation secured hereunder in any action or proceeding for the purpose of enforcing this instrument or any rights or remedies hereunder. Mortgagor further agrees, to the full extent permitted by law, that in case of a default hereunder and acceleration pursuant to paragraph 12 hereof, neither Mortgagor nor anyone claiming through or under it will set up, claim or seek to take advantage of any appraisal, valuation, stay or extension laws now or hereafter in force, or take any other action which would prevent or hinder the enforcement or foreclosure of this Mortgage or the absolute sale of the Property or the final and absolute putting into possession thereof, immediately after such sale, of the purchaser thereof. Mortgagor, for itself and all who may at any time claim through or under it, hereby waives, to the full extent that it may lawfully do so, the benefit of all such laws, and any and all right to have the assets comprising the Property marshalled upon any foreclosure of the lien hereof and agrees that Lender or any court having jurisdiction to foreclose such lien may sell the Property in part or as an entirety. Mortgagor acknowledges that the transaction of which this Mortgage is a part is a transaction which does not include either agricultural real estate (as defined in Section 15-1201 of the Illinois Mortgage Foreclosure Law (735 ILCS 5/15-1101 et. seq.) (the "Act") or residential real estate (as defined in section 15-1219 of the Act). Mortgagor hereby voluntarily and knowingly waives any and all rights of redemption as allowed under Section 15-1601 of the Act.

27. Offsets. No indebtedness secured by this Mortgage shall be deemed to have been offset or compensated by all or part of any claim, cause of action, or counterclaim or part of any claim, cause of action, counterclaim, or crossclaim, whether liquidated or unliquidated, that Mortgagor now or hereafter may have or may claim to have against Lender, and, in respect to the indebtedness now or hereafter

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secured hereby, Mortgagor waives to the fullest extent permitted by law the benefits of any applicable law, regulation, or procedure that substantially provides that when cross-demands for money have existed between persons at any point when neither demand was barred by the applicable statute of limitations, and an action is thereafter commenced by one such person, the other person may assert in his answer the defense of payment in that the two demands are compensated as far as they equal each other, notwithstanding that an independent action asserting his claim would at the time of filing his answer be barred by the applicable statute of limitations.

28. The amount of indebtedness secured hereby shall not exceed three times the principal amount of the Notes.

29. Confession of Judgment; Attorney's Fees. Borrower hereby irrevocably authorizes and empowers any attorney-at-law to appear in any court of record and to confess judgment against Borrower for the unpaid amount of the Notes as evidenced by an affidavit signed by an officer of Lender setting forth the amount then due, attorneys' fees plus costs of suit, and to release all errors, and waive all rights of appeal. If a copy of the Notes, verified by an affidavit, shall have been filed in the proceeding, it will not be necessary to file the original as a warrant of attorney. Borrower waives the right to any stay of execution and the benefit of all exemption laws now or hereafter in effect. No single exercise of the foregoing warrant and power to confess judgment will be deemed to exhaust the power, whether or not any such exercise shall be held by any court to be invalid, voidable, or void; but the power will continue undiminished and may be exercised from time to time as Lender may elect until all amounts owing on the Notes have been paid in full. Borrower hereby waives and releases any and all claims or causes of action which Borrower might have against any attorney acting under the terms of authority which Borrower has granted herein arising out of or connected with the confession of judgment hereunder. All expenses incurred by Lender to the extent reimbursable under Sections 15-1510 and 15-1512 of the Illinois Mortgage Foreclosure Law (735 ILCS 5/15-1101 et. seq.), whether incurred before or after any decree or judgment of foreclosure, and whether enumerated in this Mortgage, shall be added to the indebtedness secured by this Mortgage or by the judgment of foreclosure.

30. General Provisions.

A. The Mortgage applies to, inures to the benefit of, and binds all parties hereto and their heirs, legatees, devisees, administrators, executors, successors, and assigns.

B. The term "Lender" shall mean the owner and holder (including a pledgee) of any Notes secured hereby, whether or not named as Lender herein.

C. Whenever the context so requires, the masculine gender includes the feminine and neuter, the singular number includes the plural, and vice versa.

D. Captions and paragraph headings used herein are for convenience only, are not a part of this Mortgage, and shall not be used in construing it.

