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In This Document Prepared by
and after Recording Return to:

Doc#: 1626517020 Fee: \$76.00
Karen A. Yarbrough
Cook County Recorder of Deeds
Date: 09/21/2016 09:35 AM Pg: 1 of 15

Baugh Dalton, LLC
Suite 2100
135 S. LaSalle Street
Chicago IL 60603
Attn: John D. Purdy, Jr.

This space reserved for Recorder's use only.

NEGATIVE PLEDGE AGREEMENT

THIS DOCUMENT (the "**Document**") is made on September 2, 2016 by and among The PrivateBank and Trust Company, an Illinois banking corporation, 1110 Jorie Boulevard, Oak Brook, Illinois 60523 ("**Lender**") and Pouloukefalos Enterprises LLC, an Illinois limited liability company, 2350 East Lunt Avenue, Elk Grove Village, Illinois 60007 ("**Borrower**").

1. RECITALS.

1.1 Borrower has requested that Lender loan or advance monies, extend credit, and/or extend other financial accommodations to or for the benefit of Borrower.

1.2 Lender has agreed to make a loan in the amount of Two Million Seven Hundred Thousand and 00/100 Dollars (\$2,700,000.00) to Borrower (the "**Loan**") on the terms and conditions set forth in this Agreement.

1.3 Borrower and Lender have entered into a Loan Agreement (the "**Loan Agreement**"), a Promissory Note and other documents described in the Loan Agreement of even date herewith (collectively, the "**Loan Documents**").

1.4 As a condition to making the Loan, Lender requires that Borrower enter into this Negative Pledge Agreement relating all property, real, and personal, now owned or hereafter acquired by Borrower, including the real estate described in Exhibit A attached hereto (the "**Real Estate**").

1.5 In consideration of the mutual covenants contained herein, Borrower and Lender agree as set forth in this Agreement.

2. **NEGATIVE PLEDGE.** For good and valuable consideration and to secure the payment of all Borrower's Liabilities and the performance of all Borrower's covenants and agreements pursuant to the Loan Documents, including all modifications, increases in amount and extensions thereof until Borrower's Liabilities shall be paid in full, Borrower agrees that Borrower shall not grant

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any lien or security interest, or assign any interest, in any real or personal property now owned or hereafter acquired by Borrower ("**Borrower's Property**") to any Person or permit, grant or suffer any lien, claim or encumbrance upon Borrower's Property, including the Real Estate.

3. **WARRANTIES AND COVENANTS.** Borrower warrants, covenants and agrees that:

3.1 Ownership; Freedom from Liens and Security Interests. Borrower has and at all times hereafter shall have good, indefeasible and merchantable title to and ownership of Borrower's Property, free and clear of all liens, claims, security interests and encumbrances, without exception, except as provided in the Loan Documents.

3.2 No Consent or Approval Required. No consent, approval, authorization or other order of any Person (other than such consents, approvals, authorizations and orders which have been obtained prior to the date hereof), and no consent, authorization, approval or other action by, and no notice to or filing with, any governmental authority or regulatory body is required either:

A. For the execution, delivery or performance of this Agreement by Borrower, or

B. For the exercise by Lender of the rights provided for in this Agreement or the remedies in respect of Borrower's Property pursuant to this Agreement or the Loan Documents.

3.3 No Contravention of Law. The execution, delivery, performance and enforcement of this Agreement do not and will not contravene, or constitute a default under, any provision of applicable law or regulation or of any agreement, judgment, injunction, order, decree, or other instrument binding upon Borrower or result in the creation or imposition of any lien (other than the security interests granted herein) upon any asset of Borrower.

3.4 Defense of Borrower's Property; No Sale, Encumbrance or Security Interest. Until payment in full of all of Borrower's Liabilities, Borrower will defend the right, title and interest of Borrower to Borrower's Property against the adverse claim of any Person, and will not sell or otherwise dispose of Borrower's Property, or any part thereof, other than the sale of inventory in the ordinary course, or create, incur or suffer to be created or incurred or permit to exist any lien, mortgage, pledge, charge, security interest or other encumbrance of any kind or nature upon any of Borrower's Property; , other than the replacement of obsolete personal property having an aggregate market value of \$10,000 in any year of the Term.

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4. DEFAULTS AND REMEDIES.

4.1 Cross Default. A default pursuant to this Agreement shall be a Default pursuant to the Note and the Loan Documents and shall entitle Lender to exercise all of Lender's remedies for Default thereunder. Each of the following events shall constitute a default ("**Default**") under this Agreement:

- A. A violation of the Negative Pledge contained in Paragraph 2 above;
- B. The material untruth of any warranty of fact made by Borrower herein;
- C. The occurrence of any Default or Event of Default (as defined therein) under any of the Loan Documents;

4.2 Nature of Remedies. No delay or omission on the part of Lender in the exercise of any right or remedy shall operate as a waiver thereof. The remedies available to Lender under this Agreement shall be exercisable in any combination whatsoever and shall be in addition to, and exercisable in any combination with, any and all remedies available by operation of law and under the Loan Documents. In no event shall grace periods granted under the various Loan Documents, if any, cumulate

5. LENDER'S AUTHORITY. Borrower agrees with Lender as follows:

5.1 Lender is authorized to take all such action as is provided to be taken by Lender pursuant to this Agreement and the Loan Documents and all other actions reasonably incidental thereto.

5.2 Lender shall not be liable for any action taken or omitted to be taken by Lender on behalf of Lender, under this Agreement or the Loan Documents or in respect of any of Buyer's Property or otherwise in connection with any of the foregoing, except for Lender's own gross negligence or willful misconduct.

5.3 In connection with actions pursuant to this Agreement or the Loan Documents, Lender shall be entitled to rely on any matter, paper or document reasonably believed by Lender to be genuine and correct and, in respect of legal matters, upon the opinion of legal counsel selected by Lender; and any action taken or omitted in good faith by Lender in accordance with the opinion of such counsel shall be fully justified.

5.4 Lender shall not be responsible for the genuineness, validity, or effectiveness of any of the Loan Documents, nor shall it be liable because of any invalidity of the security provisions hereof, whether arising from law or by reason of any action or omission to act on its part. Lender shall not be bound to ascertain or inquire as to the performance or observance of any of the terms of this Agreement or any Loan Document by Borrower.

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6. **INDEMNITY** To the fullest extent permitted by law, and except as a result of Lender's gross negligence or willful misconduct, Borrower agrees to indemnify, protect, hold harmless and defend Lender, its successors, assigns and shareholders, directors, officers, employees, and agents ("**Indemnitees**") from and against any and all losses, damages, costs, expenses (including reasonable attorneys' fees, including, but not limited to, all appellate level and post-judgment proceedings and costs incurred by Lender in any successful defense or settlement of any counterclaim brought by Borrower or any Affiliate of Borrower, or incident to any action or proceeding involving Borrower brought pursuant to the U.S. Bankruptcy Code), claims, proceedings, penalties, fines and other sanctions in connection with (a) the execution, delivery, performance, enforcement or administration of this Agreement or any of the Loan Documents and (b) any breach of or failure by Borrower to perform satisfactorily any covenant or agreement under this Agreement or the Loan Document. Upon written request by an Indemnitee, Borrower will undertake, at its own cost and expense, on behalf of such Indemnitee, using counsel satisfactory to such Indemnitee in such Indemnitee's reasonable discretion, the defense of any legal action or proceeding, whether or not such Indemnitee shall be a party, and for which such Indemnitee is entitled to be indemnified pursuant to this Paragraph.

7. GENERAL.

7.1 Direction of Payments after Default Following the occurrence of a Default, Borrower waives the right to direct the application of any and all payments at any time or times hereafter received by Lender on account of Borrower's Liabilities and Borrower agrees that Lender shall have the continuing exclusive right to apply and re-apply any and all such payments in such manner as Lender may deem advisable, notwithstanding any entry by Lender upon any of its books and records.

7.2 Truth of Representations and Warranties. Borrower covenants, warrants and represents to Lender that all representations and warranties of Borrower and Guarantor contained in this Agreement and the Loan Documents shall:

A. *Truthful*. Be true in all material respects from the time of Borrower's execution of this Agreement to the end of the original term and any renewal term hereof, and

B. *Survive*. Survive the termination or cancellation of this Agreement.

7.3 Credit Report. Borrower acknowledges that Lender may or will procure a credit report on Borrower and Guarantor in form and substance acceptable to Lender, in Lender's sole discretion, which may be an "investigative credit report", including information as to the character, general reputation, personal characteristics and mode of living. Upon written request, Lender shall furnish to Borrower and Guarantor a disclosure pursuant to the Equal Credit Opportunity Act.

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7.4 Entire Agreement. This Agreement and the Loan Documents:

A. Are valid, binding and enforceable against Borrower and Guarantor and Lender according to their respective terms and provisions and no conditions exists as to their legal effectiveness.

B. Constitute the entire agreement between the parties with regard to their subject matter.

C. Are the final and complete expression of Borrower and Guarantor and Lender.

The terms and provisions of this Agreement and the Loan Documents supersede any prior agreement or understanding of the Parties. All prior agreements and understandings between and among the parties are merged herein.

This Agreement and the Loan Documents may not be modified, altered or amended except by an agreement in writing signed by Borrower and Lender.

7.5 Non-Reliance. Each Party.

A. Acknowledges that no Party nor such Party's agents, employees or representatives have made any statement, representation or promise with regard to the subject matter of this Agreement not specifically set forth in this Agreement.

B. Specifically waives any and all right to rely on any statement, representation or promise not contained in this Agreement.

7.6 Recovery Claim. Should any claim ("**Recovery Claim**") be made upon Lender at any time for recovery of any amount received by Lender in payment of Borrower's Liabilities (whether received from Borrower or otherwise) and should Lender repay all or part of said amount by reason of (1) any judgment, decree or order of any court or administrative body having jurisdiction over Lender or any of its property; or (2) any settlement or compromise of any such Recovery Claim effected by Lender with the claimant (including Borrower), this Agreement and the security interests granted Lender hereunder shall continue in effect with respect to the amount so repaid to the same extent as if such amount had never originally been received by Lender, notwithstanding any prior termination of this Agreement, the return of this Agreement to Borrower, or the cancellation of any note or other instrument evidencing Borrower's Liabilities.

7.7 Assignment. Borrower may not sell, assign or transfer this Agreement, or the Loan Documents or any portion thereof without the prior written consent of Lender, which Lender may withhold or deny in Lender's absolute discretion.

7.8 Lender's Costs. Upon demand by Lender, Borrower shall reimburse Lender for Lender's additional costs and/or reductions in the amount of principal or

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interest received or receivable by Lender if at any time after the date of this Agreement any law, treaty or regulation or any change in any law, treaty or regulation or the interpretation thereof by any governmental authority charged with the administration thereof or any central bank or other fiscal, monetary or other authority having jurisdiction over Lender or the Loans, whether or not having the force of law, shall impose, modify or deem applicable any reserve (except reserve requirements taken into account in calculating the Interest Rate) and/or special deposit requirement against or in respect of assets held by or deposits in or for the account of the Loans by Lender or impose on Lender any other condition with respect to this Agreement or the Loan, the result of which is to either increase the cost to Lender of making or maintaining the Loan or to reduce the amount of principal or interest received or receivable by Lender with respect to the Loan. Said additional costs and/or reductions will be those which directly result from the imposition of such requirement or condition on the making or maintaining of the Loan. Notwithstanding the foregoing, Borrower shall not be required to pay any such additional costs which could be avoided by Lender with the exercise of reasonable conduct and diligence.

7.9 Failure to Require Strict Performance. Lender's failure to require strict performance by Borrower of any provision of this Agreement or the Loan Documents shall not waive, affect or diminish any right of Lender thereafter to demand strict compliance and performance therewith. Any suspension or waiver by Lender of a Default by Borrower under this Agreement or the Loan Documents shall not suspend, waive or affect any other Default or Event of Default by Borrower under this Agreement or the Loan Documents, whether the same is prior or subsequent thereto and whether of the same or of different type. None of the undertakings, agreements, warranties, covenants and representations of Borrower contained in this Agreement or the Loan Documents and no Default by Borrower under this Agreement or the Loan Documents shall be deemed to have been suspended or waived by Lender unless such suspension or waiver is by an instrument in writing signed by an officer of Lender and directed to Borrower specifying such suspension or waiver.

7.10 Invalidity. If any provision of this Agreement or the Loan Documents or the application thereof to any Person or circumstance is held invalid or unenforceable, the remainder of this Agreement and the Loan Documents and the application of such provision to other Persons or circumstances will not be affected thereby and the provisions of this Agreement and the Loan Documents shall be severable in any such instance.

7.11 Successors and Assigns. This Agreement and the Loan Documents shall be binding upon and inure to the benefit of the successors and assigns of Borrower and Lender. This provision, however, shall not be deemed to modify Paragraph 7.7 hereof.

7.12 Conflicts. Except as otherwise provided in the Loan Documents, if any provision contained in this Agreement is in conflict with, or inconsistent with,

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any provision in the Loan Documents, the provisions most favorable to Lender shall govern and control.

7.13 Financing Statement. This Agreement, or carbon, photographic or other reproduction of this Agreement or of any Uniform Commercial Code financing statement covering the Collateral or any portion thereof, shall be sufficient as Uniform Commercial Code financing statement and may be filed as such.

7.14 Authorized Signatory. Until Lender is notified by Borrower to the contrary in writing by notice delivered as required by this Agreement, the signature upon this Agreement or upon any of the Loan Documents of any officer, partner, manager, employee or agent of Borrower, or of any other Person designated in writing to Lender by any of the foregoing, shall bind Borrower and be deemed to be the duly authorized act of Borrower.

7.15 Notices. All notices, disclosures, or other communications which are required or permitted hereunder shall be in writing and shall be delivered in person, or by facsimile or sent by U.S. registered or certified mail, postage prepaid, to the parties at the addresses set forth above. Notice may be sent by e-mail to the e-mail address of a party if set forth herein. Notice delivered personally shall be deemed received upon delivery. Notice delivered by facsimile or email shall be deemed received upon delivery, provided that the original copy of such notice, properly executed by the sender (if required) shall be sent by U.S. Mail, postage prepaid, and received by the addressee within three (3) business days after delivery of the facsimile or email copy. Notice delivered by registered or certified mail shall be deemed received on the third (3rd) business day after posting. Any party may change the address to which notices for such party may be sent by written notice to the other party.

7.16 Attorneys' Fees and Costs. If at any time or times hereafter, whether or not Borrower's Liabilities are outstanding at such time, Lender: (a) employs counsel for advice or other representation, (i) with respect to the Collateral, this Agreement, the Loan Documents or the administration of Borrower's Liabilities, (ii) to represent Lender in any litigation, arbitration, contest, dispute, suit or proceeding or to commence, defend or intervene or to take any other action in or with respect to any litigation, arbitration, contest, dispute, suit or proceeding (whether instituted by Lender, Borrower or any other Person) in any way or respect relating to the Collateral, this Agreement, the Loan Documents, or Borrower's affairs, or (iii) to enforce any rights of Lender against Borrower or any other Person which may be obligated to Lender by virtue of this Agreement or the Loan Documents; (b) takes any action with respect to administration of Borrower's Liabilities or to protect, collect, sell, liquidate or otherwise dispose of the Collateral; and/or (c) attempts to or enforces any of Lender's rights or remedies under this Agreement or the Loan Documents, including, without limitation, Lender's rights or remedies with respect to the Collateral, the reasonable costs and expenses incurred by Lender in any manner or way with respect to the foregoing, including reasonable attorneys' fees and costs through

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appeal and in post-judgment proceedings, shall be part of Borrower's Liabilities, payable by Borrower to Lender on demand and shall bear interest at the Default Rate from the date of expenditure until paid.

7.17 Excess Interest. It is agreed that, notwithstanding any provision to the contrary in this Agreement or the Loan Documents, no such provision shall require the payment or permit the collection of any amount in excess of the maximum amount of interest permitted by applicable law to be charged for the use or detention, or the forbearance in the collection, of all or any portion of the indebtedness evidenced by the Note ("**Excess Interest**"). If any Excess Interest is provided for, or is adjudicated to be provided for, in this Agreement or the Loan Documents, then in such event (a) the provisions of this Paragraph shall govern and control; (b) neither Borrower nor any guarantor or endorser shall be obligated to pay any Excess Interest; (c) any Excess Interest that Lender may have received hereunder shall, at the option of Lender, be (i) applied as a credit against the then outstanding Principal Amount of the Loan, accrued and unpaid interest thereon (not to exceed the maximum amount permitted by applicable law), any other of Borrower's Liabilities, or all of the foregoing; (ii) refunded to the payor thereof, or (iii) any combination of the foregoing; (d) the Interest Rate shall be automatically subject to reduction to the maximum lawful contract rate allowed under applicable usury laws, and this Agreement or the Loan Documents shall be deemed to have been, and shall be, reformed and modified to reflect such reduction in the Interest Rate; and (e) neither Borrower nor any guarantor or endorser shall have any action against Lender for any damages whatsoever arising out of the payment or collection of any Excess Interest.

7.18 Subrogation of Rights. Any Advance made by Lender pursuant to this Agreement or any Loan Document, to the extent that such Advance shall be utilized to pay, discharge, or release in whole or in part any outstanding lien, charge or indebtedness against the Real Estate or the Improvements shall be deemed to have been advanced by Lender at the request of Borrower and upon the representation by Borrower that such Advance will be used to pay amounts due and payable which are secured by valid and enforceable liens against the Real Estate or the Improvements. Lender shall be subrogated to any and all rights, superior titles, liens and equities owned or claimed by any owner or holder of any such outstanding Charge which shall be acquired by Lender by assignment or released by the holder thereof upon payment.

7.19 Recordings. Lender may, but shall not be required to, record using such medium as Lender shall select, any conference, telephone conversation or other communication between Borrower or any agent or representative of Borrower and Lender or any agent or representative of Lender concerning past, present or future matters affecting or relating to the Loan Documents or any of them. Borrower on behalf of Borrower and such agents or representatives, consents to such recordings, and agrees that Lender may retain such records for as long as Lender deems appropriate. The decision to record any such conference, telephone conversation or other communication shall be solely within Lender's

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discretion, and Lender shall have no liability for failing to do so. Borrower agrees, that to the extent permitted by applicable law, in Lender's sole discretion, such recordings may be submitted in evidence in any action between the parties.

7.20 Further Documents and Assurances. Borrower agrees that at any time and from time to time upon the written request of Lender, Borrower will execute and deliver such further documents and do such further acts and things as Lender may request in order to effect the purposes of this Agreement.

7.21 VENUE, JURISDICTION, BORROWER'S AGENT. THE LOAN CONTEMPLATED BY THIS DOCUMENT, THIS DOCUMENT AND THE LOAN DOCUMENTS WERE NEGOTIATED IN THE STATE OF ILLINOIS, AND ALL FUNDS DISBURSED PURSUANT TO THIS DOCUMENT WERE DISBURSED FROM THE STATE OF ILLINOIS, WHICH STATE THE PARTIES AGREE HAS A SUBSTANTIAL RELATIONSHIP TO THE PARTIES AND TO THE UNDERLYING TRANSACTION EMBODIED HEREBY, AND IN ALL RESPECTS, INCLUDING, WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, MATTERS OF CONSTRUCTION, VALIDITY AND PERFORMANCE. THIS DOCUMENT AND THE OBLIGATIONS ARISING HEREUNDER SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF ILLINOIS APPLICABLE TO CONTRACTS MADE AND PERFORMED IN SUCH STATE AND ANY APPLICABLE LAW OF THE UNITED STATES OF AMERICA, EXCEPT TO THE EXTENT SPECIFICALLY OTHERWISE PROVIDED IN ANY LOAN DOCUMENT.

A. *Situs; Venue; Waiver.* BORROWER IRREVOCABLY:

(1) AGREES THAT, SUBJECT TO LENDER'S SOLE AND ABSOLUTE ELECTION AND EXCEPT AS OTHERWISE SPECIFICALLY PROVIDED TO THE CONTRARY IN ANY LOAN DOCUMENT, ALL ACTIONS OR PROCEEDINGS IN ANY WAY, MANNER OR RESPECT, ARISING OUT OF OR FROM OR RELATED TO THIS DOCUMENT, THE LOAN DOCUMENTS OR THE COLLATERAL SHALL BE LITIGATED ONLY IN COURTS HAVING A SITUS WITHIN CHICAGO, STATE OF ILLINOIS, OR, TO THE EXTENT APPROPRIATE, THE FEDERAL DISTRICT COURT OF THE DISTRICT IN WHICH SUCH CITY IS SITUATED.

(2) CONSENTS AND SUBMITS TO THE JURISDICTION OF ANY LOCAL, STATE OR FEDERAL COURT LOCATED WITHIN SAID CITIES AND STATE.

(3) WAIVES:

(a) ANY RIGHT BORROWER MAY HAVE TO TRANSFER OR CHANGE THE VENUE OF ANY LITIGATION BROUGHT AGAINST BORROWER BY LENDER.

(b) ANY COUNTERCLAIM OR ANY CLAIM, AFFIRMATIVE DEFENSE OR OTHER ACTION, INCLUDING, BUT NOT LIMITED TO, THOSE

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RELATING TO:

- 1) ALLEGATIONS THAT A PARTNERSHIP EXISTS BETWEEN BORROWER AND LENDER.
- 2) USURY, OR PENALTIES OR DAMAGES THEREFOR.
- 3) ALLEGATIONS OF UNCONSCIONABLE ACTS, DECEPTIVE TRADE PRACTICE, LACK OF GOOD FAITH OR FAIR DEALING, LACK OF COMMERCIAL REASONABLENESS, OR SPECIAL RELATIONSHIPS (SUCH AS FIDUCIARY, TRUST OR CONFIDENTIAL RELATIONSHIPS).
- 4) ALLEGATIONS OF DOMINION, CONTROL, ALTER EGO, INSTRUMENTALITY, FRAUD, MISREPRESENTATION, DURESS, COERCION, UNDUE INFLUENCE, INTERFERENCE OR NEGLIGENCE.
- 5) ALLEGATIONS OF TORTIOUS INTERFERENCE WITH PRESENT OR PROSPECTIVE BUSINESS RELATIONSHIPS OR OF ANY TRUST.
- 6) SLANDER, LIBEL OR DAMAGED REPUTATION.

(c) ANY AND ALL STATUTES OF LIMITATIONS, STATUTES OF REPOSE, CLAIMS OF LATCHES OR ANY AND ALL CLAIMS OF UNTIMELINESS AT COMMON LAW, IN EQUITY OR UNDER ANY STATUTE OR RULE.

(d) ANY RIGHT TO TRIAL BY JURY IN ANY ACTION, SUIT, COUNTERCLAIM OR PROCEEDING (i) TO ENFORCE OR DEFEND ANY RIGHTS UNDER OR IN CONNECTION WITH THIS DOCUMENT, THE LOAN DOCUMENTS, OR ANY AMENDMENT, INSTRUMENT, DOCUMENT OR DOCUMENT DELIVERED OR WHICH MAY IN THE FUTURE BE DELIVERED IN CONNECTION HERewith OR THEREWITH, OR (ii) ARISING FROM ANY DISPUTE OR CONTROVERSY ARISING IN CONNECTION WITH OR RELATED TO THIS DOCUMENT, THE LOAN DOCUMENTS, OR ANY SUCH AMENDMENT, INSTRUMENT, DOCUMENT OR DOCUMENT, AND AGREES THAT ANY SUCH ACTION, SUIT, COUNTERCLAIM OR PROCEEDING SHALL BE TRIED BEFORE COURT AND NOT BEFORE A JURY.

(e) THE FOREGOING WAIVERS AND THE WAIVER OF RIGHT TO TRIAL BY JURY IS GIVING KNOWINGLY AND VOLUNTARILY BY BORROWER AND GUARANTOR, AND IS INTENDED TO ENCOMPASS INDIVIDUALLY EACH INSTANCE AND EACH ISSUE AS TO WHICH THE RIGHTS TO A

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TRIAL BY JURY WOULD OTHERWISE ACCRUE.

(4) AGREES THAT BORROWER WILL NOT ASSERT ANY CLAIM AGAINST LENDER OR ANY AFFILIATE OF LENDER ON ANY THEORY OF LIABILITY FOR SPECIAL, INDIRECT, CONSEQUENTIAL, INCIDENTAL OR PUNITIVE DAMAGES.

(5) AUTHORIZES LENDER TO FILE A COPY OF THIS PARAGRAPH IN ANY PROCEEDING AS CONCLUSIVE EVIDENCE OF THE FOREGOING WAIVERS AND AGREEMENTS BY BORROWER AND BORROWER AGREES THAT ALL SUCH WAIVERS SHALL BE TREATED AND CONSTRUED AS A JUDICIAL ADMISSION AND SHALL NOT BE NOT OPEN TO ANY CHALLENGE OR QUESTION.

B. *Inducement.* BORROWER ACKNOWLEDGES THAT THE FOREGOING WAIVERS CONSTITUTE A MATERIAL INDUCEMENT TO LENDER TO ENTER INTO THIS DOCUMENT AND TO MAKE THE LOAN, AND THAT LENDER HAS ALREADY RELIED AND LENDER WILL CONTINUE TO RELY ON SUCH WAIVERS IN ITS RELATED FUTURE DEALINGS WITH BORROWER AND GUARANTOR.

C. *Borrower's Agent.* BORROWER HEREBY IRREVOCABLY APPOINTS DIMITIRIS POULOKEFALOS, 2350 EAST LUNT AVENUE, ELK GROVE VILLAGE, ILLINOIS 60007 AS BORROWER'S DULY AUTHORIZED AGENT FOR SERVICE OF LEGAL PROCESS AND AGREES THAT SERVICE OF SUCH PROCESS UPON SUCH AGENT SHALL CONSTITUTE PERSONAL SERVICE OF SUCH PROCESS UPON BORROWER. IF SERVICE SHALL BE UNDELIVERABLE BECAUSE SUCH AGENT MOVES OR CEASES TO DO BUSINESS IN COOK OR DUPAGE COUNTY, ILLINOIS, BORROWER SHALL WITHIN FIVE (5) BUSINESS DAYS OF LENDER'S REQUEST, APPOINT A SUBSTITUTE AGENT IN COOK OR DUPAGE COUNTY, ILLINOIS, ON BEHALF OF BORROWER AND WITHIN SUCH TIME PERIOD NOTIFY LENDER OF SUCH APPOINTMENT. IF SUCH SUBSTITUTE AGENT IS NOT TIMELY APPOINTED, LENDER SHALL, IN ITS SOLE DISCRETION, HAVE THE RIGHT TO DESIGNATE A SUBSTITUTE AGENT UPON FIVE (5) BUSINESS DAYS NOTICE TO BORROWER.

7.22 No Merger. This Agreement shall survive the disbursement of the Loan proceeds and delivery of the Loan Documents and shall not be merged therein.

7.23 Arm's Length Transaction. This Agreement and the Loan Documents are the result of arm's length negotiations conducted by and among the parties and their respective counsel. Each party and their legal counsel have reviewed this Agreement and have had an opportunity to revise (or request revision of) this Agreement and, therefore, any usual rules of construction requiring that ambiguities are to be resolved against a particular party shall not be applicable in the construction and interpretation of this Agreement.

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7.24 Descriptive Headings. Descriptive headings are for convenience only and shall not control or affect the meaning or construction of any provision of this Agreement.

7.25 Herein or Hereof. Wherever the word "herein" or "hereof" shall be used in a Loan Document, it is a reference to that entire Loan Document and not just the section or paragraph of such document in which such word is used.

7.26 References. References in a Loan Document to Exhibits are to the Exhibits to such Loan Document, and such Exhibits shall be deemed to be incorporated by reference into such Loan Document.

7.27 Definitions. Any term defined in any Loan Document which refers to a particular document shall also mean, referred to and include all modifications, amendments, supplements, restatements, renewals, extensions and substitutions ("**Modifications**") of such document, provided however, that nothing in this Paragraph shall be construed to authorize any such Modification except as may be permitted by other provisions of the Loan Documents.

7.28 Set-off. Regardless of the adequacy of any Collateral securing Borrower's Liabilities hereunder, any deposits or other sums at any time credited by or payable or due from Lender to Borrower, or any monies, cash, cash equivalents, securities, instruments, documents or other assets of Borrower in possession or control of Lender or its bailee for any purpose may, upon demand, be reduced to cash and applied by Lender to or set-off by Lender against Borrower's Liabilities. Release of Security Interest. Upon termination of this Agreement and Lender's security interest hereunder and payment of all Borrower's Liabilities, within sixty (60) days following Borrower's request to Lender, Lender shall release control of any security interest in the Collateral perfected by control and Lender shall send Borrower a statement terminating any financing statement filed against the Collateral.

7.30 Time of the Essence. Time is of the essence of this Agreement and of each Loan Document.

7.31 Counterparts. This Agreement may be executed in any number of counterparts and all such counterparts when taken together shall constitute one and the same document.

7.32 Lender's Authority Regarding Certain Payments and Advances. In order to effectuate the timely payment of any of Borrower's Liabilities when due, Borrower hereby authorizes and directs Lender, at Lender's option, to (a) debit the amount of Borrower's Liabilities to any ordinary deposit account of the Borrower, or (b) make a Loan or Advance hereunder to pay the amount of Borrower's Liabilities.

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7.33 Electronic Notice. Upon not less than thirty (30) days' prior written notice ("**Approved Electronic Form Notice**"), Lender may permit or require that any of the documents, certificates, forms, deliveries or other communications, authorized, required or contemplated by this Agreement or the Loan Documents, be submitted to Lender in "**Approved Electronic Form**" (as hereafter defined), subject to any reasonable terms, conditions and requirements in the applicable Approved Electronic Forms Notice. For purposes hereof "**Electronic Form**" means e-mail, e-mail attachments, data submitted on web-based forms or any other communication method that delivers machine readable data or information to Lender, and "Approved Electronic Form" means an Electronic Form that has been approved in writing by Lender (which approval has not been revoked or modified by Lender) and sent to Borrower in an Approved Electronic Form Notice. Except as otherwise specifically provided in the applicable Approved Electronic Form Notice, any submissions made in an applicable Approved Electronic Form shall have the same force and effect that the same submissions would have had if they had been submitted in any other applicable form authorized, required or contemplated by this Agreement or the Loan Documents.

7.34 Incorporation of Recitals. The Recitals and Exhibits to this Agreement are incorporated herein.

8. **LENDER'S ACTIONS**. In all instances where the consent of Lender is required under this Document, except where otherwise specifically set forth in this Document, Lender may withhold its consent and its sole and absolute discretion.

Dated as of the day and year first above written.

BORROWER:
POULOKEFALOS ENTERPRISES LLC

by 

Manager

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ACKNOWLEDGMENT

STATE OF Illinois)
)SS
 COUNTY OF Will)

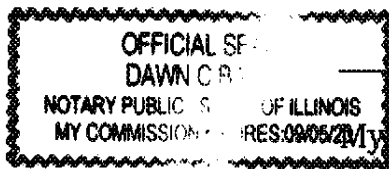
I, the undersigned, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that

Dimitris Poulouketalos, Manager of
 POULOKEFALOS ENTERPRISES LLC, an Illinois limited liability company, known to me (or proved to me on the basis of satisfactory evidence) to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and, after being duly sworn, acknowledged that:

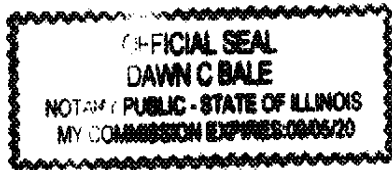
1. The execution and implementation of this Agreement was duly authorized by the Managers of said Company.

2. He/She signed and delivered this Agreement as his/her own free and voluntary act for the uses and purposes therein set forth and for the uses and purposes of said Company.

Given under my hand and Notarial Seal this 2nd day of September, 2016.



Dawn C. Bale
 NOTARY PUBLIC
 Commission Expires: 9/5, 2020



UNOFFICIAL COPY

Exhibit A.

Legal Description of Real Estate

PARCEL 1:

LOT 1 IN BARTLETT INDUSTRIAL PARK, BEING A SUBDIVISION OF PART OF THE SOUTH EAST 1/4 OF SECTION 35 AND PART OF THE SOUTHWEST 1/4 OF SECTION 36, TOWNSHIP 41 NORTH, RANGE 9, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN THE VILLAGE OF BARTLETT, IN COOK COUNTY, ILLINOIS.

PARCEL 2:

THE EAST 15 FEET (AS MEASURED AT RIGHT ANGLES TO THE SOUTH LINE OF THE ABOVE SAID LOT 1) OF THE FOLLOWING PARCEL: COMMENCING AT THE SOUTHEAST CORNER OF SECTION 35, TOWNSHIP 41 NORTH, RANGE 9, EAST OF THE THIRD PRINCIPAL MERIDIAN; THENCE WESTERLY ALONG THE SOUTH LINE OF SAID SOUTH EAST 1/4, A DISTANCE OF 703.33 FEET TO THE SOUTHWEST CORNER OF BARTLETT INDUSTRIAL PARK, BEING A SUBDIVISION OF PART OF SECTION 35 AND SECTION 36 AFORESAID, FOR THE POINT OF BEGINNING; THENCE NORTHERLY ALONG THE WEST LINE OF SAID BARTLETT INDUSTRIAL PARK AND PARALLEL WITH THE EAST LINE OF SAID SOUTH EAST 1/4, A DISTANCE OF 777.52 FEET TO THE SOUTHERLY RIGHT OF WAY LINE OF THE CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD; THENCE NORTHWESTERLY ALONG SAID SOUTHERLY RIGHT OF WAY LINE, A DISTANCE OF 672.19 FEET; THENCE SOUTHERLY PARALLEL WITH THE EAST LINE OF THE SOUTH EAST 1/4 OF SAID SECTION 35, A DISTANCE OF 900.09 FEET TO THE SOUTH LINE OF SAID SOUTH EAST 1/4; THENCE EASTERLY ALONG SAID SOUTH LINE, A DISTANCE OF 665.0 FEET TO THE POINT OF BEGINNING, ALL IN COOK COUNTY, ILLINOIS.

PARCEL 3:

EASEMENT FOR THE BENEFIT OF PARCELS 1 AND 2 AS CREATED BY GRANT FROM WESTERNACADIA, INC., A CORPORATION OF ILLINOIS, TO LA SALLE NATIONAL BANK, A NATIONAL BANKING ASSOCIATION, AS TRUSTEE UNDER TRUST AGREEMENT DATED JANUARY 30, 1974 AND KNOWN AS TRUST NUMBER 47075, DATED FEBRUARY 1, 1974 AND RECORDED OCTOBER 3, 1974 AS DOCUMENT 22866219 TO CONSTRUCT, INSTALL, ALTER, MAINTAIN, RENEW AND OPERATE A RAILROAD SWITCH TRACK AND ALL OTHER NECESSARY APPURTENANCES, EQUIPMENT OR FACILITIES FOR THE PURPOSE OF PROVIDING RAILROAD SERVICE OVER AND ACROSS THE LAND DESCRIBED AS FOLLOWS: THAT PART OF THE SOUTHEAST 1/4 OF SECTION 35, TOWNSHIP 41 NORTH, RANGE 9, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS, DESCRIBED AS FOLLOWS: COMMENCING AT THE INTERSECTION OF THE SOUTHERLY RIGHT OF WAY OF THE CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD WITH A LINE THAT IS 15.00 FEET WEST OF (AS MEASURED AT RIGHT ANGLES) AND PARALLEL WITH THE WEST LINE OF LOT 1 IN BARTLETT INDUSTRIAL PARK, BEING A SUBDIVISION OF PART OF THE SOUTHEAST 1/4 OF SECTION 35, AND PART OF THE SOUTHWEST 1/4 OF SECTION 36, TOWNSHIP AND RANGE AFORESAID; THENCE SOUTHERLY ALONG SAID PARALLEL LINE, A DISTANCE OF 116.73 FEET FOR THE POINT OF BEGINNING; THENCE CONTINUING SOUTHERLY ALONG SAID PARALLEL LINE, A DISTANCE OF 540.25 FEET; THENCE NORTHWESTERLY ALONG A LINE THAT FORMS AN ANGLE OF 176 DEGREES 47 MINUTES AND 43 SECONDS TO THE RIGHT WITH THE PROLONGATION OF THE LAST DESCRIBED COURSE, A DISTANCE OF 348.57 FEET; THENCE NORTHWESTERLY ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 407.38 FEET AND TANGENT TO THE LAST DESCRIBED COURSE, A DISTANCE OF 442.71 FEET TO A POINT ON THE SOUTHERLY RIGHT OF WAY LINE OF THE CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD, THAT IS 275.19 FEET NORTHWESTERLY OF (AS MEASURED ALONG SAID SOUTHERLY RIGHT OF WAY LINE) THE NORTHWEST CORNER OF LOT 1, AFORESAID; THENCE SOUTHEASTERLY ALONG SAID SOUTHERLY RIGHT OF WAY LINE, A DISTANCE OF 161.02 FEET; THENCE SOUTHEASTERLY ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 477.38 FEET, A DISTANCE OF 164.77 FEET TO THE POINT OF BEGINNING, IN COOK COUNTY, ILLINOIS.

Street Address: 802 East Devon Avenue, Bartlett, IL 60103
 Real Estate Tax Index No. 06-35-400-009-0000 & 06-35-400-019-0000