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Doc#: 1730008089 Fee: \$102.00
Karen A. Yarbrough
Cook County Recorder of Deeds
Date: 10/27/2017 01:48 PM Pg: 1 of 28

Illinois Anti-Predatory Lending Database Program

Certificate of Exemption



Report Mortgage Fraud
844-768-1713

The property identified as: **FIN: 16-28-409-005-0000**

Address:

Street: 4845 WEST OGDEN AVENUE

Street line 2:

City: CICERO

State: IL

ZIP Code: 60804

Lender: INXS V LLC

Borrower: SOUTH SIDE EQUIPMENT, INC., AN ILLINOIS CORPORATION

Loan / Mortgage Amount: \$37,739.97

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: 0D07582F-3D83-4545-BEBB-CE0C8579E952

Execution date: 10/25/2017

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**MORTGAGE, SECURITY AGREEMENT AND
ASSIGNMENT OF LEASES AND RENTS**

SOUTH SIDE EQUIPMENT, INC., AN ILLINOIS CORPORATION

to and for the benefit of

INXS V LLC, a Florida limited liability company

**THIS DOCUMENT PREPARED BY AND
AFTER RECORDING RETURN TO:**

Sherrill Mickey
12425 Race Track Road
Tampa FL 33626
Attn: Sherrill Mickey

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MORTGAGE, SECURITY AGREEMENT AND ASSIGNMENT OF LEASES AND RENTS

THIS MORTGAGE, SECURITY AGREEMENT AND ASSIGNMENT OF LEASES AND RENTS (the "Mortgage") is made as of October 25 2017, by South Side Equipment, Inc., an Illinois corporation (the "Mortgagor"), to and for the benefit of INXS V LLC, a Florida limited liability company, and its successors and assigns (the "Mortgagee"):

RECITALS:

A. Mortgagee has agreed to loan to Mortgagor the aggregate principal amount of Thirty Seven Thousand Seven Hundred Thirty Nine and 97/100 Dollars (\$37,739.97) (the "Loan"). As evidence for of the Loan, Borrower, is executing that certain Mortgage Note of even date herewith (as the same may be amended, modified, replaced or restated from time to time, collectively, the "Note") with interest from the date hereof at the rate of fifteen percent (15%) per annum, payable to the order of Mortgagee to evidence the Loan with a maturity date of May 1, 2019 (the "Maturity Date"). This Mortgage, the Note and any other document evidencing the Loan shall sometimes be collectively referred to herein as the "Loan Documents." The Note shall include and incorporate the remaining balance of an existing mortgage note dated March 10, 2017 which is secured by an existing mortgage recorded at DOC #1710206147 on March 12, 2017, which such mortgage shall not be released by virtue of this new Note and Mortgage, and shall further be cross-collateralized by the total amount due under the Note.

B. Mortgagee is requiring additional collateral for Mortgagor's performance of its obligations under the Note and this Mortgage and Mortgagor has an interest in the Premises and has agreed in consideration of the Loan being made to Mortgagor to provide such additional collateral by this Mortgage.

C. A condition precedent to Mortgagee's extension of the Loan to Mortgagor is the execution and delivery by Mortgagor of this Mortgage.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Mortgagor agrees as follows:

Mortgagor hereby mortgages, grants, assigns, remises, releases, warrants and conveys to Mortgagee, its successors and assigns, and grants a security interest in, the following described property, rights and interests (referred to collectively herein as "Premises"), all of which property, rights and interests are hereby pledged primarily and on a parity with the Real Estate (as defined herein) and not secondarily:

THE REAL ESTATE located in the State of Illinois and legally described on Exhibit A attached hereto and made a part hereof (the "Real Estate");

TOGETHER WITH all improvements of every nature whatsoever now or hereafter situated on the Real Estate, and all fixtures of every nature whatsoever now or hereafter owned

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by Mortgagor and on, or used in connection with the Real Estate or the improvements thereon, or in connection with any construction thereon, including all extensions, additions, improvements, betterments, renewals, substitutions and replacements to any of the foregoing and all of the right, title and interest of Mortgagor in and to any such fixtures together with the benefit of any deposits or payments now or hereafter made on such fixtures by Mortgagor or on its behalf (collectively, the "Improvements");

TOGETHER WITH all easements, rights of way, gores of real estate, streets, ways, alleys, passages, sewer rights, waters, water courses, water rights and powers, and all estates, rights, titles, interests, privileges, liberties, tenements, hereditaments and appurtenances whatsoever, in any way now or hereafter belonging, relating or appertaining to the Real Estate, and the reversions, remainders, rents, issues and profits thereof, and all the estate, right, title, interest, property, possession, claim and demand whatsoever, at law as well as in equity, of Mortgagor of, in and to the same;

TOGETHER WITH all rents, revenues, issues, profits, proceeds, income, royalties, escrows, letter-of-credit rights (each as defined in the Uniform Commercial Code as adopted by the State of Illinois), security deposits, impounds, reserves, tax refunds and other rights to monies from the Premises and/or the businesses and operations conducted by Mortgagor thereon, to be applied against the Indebtedness (hereinafter defined); provided, however, that Mortgagor, so long as no Event of Default (as defined herein) has occurred hereunder, may collect rent as it becomes due, but not more than one (1) month in advance thereof;

TOGETHER WITH all interest of Mortgagor in all leases now or hereafter on the Premises, whether written or oral ("Leases"), together with all security therefor and all monies payable thereunder, subject, however, to the conditional permission hereinabove given to Mortgagor to collect the rentals under any such Lease;

TOGETHER WITH all fixtures now or hereafter owned by Mortgagor and forming a part of or used in connection with the Real Estate or the Improvements (the "Fixtures"), including, but without limitation, any and all air conditioners, antennae, appliances, apparatus, awnings, basins, bathtubs, bidets, boilers, bookcases, cabinets, carpets, coolers, curtains, dehumidifiers, disposals, doors, drapes, dryers, ducts, dynamos, elevators, engines, equipment, escalators, exercise equipment, fans, fittings, floor coverings, furnaces, furnishings, furniture, hardware, heaters, humidifiers, incinerators, lighting, machinery, motors, ovens, pipes, plumbing, pumps, radiators, ranges, recreational facilities, refrigerators, screens, security systems, shades, shelving, sinks, sprinklers, stokers, stoves, toilets, ventilators, wall coverings, washers, windows, window coverings, wiring, and all renewals or replacements thereof or articles in substitution therefor, whether or not the same are or shall be attached to the Real Estate or the Improvements in any manner; it being mutually agreed that all of the aforesaid property owned by Mortgagor and placed on the Real Estate or the Improvements, so far as permitted by law, shall be deemed to be fixtures, a part of the realty, and security for the Indebtedness (as defined herein); and

TOGETHER WITH all proceeds of the foregoing, including, without limitation, all judgments, awards of damages and settlements hereafter made resulting from condemnation proceeds or the taking of the Premises or any portion thereof under the power of eminent

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domain, any proceeds of any policies of insurance, maintained with respect to the Premises or proceeds of any sale, option or contract to sell the Premises or any portion thereof.

TO HAVE AND TO HOLD the Premises, unto Mortgagee and its successors and assigns forever, for the purposes and upon the uses herein set forth together with all right to possession of the Premises after the occurrence of any Event of Default; Mortgagee hereby **RELEASING AND WAIVING** all rights under and by virtue of the homestead exemption laws of the State of Illinois.

FOR THE PURPOSE OF SECURING: (i) the payment of the Loan and all interest, late charges, reimbursement obligations and other indebtedness evidenced by or owing under the Note, together with any extensions, modifications, renewals or refinancings of any of the foregoing; (ii) the performance and observance of the covenants, conditions, agreements, representations, warranties and other liabilities and obligations of Mortgagor or any other obligor to or benefiting Mortgagee which are evidenced or secured by or otherwise provided in the Note or this Mortgage; and (iii) the reimbursement to Mortgagee of any and all sums incurred, expended or advanced by Mortgagee pursuant to any term or provision of or constituting additional indebtedness under or secured by this Mortgage, with interest thereon as provided herein or therein (collectively, the "Indebtedness").

IT IS FURTHER UNDERSTOOD AND AGREED THAT:

1. **Title.** Mortgagor represents, warrants and covenants that: (a) Mortgagor is the holder of the fee simple title to the Premises, free and clear of all liens and encumbrances subject to the "Permitted Exceptions" set forth on Exhibit B attached hereto and incorporated herein; and (b) Mortgagor has legal power and authority to mortgage and convey the Premises.

2. **Maintenance, Repair, Restoration, Prior Liens, Parking.** Mortgagor covenants that, so long as any portion of the Indebtedness remains unpaid, Mortgagor will:

(a) maintain, repair and, subject to the provisions of this Mortgage, restore or rebuild any Improvements now or hereafter on the Premises which may become damaged or be destroyed to a condition substantially similar to the condition immediately prior to such damage or destruction, whether or not proceeds of insurance are available or sufficient for the purpose;

(b) maintain the Premises in at least its current condition and repair, without waste, and free from mechanics', materialmen's or like liens or claims or other liens or claims for lien (subject to Mortgagor's right to contest liens as permitted by the terms of Paragraph 26 hereof);

(c) pay when due the Indebtedness in accordance with the terms of the Note and duly perform and observe all of the terms, covenants and conditions to be observed and performed by Mortgagor under the Note and this Mortgage and by the Guarantor under the Guaranty;

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(d) pay when due any indebtedness which may be secured by a Permitted Encumbrance on a parity with, superior to or inferior to the lien hereof, and upon request exhibit satisfactory evidence of the discharge of such lien to the Mortgagee (subject to Mortgagor's right to contest liens as permitted by the terms of Paragraph 26 hereof);

(e) comply with all requirements of law, municipal ordinances or restrictions and covenants of record with respect to the Premises and the use thereof;

(f) obtain and maintain in full force and effect, and abide by and satisfy the material terms and conditions of, all material permits, licenses, registrations and other authorizations with or granted by any governmental authorities that may be required from time to time with respect to the performance of its obligations under this Mortgage;

(g) make no material alterations in the Premises without Mortgagee's prior written consent, which shall not be unreasonably withheld, conditioned or delayed, except as required by law or municipal ordinance, and for the purposes of this Mortgage the term "material alterations" shall mean any alteration or group of related alterations exceeding an aggregate value of \$5,000.00;

(h) suffer or permit no material change in the use or general nature of the occupancy of the Premises from that in effect at the onset of the Mortgage, without the Mortgagee's prior written consent;

(i) pay when due all operating costs of the Premises;

(j) not initiate or acquiesce in any zoning reclassification with respect to the Premises, without Mortgagee's prior written consent;

(k) maintain parking areas together with any sidewalks, aisles, streets, driveways and sidewalk cuts and sufficient paved areas for ingress, egress and right-of-way to and from the adjacent public thoroughfares necessary or desirable for the use thereof;

(l) cause the Premises at all times to be operated in compliance with all federal, state, local and municipal environmental, health and safety laws, statutes, ordinances, rules and regulations; and

(m) not demolish any portion of the Premises.

3. **Payment of Taxes and Assessments.** Mortgagor will pay when due and before any penalty attaches, all general and special taxes, assessments, water charges, sewer charges, and other fees, taxes, charges and assessments of every kind and nature whatsoever (all herein generally called "Taxes"), whether or not assessed against Mortgagor, if applicable to the Premises or any interest therein, or the Indebtedness, or any obligation or agreement secured hereby, subject to Mortgagor's right to contest the same, as provided by the terms hereof; and Mortgagor will, upon written request, furnish to the Mortgagee duplicate receipts therefor within ten (10) days after Mortgagee's request. After an Event of Default, Mortgagee may elect to

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require Mortgagor to pay or cause to be paid to Mortgagee, at such place as Mortgagee may from time to time in writing appoint and in the absence of such appointment, then at the office of the Mortgagee in Odessa, Florida, each month at the due date for the monthly installments provided for under the Note (in addition to paying the interest provided for under the Note) an amount equal to one-twelfth of the estimated general real estate taxes, assessments, and other governmental charges against the Premises becoming due during the Term of the Loan as determined by Mortgagee in such manner as Mortgagee may prescribe. Said amounts shall be held by Mortgagee in a separate account designated for the purpose of holding such Taxes. Such deposits are to be held without any allowance of interest and are to be used for the payment of Taxes next due and payable when they become due. Mortgagor shall deposit, at least thirty (30) days prior to the due date for payment of the Taxes, such additional amount as may be necessary to provide Mortgagee with sufficient funds in such deposit account to make such payment at least thirty (30) days in advance of the due date thereof. Notwithstanding anything contained in this paragraph to the contrary, Mortgagee shall have no obligation to pay such Taxes against the Premises from the amounts collected by Mortgagee pursuant to this paragraph if any Event of Default has occurred under any of the Loan Documents and such Event of Default remains uncured beyond any applicable cure period. Mortgagor agrees to indemnify, defend, and hold Mortgagee harmless from any loss, cost, expense, claim, penalty, or charge (including reasonable attorneys' fees) that result from Mortgagor's failure to timely comply with this Paragraph.

4. Insurance.

(a) Mortgagor shall at all times keep all buildings, improvements, fixtures and articles of personal property now or hereafter situated on the Premises insured against loss or damage by fire and such other hazards for the full insurable replacement value of the Premises, and such other insurance as Mortgagee may from time to time reasonably require, including, without limitation, commercial general liability insurance in an amount reasonably required by Mortgagee, but in no event less than \$1,000,000 per occurrence/\$2,000,000 in the aggregate. Unless Mortgagor provides Mortgagee evidence of the insurance coverages required hereunder, Mortgagee, upon written notice to Mortgagor, may purchase insurance at Mortgagor's expense to cover Mortgagee's interest in the Premises. The insurance may, but need not, protect Mortgagor's interest. The coverages that Mortgagee purchases may not pay any claim that Mortgagor makes or any claim that is made against Mortgagor in connection with the Premises. Mortgagor may later cancel any insurance purchased by Mortgagee, but only after providing Mortgagee with evidence that Mortgagor has obtained insurance as required by this Mortgage. If Mortgagee purchases insurance for the Premises, Mortgagor will be responsible for the costs of such insurance, including, without limitation, interest and any other charges which Mortgagee may reasonably 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 the Indebtedness. The cost of the insurance obtained by Mortgagee may be more than the cost of insurance Mortgagor may be able to obtain on its own.

(b) Mortgagor shall not take out separate insurance concurrent in form or contributing in the event of loss with that required to be maintained hereunder unless Mortgagee is included thereon as the loss payee or an additional insured as applicable, under a standard

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mortgage clause acceptable to Mortgagee and such separate insurance is otherwise acceptable to Mortgagee.

(c) In the event of loss, Mortgagor shall give prompt notice thereof to Mortgagee, who, if such loss exceeds ten percent (10%) of the Indebtedness ("Threshold"), shall have the sole and absolute right to make proof of loss. If such loss exceeds the Threshold or if such loss is equal to or less than the Threshold and the conditions set forth in clauses (i), (ii) and (iii) of the immediately succeeding sentence are not satisfied, then Mortgagee, solely and directly shall receive such payment for loss from each insurance company concerned. If and only if: (i) such loss is equal to or less than the Threshold; (ii) no Event of Default or event that with the passage of time, the giving of notice or both would constitute an Event of Default then exists; and (iii) Mortgagee determines that the work required to complete the repair or restoration of the Premises necessitated by such loss can be completed no later than six (6) months prior to the Maturity Date, then Mortgagee shall endorse to Mortgagor any such payment and Mortgagor may collect such payment directly. Mortgagee shall have the right, at its option and in its sole discretion, to apply any insurance proceeds received by Mortgagee pursuant to the terms of this paragraph, after the payment of all of Mortgagee's expenses, either: (i) on account of the Indebtedness, irrespective of whether such principal balance is then due and payable, whereupon Mortgagee may declare the whole of the balance of Indebtedness to be due and payable; or (ii) to the restoration or repair of the property damaged as provided in subparagraph d below; provided, however, that Mortgagee hereby agrees to permit the application of such proceeds to the restoration or repair of the damaged property, subject to the provisions of subparagraph d below, if: (i) Mortgagee has received satisfactory evidence that such restoration or repair shall be completed no later than the date that is six (6) months prior to the Maturity Date; and (ii) no Event of Default, or event that with the passage of time, the giving of notice or both would constitute an Event of Default, then exists. If insurance proceeds are made available to Mortgagor by Mortgagee as hereinafter provided, Mortgagor shall repair, restore or rebuild the damaged or destroyed portion of the Premises so that the condition and value of the Premises are substantially the same as the condition and value of the Premises prior to being damaged or destroyed. In the event of foreclosure of this Mortgage, all right, title and interest of Mortgagor in and to any insurance policies then in force shall pass to the purchaser at the foreclosure sale.

(d) If insurance proceeds are made available by Mortgagee to Mortgagor, Mortgagor shall comply with the following conditions:

(i) Before commencing to repair, restore or rebuild following damage to, or destruction of, all or a portion of the Premises, whether by fire or other casualty, Mortgagor shall obtain from Mortgagee its approval of all site and building plans and specifications pertaining to such repair, restoration or rebuilding.

(ii) Prior to each payment or application of any insurance proceeds to the repair or restoration of the improvements upon the Premises to the extent permitted in subparagraph c above (which payment or application may be made, at Mortgagee's option, through an escrow, the terms and conditions of which are satisfactory to Mortgagee and the cost of which is to be borne by Mortgagor), Mortgagee shall be satisfied as to the following:

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(A) no Event of Default or any event which, with the passage of time or giving of notice would constitute an Event of Default, has occurred;

(B) either such Improvements have been fully restored, or the expenditure of money as may be received from such insurance proceeds will be sufficient to repair, restore or rebuild the Premises, free and clear of all liens, claims and encumbrances, except the lien of this Mortgage, or, if such insurance proceeds shall be insufficient to repair, restore and rebuild the Premises, Mortgagor has deposited with Mortgagee such amount of money which, together with the insurance proceeds shall be sufficient to restore, repair and rebuild the Premises; and

(C) prior to each disbursement of any such proceeds, Mortgagee shall be furnished with a statement of Mortgagee's architect (the cost of which shall be borne by Mortgagor), certifying the extent of the repair and restoration completed to the date thereof, and that such repairs, restoration, and rebuilding have been performed to date in conformity with the plans and specifications approved by Mortgagee and with all statutes, regulations or ordinances (including building and zoning ordinances) affecting the Premises; and Mortgagee shall be furnished with appropriate evidence of payment for labor or materials furnished to the Premises, and total or partial lien waivers substantiating such payments.

(iii) If Mortgagor shall fail to restore, repair or rebuild the Improvements within a time deemed satisfactory by Mortgagee, then Mortgagee, at its option, may: (A) commence and perform all necessary acts to restore, repair or rebuild the said Improvements for or on behalf of Mortgagor; or (B) declare an Event of Default. If insurance proceeds shall exceed the amount necessary to complete the repair, restoration or rebuilding of the Improvements, and an uncured Event of Default remains continuing, such excess shall be applied on account of the Indebtedness.

5. Intentionally deleted.

6. Intentionally deleted.

7. **Condemnation.** If all or any part of the Premises are damaged, taken or acquired, either temporarily or permanently, in any condemnation proceeding, or by exercise of the right of eminent domain, the amount of any award or other payment for such taking or damages made in consideration thereof, to the extent of the full amount of the remaining unpaid Indebtedness, is hereby assigned to Mortgagee, who is empowered to collect and receive the same and to give proper receipts therefor in the name of Mortgagor and the same shall be paid forthwith to Mortgagee. Such award or monies shall be applied on account of the Indebtedness, irrespective of whether such Indebtedness is then due and payable and, at any time from and after the taking Mortgagee may declare the whole of the balance of the Indebtedness to be due and payable. Notwithstanding the provisions of this paragraph to the contrary, if any condemnation or taking of less than the entire Premises occurs and provided that no Event of Default and no event or circumstance which with the passage of time, the giving of notice or both would constitute an Event of Default then exists, and if such partial condemnation, in the reasonable discretion of Mortgagee, has no material adverse effect on the operation or value of

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the Premises, then the award or payment for such taking or consideration for damages resulting therefrom may be collected and received by Mortgagor, and Mortgagee hereby agrees that in such event it shall not declare the Indebtedness to be due and payable, if it is not otherwise then due and payable.

8. **Stamp Tax.** If, by the laws of the United States of America, or of any state or political subdivision having jurisdiction over Mortgagor, any tax is due or becomes due in respect of the execution and delivery of this Mortgage, the Note, the Guaranty or any of the other loan documents (evidencing the Loan), Mortgagor shall pay such tax in the manner required by any such law. Mortgagor further agrees to reimburse Mortgagee for any sums which Mortgagee may expend by reason of the imposition of any such tax. Notwithstanding the foregoing, Mortgagor shall not be required to pay any income or franchise taxes of Mortgagee.

9. **Assignment of Leases and Rents.**

(a) The Mortgagor hereby grants, transfers, sets over and assigns to the Mortgagee, all of the right, title and interest of the Mortgagor in and to: (i) all of the reversions, rents, revenues, issues, profits, proceeds, receipts, income, accounts and other receivables arising out of or from the Premises, including, without limitation, lease termination fees, purchase option fees and other fees and expenses payable under any of the Leases, now or hereafter existing, of all or any part of the Premises together with all guaranties of any of such Leases and all security deposits delivered by tenants thereunder, whether in cash or letter of credit; (ii) all rights and claims for damage against tenants arising out of defaults under the Leases, including rights to termination fees and compensation with respect to rejected Leases pursuant to Section 365(a) of the Federal Bankruptcy Code or any replacement Section thereof; and (iii) all tenant improvements and fixtures located on the Premises. Unless or until an Event of Default shall occur, the Mortgagor shall have the right to collect, at the time (but in no event more than thirty days in advance) provided for the payment thereof, all rents, issues, income and profits assigned hereunder, and to retain, use and enjoy the same. Upon the occurrence of an Event of Default, the Mortgagor's right to collect such rents, issues, income and profits shall immediately terminate without further notice thereof to the Mortgagor. Mortgagee shall have the right to notify the tenants under the Leases of the existence of this assignment at any time after an Event of Default.

(b) During the entire term of this Mortgage, the Mortgagor represents and warrants to the Mortgagee that: (i) the Mortgagor is or shall be the lessor under all Leases; (ii) there is no other existing assignment of the Mortgagor's entire or any part of its interest in or to any of the Leases, or any of the rents, issues, income or profits assigned hereunder, nor has the Mortgagor entered into any agreement to subordinate any of the Leases or the Mortgagor's right to receive any of the rents, issues, income or profits assigned hereunder; (iii) the Mortgagor has not executed any instrument or performed any act which may prevent the Mortgagee from operating the Premises under any of the terms and provisions of this Mortgage or which would limit the Mortgagee in such operation; and (iv) there are no defaults by the landlord and, to the Mortgagor's knowledge, there are no material defaults by tenants under any Leases.

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(c) During the entire term of this Mortgage, the Mortgagor covenants and agrees that: (i) the Mortgagor shall not lease any portion of the Premises unless the Mortgagor obtains the Mortgagee's prior written consent to all aspects of such Lease; (ii) the Mortgagor shall observe and perform all of the covenants, terms, conditions and agreements contained in the Leases to be observed or performed by the lessor thereunder, and the Mortgagor shall not do or suffer to be done anything to impair the security thereof; (iii) Mortgagor shall not consent to a tenant termination or cancellation of any Lease, except as specifically provided therein; (iv) the Mortgagor shall not make any other assignment of its entire or any part of its interest in or to any or all Leases, or any or all rents, issues, income or profits assigned hereunder, except as specifically permitted by this Mortgage or the Note; (v) the Mortgagor shall not modify the terms and provisions of any Lease, nor shall the Mortgagor give any consent (including, but not limited to, any consent to any assignment of, or subletting under, any Lease, except as expressly permitted thereby) or approval, required or permitted by such terms and provisions or cancel or terminate any Lease, without the Mortgagee's prior written consent; (vi) the Mortgagor shall, at its sole cost and expense, appear in and defend any and all actions and proceedings arising under, relating to or in any manner connected with any Lease or the obligations, duties or liabilities of the lessor or any tenant or guarantor thereunder, and shall pay all costs and expenses of the Mortgagee, including court costs and reasonable attorneys' fees, in any such action or proceeding in which the Mortgagee may appear; and (vii) the Mortgagor shall enforce the observance and performance of each covenant, term, condition and agreement contained in each Lease to be observed and performed by the tenants and guarantors thereunder and shall immediately notify the Mortgagee of any material breach by the tenant or guarantor under any such Lease.

10. Effect of Extensions of Time and Other Changes. If the payment of the Indebtedness or any part thereof is extended or varied, if any part of any security for the payment of the Indebtedness is released, if the rate of interest charged under the Note is changed in accordance with the provisions thereof or if the time for payment thereof is extended or varied, all persons now or at any time hereafter liable therefor, or interested in the Premises or having an interest in Mortgagor, shall be held to assent to such extension, variation, release or change and their liability and the lien and all of the provisions hereof shall continue in full force, any right of recourse against all such persons being expressly reserved by Mortgagee, notwithstanding such extension, variation, release or change.

11. Effect of Changes in Laws Regarding Taxation. If any law is enacted after the date hereof requiring: (a) the deduction of any lien on the Premises from the value thereof for the purpose of taxation; or (b) the imposition upon Mortgagee of the payment of the whole or any part of the Taxes, charges or liens herein required to be paid by Mortgagor; or (c) a change in the method of taxation of mortgages or debts secured by mortgages or Mortgagee's interest in the Premises, or the manner of collection of taxes, so as to affect this Mortgage or the Indebtedness or the holders thereof, then Mortgagor, upon demand by Mortgagee, shall pay such Taxes or charges, or reimburse Mortgagee therefor; provided, however, that Mortgagor shall not be deemed to be required to pay any income or franchise taxes of Mortgagee.

12. Mortgagee's Performance of Defaulted Acts and Expenses Incurred by Mortgagee. If an Event of Default has occurred, Mortgagee may, but need not, make any

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payment or perform any act herein required of Mortgagor in any form and manner deemed expedient by Mortgagee, and may, but need not, make full or partial payments of principal or interest on prior encumbrances, if any, and purchase, discharge, compromise or settle any tax lien or other prior lien or title or claim thereof, or redeem from any tax sale or forfeiture affecting the Premises or consent to any tax or assessment or cure any default of Mortgagor in any lease of the Premises. All monies paid for any of the purposes herein authorized and all expenses paid or incurred in connection therewith, including reasonable attorneys' fees, and any other monies advanced by Mortgagee in regard to any tax referred to in Paragraph 8 above or to protect the Premises or the lien hereof, shall be so much additional Indebtedness, and shall become immediately due and payable by Mortgagor to Mortgagee, upon demand, and with interest thereon accruing from the date of such demand until paid at the Default Interest Rate (as defined in the Note) then in effect. In addition to the foregoing, excluding claims by Mortgagor against Mortgagee for intentional misconduct in dealing with the Mortgage, any costs, expenses and fees, including reasonable attorneys' fees, incurred by Mortgagee in connection with: (a) sustaining the lien of this Mortgage or its priority; (b) protecting or enforcing any of Mortgagee's rights hereunder; (c) recovering any Indebtedness; (d) any litigation or proceedings affecting the Note, this Mortgage or the Premises, including without limitation, bankruptcy and probate proceedings; or (e) preparing for the commencement, defense or participation in any threatened litigation or proceedings affecting the Note, this Mortgage or the Premises, shall be so much additional Indebtedness, and shall become immediately due and payable by Mortgagor to Mortgagee, upon demand, and with interest thereon accruing from the date of such demand until paid at the Default Interest Rate. The interest accruing under this Paragraph 12 shall be immediately due and payable by Mortgagor to Mortgagee, and shall be additional Indebtedness evidenced by the Note and secured by this Mortgage. Mortgagee's failure to act shall never be considered as a waiver of any right accruing to Mortgagee on account of any Event of Default. Should any amount paid out or advanced by Mortgagee hereunder, or pursuant to any agreement executed by Mortgagor in connection with the Loan, be used directly or indirectly to pay off, discharge or satisfy, in whole or in part, any lien or encumbrance upon the Premises or any part thereof, then Mortgagee shall be subrogated to any and all rights, equal or superior titles, liens and equities, owned or claimed by any owner or holder of said outstanding liens, charges and indebtedness, regardless of whether said liens, charges and indebtedness are acquired by assignment or have been released of record by the holder thereof upon payment.

13. Restrictions on Transfer.

(a) Mortgagor, without the prior written consent of Mortgagee, shall not effect, suffer or permit any Prohibited Transfer (as defined herein). Any conveyance, sale, assignment, transfer, lien, pledge, mortgage, security interest or other encumbrance or alienation (or any agreement to do any of the foregoing) of any of the following properties or interests shall constitute a "Prohibited Transfer":

- (i) The Premises or any part thereof or interest therein;
- (ii) If there shall be any change in control (by way of transfers of stock, partnership or member interests or otherwise) in any partner, member, manager or

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shareholder, as applicable, which directly or indirectly controls the day to day operations and management of Mortgagor and/or owns a controlling interest in Mortgagor;

in each case whether any such conveyance, sale, assignment, transfer, lien, pledge, mortgage, security interest, encumbrance or alienation is effected directly, indirectly (including the nominee agreement), voluntarily or involuntarily, by operation of law or otherwise; provided, however, that the foregoing provisions of this Paragraph 13 shall not apply: (A) to liens securing the Indebtedness; (B) to the lien of current taxes and assessments not in default; (C) to any transfers of the Premises, or part thereof, or interest therein, or any beneficial interests, or shares of stock or partnership or joint venture interests, as the case may be, by or on behalf of an owner thereof who is deceased or declared judicially incompetent, to such owner's heirs, legatees, devisees, executors, administrators, estate or personal representatives; or (D) to leases permitted by the Mortgagee, if any.

(b) In determining whether or not to make the Loan, Mortgagee evaluated the background and experience of Mortgagor and its partners/members/officers in owning and operating property such as the Premises, found it acceptable and relied and continues to rely upon same as the means of maintaining the value of the Premises which is Mortgagee's security for the Note. Mortgagor and its partners/members/officers are well experienced in borrowing money and owning and operating property such as the Premises, were ably represented by a licensed attorney at law in the negotiation and documentation of the Loan and bargained at arm's length and without duress of any kind for all of the terms and conditions of the Loan, including this provision. Mortgagor recognizes that any secondary junior financing placed upon the Premises: (i) may divert funds which would otherwise be used to pay the Note; (ii) could result in acceleration and foreclosure by any such junior encumbrancer which would force Mortgagee to take measures and incur expenses to protect its security; (iii) would detract from the value of the Premises should Mortgagee come into possession thereof with the intention of selling same; and (iv) would impair Mortgagee's right to accept a deed in lieu of foreclosure, as a foreclosure by Mortgagee would be necessary to clear the title to the Premises. In accordance with the foregoing and for the purposes of: (A) protecting Mortgagee's security, both of repayment and of value of the Premises; (B) giving Mortgagee the full benefit of its bargain and contract with Mortgagor; (C) keeping the Premises free of subordinate financing liens, Mortgagor agree that if this Paragraph 13 is deemed a restraint on alienation, that it is a reasonable one.

14. **Events of Default; Acceleration.** Each of the following shall constitute an "Event of Default" for purposes of the Note and this Mortgage:

(a) Borrower fails to pay: (i) any installment of principal or interest payable pursuant to the Note on the date when due within five (5) days after the date when any such payment is due in accordance with the terms hereof or thereof; or (ii) any other amount payable to Lender under the Note or this Mortgage within five (5) days after the date when any such payment is due in accordance with the terms hereof or thereof;

(b) Borrower or Mortgagor fails to perform or cause to be performed any other obligation or observe any other condition, covenant, term, agreement or provision required to be performed or observed by Mortgagor under the Note or this Mortgage; provided, however,

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that if such failure by its nature can be cured, then so long as the continued operation and safety of the Premises, and the priority, validity and enforceability of the liens created by the Mortgage and the value of the Premises are not impaired, threatened or jeopardized, then Mortgagor shall have a period (the "Cure Period") of thirty (30) days after Mortgagor obtains actual knowledge of such failure or receives written notice of such failure to cure the same and an Event of Default shall not be deemed to exist during the Cure Period, provided further that if Mortgagor commences to cure such failure during the Cure Period and is diligently and in good faith attempting to effect such cure, the Cure Period shall be extended for thirty (30) additional days, but in no event shall the Cure Period be longer than sixty (60) days in the aggregate;

(c) the existence of any inaccuracy or untruth in any material respect in any representation or warranty contained in this Mortgage or the Note or of any statement or certification as to facts delivered to Mortgagee by Mortgagor;

(d) Mortgagor files a voluntary petition in bankruptcy or is adjudicated a bankrupt or insolvent or files any petition or answer seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under the present or any future federal, state, or other statute or law, or seeks or consents to or acquiesces in the appointment of any trustee, receiver or similar officer of Mortgagor of all or any substantial part of the property of Mortgagor or any of the Premises or all or a substantial part of the assets of Mortgagor are attached, seized, subjected to a writ or distress warrant or are levied upon unless the same is released or located within thirty (30) days;

(e) the commencement of any involuntary petition in bankruptcy against Mortgagor or the institution against Mortgagor of any reorganization, arrangement, composition, readjustment, dissolution, liquidation or similar proceedings under any present or future federal, state or other statute or law, or the appointment of a receiver, trustee or similar officer for all or any substantial part of the property of Mortgagor which shall remain undismissed or undischarged for a period of sixty (60) days;

(f) the dissolution, termination or merger of Mortgagor;

(g) the occurrence of a Prohibited Transfer.

If an Event of Default occurs, Mortgagee may, at its option, declare the whole of the Indebtedness to be immediately due and payable without further notice to Mortgagor, with interest thereon accruing from the date of such Event of Default until paid at the Default Interest Rate.

15. Foreclosure; Expense of Litigation.

(a) When all or any part of the Indebtedness shall become due, whether by acceleration or otherwise, Mortgagee shall have the right to foreclose the lien hereof for such Indebtedness or part thereof and/or exercise any right, power or remedy provided in this Mortgage or the Note in accordance with the Illinois Mortgage Foreclosure Act (Chapter 735, Sections 5/15-1101 et seq., Illinois Compiled Statutes) (as may be amended from time to time, the "Act"). In the event of a foreclosure sale, Mortgagee is hereby authorized, without the

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consent of Mortgagor, to assign any and all insurance policies to the purchaser at such sale or to take such other steps as Mortgagee may deem advisable to cause the interest of such purchaser to be protected by any of such insurance policies.

(b) In any suit to foreclose the lien hereof, there shall be allowed and included as additional indebtedness in the decree for sale all expenditures and expenses which may be paid or incurred by or on behalf of Mortgagee for reasonable attorneys' fees, appraisers' fees, outlays for documentary and expert evidence, stenographers' charges, publication costs, and costs (which may be estimated as to items to be expended after entry of the decree) of procuring all such abstracts of title, title searches and examinations, title insurance policies, and similar data and assurances with respect to the title as Mortgagee may deem reasonably necessary either to prosecute such suit or to evidence to bidders at any sale which may be had pursuant to such decree the true condition of the title to or the value of the Premises. All expenditures and expenses of the nature mentioned in this paragraph and such other expenses and fees as may be incurred in the enforcement of Mortgagor's obligations hereunder, the protection of said Premises and the maintenance of the lien of this Mortgage, including the reasonable fees of any attorney employed by Mortgagee in any litigation or proceeding affecting this Mortgage, the Note, or the Premises, including probate and bankruptcy proceedings, or in preparations for the commencement or defense of any proceeding or threatened suit or proceeding shall be immediately due and payable by Mortgagor, with interest thereon until paid at the Default Rate and shall be secured by this Mortgage.

16. Application of Proceeds of Foreclosure Sale. The proceeds of any foreclosure sale of the Premises shall be distributed and applied in accordance with the Act and, unless otherwise specified therein, in such order as Mortgagee may determine in its sole and absolute discretion.

17. Appointment of Receiver. Upon or at any time after the filing of a complaint to foreclose this Mortgage, the court in which such complaint is filed shall, upon petition by Mortgagee, appoint a receiver for the Premises in accordance with the Act. Such appointment may be made either before or after sale, without regard to the solvency or insolvency of Mortgagor at the time of application for such receiver and without regard to the value of the Premises or whether the same shall be then occupied as a homestead or not and Mortgagee hereunder or any other holder of the Note may be appointed as such receiver. Such receiver shall have power to collect the rents, issues and profits of the Premises (i) during the pendency of such foreclosure suit, (ii) in case of a sale and a deficiency, during the full statutory period of redemption, whether there be redemption or not, and (iii) during any further times when Mortgagor, but for the intervention of such receiver, would be entitled to collect such rents, issues and profits. Such receiver also shall have all other powers and rights that may be necessary or are usual in such cases for the protection, possession, control, management and operation of the Premises during said period, including, to the extent permitted by law, the right to lease all or any portion of the Premises for a term that extends beyond the time of such receiver's possession without obtaining prior court approval of such lease. The court from time to time may authorize the application of the net income received by the receiver in payment of (a) the Indebtedness, 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

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such application is made prior to foreclosure sale, and (b) any deficiency upon a sale and deficiency.

18. **Mortgagee's Right of Possession in Case of Default.** At any time after an uncured Event of Default has occurred, Mortgagor shall, upon demand of Mortgagee, surrender to Mortgagee possession of the Premises. Mortgagee, in its discretion, may, with process of law, enter upon and take and maintain possession of all or any part of the Premises, together with all documents, books, records, papers and accounts relating thereto, and may exclude Mortgagor and its employees, agents or servants therefrom, and Mortgagee may then hold, operate, manage and control the Premises, either personally or by its agents. Mortgagee shall have full power to use such measures, legal or equitable, as in its discretion may be deemed proper or necessary to enforce the payment or security of the avails, rents, issues, and profits of the Premises, including actions for the recovery of rent, actions in forcible detainer and actions in distress for rent. Without limiting the generality of the foregoing, Mortgagee shall have full power to:

- (a) cancel or terminate any lease or sublease for any cause or on any ground which would entitle Mortgagor to cancel the same;
- (b) elect to disaffirm any lease or sublease which is then subordinate to the lien hereof;
- (c) extend or modify any then existing leases and to enter into new leases, which extensions, modifications and leases may provide for terms to expire, or for options to lessees to extend or renew terms to expire, beyond the Maturity Date 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 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 Indebtedness, satisfaction of any foreclosure judgment, or issuance of any certificate of sale or deed to any purchaser;
- (d) make any repairs, renewals, replacements, alterations, additions, betterments and improvements to the Premises as Mortgagee deems are necessary;
- (e) insure and reinsure the Premises and all risks incidental to Mortgagee's possession, operation and management thereof; and
- (f) receive all of such avails, rents, issues and profits.

19. **Application of Income Received by Mortgagee.** Mortgagee, in the exercise of the rights and powers hereinabove conferred upon it, shall have full power to use and apply the avails, rents, issues and profits of the Premises to the payment of or on account of the following, in such order as Mortgagee may determine:

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(a) to the payment of the operating expenses of the Premises, including cost of management and leasing thereof (which shall include compensation to Mortgagee and its agent or agents, 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 for damages, if any, and premiums on insurance hereinabove authorized;

(b) to the payment of taxes and special assessments now due or which may hereafter become due on the Premises; and

(c) to the payment of any indebtedness, including any deficiency which may result from any foreclosure sale.

20. Compliance with Illinois Mortgage Foreclosure Law.

(a) If any provision in this Mortgage shall be inconsistent with any provision of the Act, 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 be construed in a manner consistent with the Act.

(b) If any provision of this Mortgage shall grant to Mortgagee (including Mortgagee acting as a mortgagee-in-possession) or a receiver appointed pursuant to the provisions of Paragraph 17 of this Mortgage any powers, rights or remedies prior to, upon or following the occurrence of an Event of Default which are more limited than the powers, rights or remedies that would otherwise be vested in Mortgagee or in such receiver under the Act in the absence of said provision, Mortgagee and such receiver shall be vested with the powers, rights and remedies granted in the Act to the full extent permitted by law.

(c) Without limiting the generality of the foregoing, all expenses incurred by Mortgagee which are of the type referred to in Section 5/15-1510 or 5/15-1512 of the Act, whether incurred before or after any decree or judgment of foreclosure, shall be added to the Indebtedness and/or by the judgment of foreclosure.

21. Rights Cumulative. Each right, power and remedy herein conferred upon Mortgagee is cumulative and in addition to every other right, power or remedy, express or implied, given now or hereafter existing under any the Note, this Mortgage or at law or in equity, and each and every right, power and remedy herein set forth or otherwise so existing may be exercised from time to time as often and in such order as may be deemed expedient by Mortgagee, and the exercise or the beginning of the exercise of one right, power or remedy shall not be a waiver of the right to exercise at the same time or thereafter any other right, power or remedy, and no delay or omission of Mortgagee in the exercise of any right, power or remedy accruing hereunder or arising otherwise shall impair any such right, power or remedy, or be construed to be a waiver of any Event of Default or acquiescence therein.

22. Mortgagee's Right of Inspection. Mortgagee and its representatives shall have the right to inspect the Premises and the books and records with respect thereto at all reasonable

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times upon not less than twenty-four (24) hours prior notice to Mortgagor, and access thereto, subject to the rights of tenants in possession, shall be permitted for that purpose.

23. Release Upon Payment and Discharge of Mortgagor's Obligations.

Mortgagee shall release this Mortgage and the lien hereof by proper instrument upon payment and discharge of all Indebtedness, including payment of all reasonable expenses incurred by Mortgagee in connection with the execution of such release.

24. Notices. Any notices, communications and waivers under this Mortgage shall be in writing and shall be: (a) delivered in person, (ii) mailed, postage prepaid, either by registered or certified mail, return receipt requested; or (b) by overnight express carrier, addressed in each case as follows:

To Mortgagee: INXS V LLC, a Florida limited liability company
P.O. Box 447, Odessa, Florida 33556-0447
Attn: Sherrill Mickey

With a copy to
To Mortgagor:

SOUTH SIDE EQUIPMENT IN
616 Westbrook Circle Suite 200
West Chester, Pa 60154

or to any other address as to any of the parties hereto, as such party shall designate in a written notice to the other party hereto. All notices sent pursuant to the terms of this Paragraph shall be deemed received (i) if personally delivered, then on the date of delivery, (ii) if sent by overnight, express carrier, then on the next federal banking day immediately following the day sent, or (iii) if sent by registered or certified mail, then on the earlier of the third federal banking day following the day sent or when actually received.

25. Waiver of Rights. The Mortgagor hereby covenants and agrees that it will not at any time insist upon or plead, or in any manner claim or take any advantage of, any stay, exemption or extension law or any so-called "Moratorium Law" now or at any time hereafter in force providing for the valuation or appraisal of the Premises, or any part thereof, prior to any sale or sales thereof to be made pursuant to any provisions herein contained, or to decree, judgment or order of any court of competent jurisdiction; or, after such sale or sales, claim or exercise any rights under any statute now or hereafter in force to redeem the property so sold, or any part thereof, or relating to the marshalling thereof, upon foreclosure sale or other enforcement hereof; and without limiting the foregoing:

(a) The Mortgagor hereby expressly waives any and all rights of reinstatement and redemption, if any, under any order or decree of foreclosure of this Mortgage, on its own behalf and on behalf of each and every person, it being the intent hereof that any and all such rights of reinstatement and redemption of the Mortgagor and of all other persons are and shall be deemed to be hereby waived to the full extent permitted by the provisions of Illinois Compiled Statutes 735 ILCS 5/15 - 1601 or other applicable law or replacement statutes;

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(b) The Mortgagor will not invoke or utilize any such law or laws or otherwise hinder, delay or impede the execution of any right, power remedy herein or otherwise granted or delegated to the Mortgagee but will suffer and permit the execution of every such right, power and remedy as though no such law or laws had been made or enacted; and

(c) If the Mortgagor is a trustee, Mortgagor represents that the provisions of this paragraph (including the waiver of reinstatement and redemption rights) were made at the express direction of Mortgagor's beneficiaries and the persons having the power of direction over Mortgagor, and are made on behalf of the trust estate of Mortgagor and all beneficiaries of Mortgagor, as well as all other persons mentioned above.

26. **Contests.** Notwithstanding anything to the contrary herein contained, Mortgagor shall have the right to contest by appropriate legal proceedings diligently prosecuted any Taxes imposed or assessed upon the Premises or which may be or become a lien thereon and any mechanics', materialmen's or other liens or claims for lien upon the Premises (all herein called "**Contested Liens**"), and no Contested Liens shall constitute an Event of Default hereunder, if, but only if:

(a) Mortgagor shall forthwith give notice of any Contested Lien to Mortgagee at the time the same shall be asserted;

(b) Mortgagor shall either pay under protest or deposit with an escrowee, the identity of whom shall be reasonably satisfactory to both Mortgagor and Mortgagee, for the benefit of both parties, the full amount (herein called "**Lien Amount**") of such Contested Lien, together with such amount as Mortgagee may reasonably estimate as interest or penalties which might arise during the period of contest; provided that in lieu of such payment Mortgagor may furnish to Mortgagee a bond or title indemnity in such amount and form, and issued by a bond or title insuring company, as may be satisfactory to Mortgagee;

(c) Mortgagor shall diligently prosecute the contest of any Contested Lien by appropriate legal proceedings having the effect of staying the foreclosure or forfeiture of the Premises, and shall permit Mortgagee to be represented in any such contest and shall pay all expenses incurred, in so doing, including fees and expenses of Mortgagee's counsel (all of which shall constitute so much additional Indebtedness bearing interest at the Default Interest Rate until paid, and payable upon demand);

(d) Mortgagor shall pay such Contested Lien and all Lien Amounts together with interest and penalties thereon: (i) if and to the extent that any such Contested Lien shall be determined adverse to Mortgagor; or (ii) forthwith upon demand by Mortgagee if, in the opinion of Mortgagee, and notwithstanding any such contest, the Premises shall be in jeopardy or in danger of being forfeited or foreclosed; provided that if Mortgagor shall fail so to do, Mortgagee may, but shall not be required to, upon notice to Mortgagor, pay all such Contested Liens and Lien Amounts and interest and penalties thereon and such other sums as may be necessary in the judgment of the Mortgagee to obtain the release and discharge of such liens; and any amount expended by Mortgagee in so doing shall be so much additional Indebtedness bearing interest at

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the Default Interest Rate until paid, and payable upon demand; and provided further that Mortgagee may in such case use and apply monies deposited as provided in subsection (b) above and may demand payment upon any bond or title indemnity furnished as aforesaid.

27. **Expenses Relating to Enforcement of Note and Mortgage.** Mortgagor will pay all expenses, charges, costs and fees relating to the collection of the Loan and/or the enforcement of the terms the Note or this Mortgage, including without limitation, Mortgagee's reasonable attorneys' fees in connection therewith, all filing, registration and recording fees and all federal, state, county and municipal taxes, and other taxes (provided Mortgagor shall not be required to pay any income or franchise taxes of Mortgagee), duties, imposts, assessments and charges arising out of or in connection with the execution and delivery of the Note and this Mortgage. All expenses, charges, costs and fees described in this Paragraph 27 shall be so much additional Indebtedness, shall bear interest from the date so incurred until paid at the Default Interest Rate and shall be paid, together with said interest, by Mortgagor forthwith upon demand.

28. **Financial Statements.** Mortgagor shall furnish to Mortgagee the following financial information regarding Mortgagor or the Premises without any further request therefore: (i) semi-annual unaudited financial statements for the Mortgagor including a balance sheet and statement of income, no later than thirty (30) days after the end of each six month period ending June 30 and December 31 of each year, certified by the chief financial officer or other appropriate officer, partner or member of Mortgagor, and (ii) filed federal income tax returns for the Mortgagor by May 1st of each year.

29. **Statement of Indebtedness.** Mortgagor, within seven days after being so requested by Mortgagee, shall furnish a duly acknowledged written statement setting forth the amount of the debt secured by this Mortgage, the date to which interest has been paid and stating either that no offsets or defenses exist against such debt or, if such offsets or defenses are alleged to exist, the nature thereof.

30. **Further Instruments.** Upon request of Mortgagee, Mortgagor shall execute, acknowledge and deliver all such additional instruments and further assurances of title and shall do or cause to be done all such further acts and things as may reasonably be necessary fully to effectuate the intent of this Mortgage and the Note.

31. **Additional Indebtedness Secured.** All persons and entities with any interest in the Premises or about to acquire any such interest should be aware that this Mortgage secures more than the stated principal amount of the Note and interest thereon; this Mortgage secures any and all other amounts which may become due under the Note or any other document or instrument evidencing, securing or otherwise affecting the Indebtedness, including, without limitation, any and all amounts expended by Mortgagee to operate, manage or maintain the Premises or to otherwise protect the Premises or the lien of this Mortgage.

32. **Indemnity.** Mortgagor hereby covenants and agrees that no liability shall be asserted or enforced against Mortgagee in the exercise of the rights and powers granted to Mortgagee in this Mortgage, and Mortgagor hereby expressly waives and releases any such liability. Mortgagor shall indemnify and save Mortgagee harmless from and against any and all

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liabilities, obligations, losses, damages, claims, costs and expenses (including reasonable attorneys' fees and court costs) (collectively, "Claims") of whatever kind or nature which may be imposed on, incurred by or asserted against Mortgagee at any time by any third party which relate to or arise from: (a) except for any actions brought by Mortgagor against the Mortgagee, any suit or proceeding (including probate and bankruptcy proceedings), or the threat thereof, in or to which Mortgagee may or does become a party, either as plaintiff or as a defendant, by reason of this Mortgage or for the purpose of protecting the lien of this Mortgage; (b) the offer for sale or sale of all or any portion of the Premises; and (c) the ownership, leasing, use, operation or maintenance of the Premises, if such Claims relate to or arise from actions taken prior to the surrender of possession of the Premises to Mortgagee in accordance with the terms of this Mortgage; provided, however, that Mortgagor shall not be obligated to indemnify or hold Mortgagee harmless from and against any Claims directly arising from the gross negligence or willful misconduct of Mortgagee. All costs provided for herein and paid for by Mortgagee shall be so much additional Indebtedness and shall become immediately due and payable upon demand by Mortgagee and with interest thereon from the date incurred by Mortgagee until paid at the Default Interest Rate.

33. **Maximum Indebtedness.** Notwithstanding anything contained herein to the contrary, in no event shall the indebtedness exceed an amount equal to \$50,000.00; provided, however, in no event shall the Mortgagee be obligated to advance funds in excess of the face amount of the Note.

34. **Compliance with Environmental Laws.** Mortgagor shall comply with all applicable federal, state and local environmental laws, ordinances and all amendments thereto and rules and regulations implementing the same, together with all common law requirements, which relate to discharge, emissions, waste, nuisance, pollution control, hazardous substances and other environmental matters as the same shall be in existence from time to time. All of the foregoing laws, regulations and requirements are hereinafter referred to as "Environmental Laws." Mortgagor shall obtain all environmental licenses, permits, approvals, authorizations, exemptions, certificates and registrations (hereinafter collectively referred to as "Permits") and make all applicable filings required of Mortgagor under the Environmental Laws required by Mortgagor to operate at the Premises. The Permits and required filings shall be made available for inspection and copying by Mortgagee at Mortgagor's offices upon reasonable notice and during business hours. Mortgagor shall not cause or permit any flammable or explosive material, petroleum or petroleum by-products, contaminant, radioactive material, hazardous waste or material, toxic waste or material or any similar substance which is or may become regulated under any applicable federal, state or local law (hereinafter collectively referred to as "Hazardous Substances") to be brought upon, kept or used in or about the Premises except for small quantities of such substances as is necessary in the ordinary course of Mortgagor's business provided that Mortgagor shall handle, store, use and dispose of any such Hazardous Substance in compliance with all applicable laws and the highest standards prevailing in the industry for the storage and use of such substances or materials, in a manner which is safe and does not contaminate the Premises, and Mortgagor shall give Mortgagee written notice of the identity of such substances. If any governmental agency shall ever require testing to ascertain whether or not there has been any release of any Hazardous Substance, then the reasonable costs thereof shall be reimbursed by Mortgagor to Mortgagee upon demand as additional Indebtedness if such requirement applies to the Premises. In addition, Mortgagor shall execute affidavits, representations and the like from time to time at Mortgagee's

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request concerning Mortgagor's best knowledge and belief regarding the presence of Hazardous Substances on the Premises. Mortgagor hereby agrees to indemnify and hold Mortgagee harmless from any liability, claim or injury, including, without limitation, attorneys' fees and the cost of any required or necessary repair, cleanup, remediation or detoxification arising out of: (i) the use, manufacture, handling, storage, disposal or release of any Hazardous Substances by Mortgagor, its agents and employees on, under or about the Premises; or (ii) an actual or alleged violation of Environmental Laws in connection with the occupancy of the Premises by Mortgagor or any occupant of the Premises or the operation of Mortgagor's business on the Premises.

35. Miscellaneous.

(a) Successors and Assigns. This Mortgage and all provisions hereof shall be binding upon and enforceable against Mortgagor and its assigns and other successors. This Mortgage and all provisions hereof shall inure to the benefit of Mortgagee, its successors, assigns, heirs and legatees and any holder or holders, from time to time, of the Note.

(b) Invalidity of Provisions; Governing Law. In the event that any provision of this Mortgage is deemed to be invalid by reason of the operation of law, or by reason of the interpretation placed thereon by any administrative agency or any court, Mortgagor and Mortgagee shall negotiate an equitable adjustment in the provisions of the same in order to effect, to the maximum extent permitted by law, the purpose of this Mortgage and the validity and enforceability of the remaining provisions, or portions or applications thereof, shall not be affected thereby and shall remain in full force and effect. This Mortgage is to be construed in accordance with and governed by the laws of the State of Illinois

(c) Municipal Requirements. Mortgagor shall not by act or omission permit any building or other improvement on premises not subject to the lien of this Mortgage to rely on the Premises or any part thereof or any interest therein to fulfill any municipal or governmental requirement, and Mortgagor hereby assigns to Mortgagee any and all rights to give consent for all or any portion of the Premises or any interest therein to be so used. Similarly, no building or other improvement on the Premises shall rely on any premises not subject to the lien of this Mortgage or any interest therein to fulfill any governmental or municipal requirement. Any act or omission by Mortgagor which would result in a violation of any of the provisions of this subparagraph shall be void.

(d) Rights of Tenants. Upon the occurrence of an Event of Default, Mortgagee shall have the right and option to commence a civil action to foreclose this Mortgage and to obtain a decree of foreclosure and sale subject to the rights of any tenant or tenants of the Premises having an interest in the Premises prior to that of Mortgagee. The failure to join any such tenant or tenants of the Premises as party defendant or defendants in any such civil action or the failure of any decree of foreclosure and sale to foreclose their rights shall not be asserted by Mortgagor as a defense in any civil action instituted to collect the Indebtedness, or any part thereof or any deficiency remaining unpaid after foreclosure and sale of the Premises, any statute or rule of law at any time existing to the contrary notwithstanding.

(e) Option of Mortgagee to Subordinate. At the option of Mortgagee, this Mortgage shall become subject and subordinate, in whole or in part (but not with respect to

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priority of entitlement to insurance proceeds or any condemnation or eminent domain award) to any and all leases of all or any part of the Premises upon the execution by Mortgagee of a unilateral declaration to that effect and the recording thereof in the Office of the Recorder of Deeds in and for the county wherein the Premises are situated.

(f) **Mortgagee in Possession.** Nothing herein contained shall be construed as constituting Mortgagee a mortgagee in possession in the absence of the actual taking of possession of the Premises by Mortgagee pursuant to this Mortgage.

(g) **Relationship of Mortgagee and Mortgagor.** Mortgagee shall in no event be construed for any purpose to be a partner, joint venturer, agent or associate of Mortgagor or of any lessee, operator, concessionaire or licensee of Mortgagor in the conduct of their respective businesses, and, without limiting the foregoing, Mortgagee shall not be deemed to be such partner, joint venturer, agent or associate on account of Mortgagee becoming a mortgagee in possession or exercising any rights pursuant to this Mortgage, the Note, or otherwise. The relationship of Mortgagor and Mortgagee hereunder is solely that of debtor/creditor.

(h) **Time of the Essence.** Time is of the essence of the payment by Mortgagor of all amounts due and owing to Mortgagee under the Note and the performance and observance by Mortgagor of all terms, conditions, obligations and agreements contained in this Mortgage.

(i) **No Merger.** The parties hereto intend that the Mortgage and the lien hereof shall not merge in fee simple title to the Premises, and if Mortgagee acquires any additional or other interest in or to the Premises or the ownership thereof, then, unless a contrary intent is manifested by Mortgagee as evidenced by an express statement to that effect in an appropriate document duly recorded, this Mortgage and the lien hereof shall not merge in the fee simple title and this Mortgage may be foreclosed as if owned by a stranger to the fee simple title.

(j) **Consent to Jurisdiction** TO INDUCE MORTGAGEE TO ACCEPT THE NOTE, MORTGAGOR IRREVOCABLY AGREES THAT, SUBJECT TO MORTGAGEE'S SOLE AND ABSOLUTE ELECTION, ALL ACTIONS OR PROCEEDINGS IN ANY WAY ARISING OUT OF OR RELATED TO THE NOTE AND THIS MORTGAGE WILL BE LITIGATED IN COURTS HAVING SITUS IN COOK COUNTY, ILLINOIS. MORTGAGOR HEREBY CONSENTS AND SUBMITS TO THE JURISDICTION OF ANY COURT LOCATED WITHIN COOK COUNTY, ILLINOIS, WAIVES PERSONAL SERVICE OF PROCESS UPON MORTGAGOR, AND AGREES THAT ALL SUCH SERVICE OF PROCESS MAY BE MADE BY REGISTERED MAIL DIRECTED TO MORTGAGOR AT THE ADDRESS STATED HEREIN AND SERVICE SO MADE WILL BE DEEMED TO BE COMPLETED UPON ACTUAL RECEIPT.

(k) **Waiver of Jury Trial.** MORTGAGOR AND MORTGAGEE (BY ACCEPTANCE HEREOF), HAVING BEEN REPRESENTED BY COUNSEL EACH KNOWINGLY AND VOLUNTARILY WAIVES ANY RIGHT TO A TRIAL BY JURY IN ANY ACTION OR PROCEEDING TO ENFORCE OR DEFEND ANY RIGHTS

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UNDER THIS MORTGAGE OR ANY RELATED AGREEMENT OR UNDER ANY AMENDMENT, INSTRUMENT, DOCUMENT OR AGREEMENT DELIVERED OR WHICH MAY IN THE FUTURE BE DELIVERED IN CONNECTION WITH THIS MORTGAGE, AND AGREES THAT ANY SUCH ACTION OR PROCEEDING WILL BE TRIED BEFORE A COURT AND NOT BEFORE A JURY.

(1) **Complete Agreement.** This Mortgage, the Note and the Loan Documents constitute the complete agreement between the parties with respect to the subject matter hereof and this Mortgage, the Note and the Loan Documents may not be modified, altered or amended except by an agreement in writing signed by both Mortgagor and Mortgagee.

36. **Security Agreement.** Mortgagor agrees that this Mortgage shall constitute a "security agreement" within the meaning of the Uniform Commercial Code as adopted by the State of Illinois (810 ILCS 5/9-101 *et. seq.*)(the "Code") with respect to: (a) all sums at any time on deposit for the benefit of Mortgagor or held by Mortgagee (whether deposited by or on behalf of Mortgagor or anyone else) pursuant to any of the provisions of this Mortgage or the Note; and (b) with respect to any personal property included in the granting clauses of this Mortgage, which personal property may not be deemed to be affixed to the Premises or may not constitute a "fixture" (within the meaning of Section 9-102(41) of the Code) (which property is hereinafter referred to as "**Personal Property**"), and all replacements of, substitutions for, additions to, and the proceeds thereof, and the "supporting obligations" (as defined in the Code) (all of said Personal Property, the Fixtures and the replacements, substitutions and additions thereto and the proceeds thereof being sometimes hereinafter collectively referred to as "**Collateral**"), and that a security interest in and to the Collateral is hereby granted to Mortgagee, and the Collateral and all of Mortgagor's right, title and interest therein are hereby assigned to Mortgagee, all to secure payment of the Indebtedness. All of the provisions contained in this Mortgage pertain and apply to the Collateral as fully and to the same extent as to any other property comprising the Property. Mortgagor authorizes Mortgagee to make any necessary filings and recordings in order to maintain a perfected security interest in the Collateral. Upon an Event of Default hereunder, in addition to the rights and remedies set forth in Paragraph 15 herein, Mortgagee shall also have all of the rights and remedies of a secured party under the Code with respect to the Collateral.

[SIGNATURE ON FOLLOWING PAGE]

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

MORTGAGOR:

South Side Equipment, Inc., an Illinois corporation

Sandra Velez by

By: *Pedro Bonilla agent*

Name: Sandra Velez, its President

and

By: *Pedro Bonilla*

Name: Pedro Bonilla, its Secretary

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STATE OF ILLINOIS)
) ss
COUNTY OF COOK)

I, the undersigned a Notary Public in and for said County, in the State aforesaid, do hereby certify that Sandra Velez by who is personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he signed and delivered the said instrument as his own free and voluntary act for the uses and purposes therein set forth.

* Pedro Bonilla, as her attorney in fact and Pedro Bonilla
GIVEN under my hand and notarial seal, this 25 day of October 2017.



NOTARY PUBLIC

"OFFICIAL SEAL"
ANTHONY S. CHIONG
Notary Public, State of Illinois
(SEAL) Commission Expires 07/19/2019

CLERK'S OFFICE of Cook County Clerk's Office

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Exhibit A To Mortgage Legal Description of Real Estate

That part of Lots 2, 3 and 4 described as follows: Beginning at the Northwesterly corner of Lot 4; thence Southeasterly along the Westerly line of Lot 4 to the Southwesterly corner of Lot 4; thence Northeasterly along the Southerly line of Lot 4 a distance of 12 feet; thence Northwesterly along a line parallel to the Westerly line of Lot 4 a distance of 12.41 feet; thence North 123.29 feet more or less to a point in the Southerly line of Ogden Avenue, said point being 62 feet Northeasterly of the Northwesterly corner of Lot 4; thence Southerly along the Southerly line of Ogden Avenue 62 feet to the point of beginning; in Walter D. Creighton's Subdivision of that part of Block 2 lying South of Ogden Avenue, in Hawthorne a Subdivision of the Southeast 1/4 of Section 28 and the North 1/2 of the Northeast 1/4 of Section 33, Township 39 North, Range 13, East of the Third Principal Meridian, in Cook County, Illinois.

Also

Lots 5, 6, 7 & 8 in Creighton's Resubdivision of that part of Block 2 lying South of Ogden Avenue in Hawthorne a Subdivision of the Southeast 1/4 of Section 28 and the North 1/2 of the Northeast 1/4 of Section 33, Township 39 North, RANGE13, East of the Third Principal Meridian, in Cook County, Illinois.

Commonly known as: 4845 W Ogden Avenue Cicero IL 6504: 60804

PINs: 16-28-409-005, 16-28-409-006, 16-28-409-007, 16-28-409-008, 16-28-409-009
16-28-409-010 and 16-28-409-011.

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Exhibit B to Mortgage

Permitted Exceptions

1. NONE

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