

# UNOFFICIAL COPY

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Karen A. Yarbrough  
Cook County Recorder of Deeds  
Date: 04/03/2018 11:56 AM Pg: 1 of 7

Instrument prepared by:  
Wesley W. Broquard  
Barnes & Thornburg LLP  
One North Wacker Drive, Suite 4400  
Chicago, Illinois 60606

After recording, mail to:  
Kirk D. Beckhorn  
Squire Patton Boggs (US) LLP  
8000 Towers Crescent Drive, 14th Floor  
Tysons Corner, Virginia 22182

H25409303

## MORTGAGE AGREEMENT AND FIXTURE FILING

THIS MORTGAGE AGREEMENT, AND FIXTURE FILING is made as of March 28, 2018, by **Weichai America Corp.**, an Illinois corporation, formerly known as Weichai Power Mat Automotive, Inc., whose address is 3100 Golf Road, Rolling Meadows, Illinois 60008 ("Mortgagor"), to **Ricardo, Inc.**, a Michigan corporation, its successors and/or assigns, whose address is 40000 Ricardo Drive, Van Buren Township, Michigan 48111 ("Mortgagee").

By that certain Non-Recourse Guaranty of even date herewith (as the same may be amended, restated, modified, extended or renewed from time to time, the "Guaranty"), Mortgagor has agreed to guaranty for the benefit of Mortgagee certain obligations owing to Mortgagee by Power Solutions International, Inc., a Delaware corporation ("Sublessee") under an Industrial Building Sublease Agreement (the "Sublease") entered into on March 2, 2018 with Mortgagee. To secure the payment and performance of all obligations of Mortgagor at any time owing under the Guaranty, together with the payment and performance of all obligations of Mortgagor under this Mortgage, including the obligation to reimburse Mortgagee for all costs incurred to perform any obligation of Mortgagor or collect any amount owing to Mortgagee, together with any interest on amounts due, and in further consideration of one dollar (\$1.00) in hand paid, the receipt of which is acknowledged, Mortgagor GRANTS, MORTGAGES AND WARRANTS to Mortgagee, its successors and/or assigns, the following described real estate and all of its estate, right, title and interest therein, situated, lying and being in the City of Rolling Meadows, County of Cook, and State of Illinois, legally described on the attached Exhibit A, together with all tenements, easements, hereditaments and appurtenances belong thereto, together with all the structures, buildings, additions and improvements, and replacements thereof, erected thereon, including heating, air conditioning, refrigeration, lighting and ventilation, equipment, apparatus, machinery and fixtures (excluding trade fixtures) of every kind and nature whatsoever forming part of said structures or buildings or of any structures or buildings heretofore or hereafter standing on the realty or on any part thereof, together with all insurance proceeds for so long and during all such times as Mortgagor may be entitled thereto (which are pledged primarily and on a

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parity with said real estate and not secondarily), and all proceeds of, additions and accretions to, substitutions and replacements for, and changes in any of the property described above, and together with all of Mortgagor's rights further to encumber the Property for debt except by such encumbrance, which, by its actual terms and specifically expressed intent, shall be, and at all times remain, subject and subordinate to the lien of this Mortgage. All of the above-mentioned and described real estate, property and rights are hereinafter referred to as "Property".

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

**In no event shall the obligations secured by this Mortgage exceed the obligations (collectively the "TS Sublease Obligations") of Sublessee under the Sublease which are secured on a non-recourse basis by Guarantor under the terms of the Guaranty.**

IT IS FURTHER UNDERSTOOD AND AGREED THAT:

1. Obligations Relating to Property. Mortgagor shall (a) promptly repair, restore or rebuild any buildings or improvements now or hereafter on the Property which may become damaged or be destroyed; (b) keep the Property in good condition and repair, without waste and free from mechanics' liens or other liens or claims for lien not expressly subordinated to the lien hereof; (c) pay when due any obligations and indebtedness which may be secured by a lien or charge on the Property superior to the lien hereof, and upon request exhibit satisfactory evidence of the discharge of such prior lien to Mortgagee; (d) comply with all requirements of law, municipal ordinances, or restrictions of record with respect to the Property and the use thereof; (e) make no material alterations to the Property except as required by law or municipal ordinance or except with Mortgagee's prior written consent, which consent shall not be unreasonably withheld; (f) pay each obligation or item of indebtedness secured by this Mortgage when due according to the terms hereof or of the Guaranty. Mortgagor shall pay all filing, registration, recording and search and information fees, and all expenses incident to the execution and acknowledgement of this Mortgage and all other documents securing the obligations and indebtedness secured hereby and all federal, state, county and municipal taxes, other taxes, duties, imposts, assessments and charges arising out of or in connection with the execution, delivery, filing, recording or registration of the indebtedness secured hereby, this Mortgage and all other documents securing the obligations and indebtedness secured hereby and all assignments thereof.

2. Taxes. Mortgagor shall pay before any penalty attaches all general taxes, special taxes, special assessments, water charges, sewer service charges and other charges against the Property when due.

3. Insurance. Mortgagor shall keep all buildings and improvements now or hereafter situated on the Property insured against loss or damage by fire and such other hazards as may reasonably be required by Mortgagee. Mortgagor shall also provide liability insurance with such limits for personal injury and death and property damage as is commercially reasonable.

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Mortgagor shall deliver certificates of all policies, including additional and renewal policies, to Mortgagee, and, in the case of insurance about to expire, shall deliver renewal certificates not less than ten (10) days prior to their respective dates of expiration.

4. Damage to Property. In case of loss, Mortgagor shall have the right to receive all insurance proceeds, provided that Mortgagor will use such insurance proceeds for restoration of the Property.

5. Rights of Mortgagee. In case of default herein, Mortgagee may, but need not, make any payment or perform any act herein required of Mortgagor in any form and manner deemed expedient, and may, but need not, make full or partial payments of principal or interest on prior encumbrances, if any, and purchase, discharge, compromise or settle any tax lien or other prior lien or title or claim thereof, or redeem from any tax sale or forfeiture affecting said premises or contest any tax or assessment. All monies paid for any of the purpose herein authorized and all expenses paid or incurred in connection therewith, including attorneys' fees, and any other monies advanced by Mortgagee to protect the Property and the lien hereof, shall be so much additional indebtedness secured hereby and shall become immediately due and payable without notice. Inaction of Mortgagee shall not be considered as a waiver of any right accruing to it on account of any default on the part of Mortgagor.

6. Mortgagor Default. Mortgagor shall pay all obligations and indebtedness when due according to the terms hereof and of the Guaranty. All unpaid obligations or indebtedness secured by this mortgage shall, notwithstanding anything in this Mortgage to the contrary, become due and payable (a) immediately in the case of default in making payment of any sum when it becomes due and beyond any applicable cure period hereunder or under the Guaranty, (b) when default shall occur and continue for thirty (30) days in the performance of any other agreement of the Mortgagor herein contained, or (c) when there shall exist an uncured default under the Guaranty.

7. Foreclosure. When the obligations or indebtedness hereby secured, or any part thereof, shall become due, whether by acceleration or otherwise, and remain unpaid, Mortgagee shall have all rights and remedies available to Mortgagee for such default under applicable law or in equity, including (without limitation or waiver) the right to foreclose the lien hereof for such obligations or indebtedness or part thereof. 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 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) for procuring all such abstracts of title, title searches and examinations, title insurance policies, Torrens certificates, and similar data and assurances with respect to 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 Property. All expenditures and expenses of the nature mentioned in this Paragraph, and such expenses and fees as may be incurred in the protection of the Property and the maintenance of the lien of this Mortgage, including the fees of any attorney employed by Mortgagee in any litigation or proceeding affecting this Mortgage, the Guaranty, or the Property, including probate and bankruptcy proceedings, or in preparations for the commencement or defense of any

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proceeding or threatened suit or proceeding shall be due and payable by Mortgagor, upon ten (10) days prior written demand by Mortgagee (with interest accruing from the date of demand until paid at the rate of 12% per annum) and shall be secured by this Mortgage. The proceeds of any foreclosure sale of the premises shall be distributed and applied in the following order of priority: first, on account of all costs and expenses incident to the foreclosure proceedings, including all such items as are mentioned in this Paragraph; second, all other items which under the terms thereof constitute secured indebtedness additional to that evidenced by the Guaranty; third, all obligations remaining unpaid under the Guaranty secured hereby; fourth, any remainder to Mortgagor, its heirs, legal representatives or assigns, as its rights may appear.

8. Inspection. Mortgagee shall have the right to inspect the Property with prior written consent of Mortgagor and access thereto shall be permitted for that purpose.

9. Condemnation. Mortgagor shall have the right to receive all condemnation awards relating to the Property, provided that any awards shall first be used to satisfy any outstanding obligations or indebtedness then due by Mortgagor to Mortgagee.

10. Release. Mortgagee shall release this Mortgage and the lien thereof by proper instrument upon expiration and discharge of all obligations and indebtedness secured hereby or as stated in the Non-Recourse Guaranty under Early Termination provision.

11. Notice. Any notice which either party hereto may desire or be required to give to the other party shall be in writing and delivered in compliance with the notice requirements set forth in the Guaranty to constitute effective service of notice hereunder.

12. Forbearance. Any forbearance by Mortgagee in exercising any right or remedy hereunder, or otherwise afforded by applicable law, shall not be a waiver of, or preclude the exercise of, any right or remedy hereunder. The procurement of insurance or the payment of taxes or other liens or charges by Mortgagee shall not be a waiver of Mortgagee's right to accelerate the obligations or indebtedness secured by this Mortgage.

13. Waivers. Mortgagor waives the benefit and agrees not to invoke any appraisal, valuation, stay, extension or exemption laws, or any so-called "moratorium laws" now existing or hereafter enacted, in order to prevent or hinder the enforcement of foreclosure of this Mortgage, Mortgagor for Mortgagor and all who may claim through or under Mortgagor waives any and all rights to have the property and estates comprising the Property marshaled upon any foreclosure of the lien hereof and agree that any court having jurisdiction to foreclose such lien may order the Property sold as an entirety. Mortgagor hereby waives and releases all rights and benefits under and by virtue of the homestead exemption laws of the State of Illinois. Mortgagor acknowledges that the Property does not constitute agricultural real estate, as defined in Illinois Mortgage Foreclosure Law, 735 ILCS 5/15-1101 et. seq., as from time to time amended (hereinafter referred to as the "Act") or residential real estate, as defined in Section 15-1219 of the Act.

14. Binding. This Mortgage and all provisions hereof shall extend to and be binding upon Mortgagor and all persons claiming under or through Mortgagor, and the word "Mortgagor" when used herein shall include all such persons liable for the payment of the

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obligations or indebtedness or any part thereof, whether or not such persons shall have executed the Guaranty or this Mortgage, and shall include the singular or plural as the context may require. All obligations of Mortgagor hereunder shall be joint and several if more than one party comprise the Mortgagor. The word "Mortgagee" when used herein shall include the successors and assigns of Mortgagee named herein.

15. Unauthorized Transfer. No action for the enforcement of the lien or of any provision hereof shall be subject to any defense that would not be good and available to the party interposing same in an action at law upon the Guaranty hereby secured. Any sale, conveyance, assignment, pledge, hypothecation, encumbrance or other transfer of title to, or any interest in, or the placing of any lien upon the Property or any portion of any entity owning any interest therein (whether voluntary or by operation of law) shall be allowed, subject to Mortgagee's prior written consent, which consent shall not be unreasonably held or delayed.

16. Collateral Protection Act. Pursuant to the requirements of the Illinois Collateral Protection Act, 815 ILCS 180/1 *et seq.*, Mortgagor is hereby notified as follows: Unless Mortgagor provides Mortgagee with evidence of the insurance coverage required by this Mortgage, Mortgagee may purchase insurance at Mortgagor's expense to protect the interests of Mortgagee in the Property. This insurance may, but need not, protect Mortgagor's interests. The coverage Mortgagee purchases may not pay any claim that Mortgagor makes or any claim that is made against Mortgagor in connection with the Property. 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 Property, Mortgagor will be responsible for the costs of such insurance, including interest or any other charges that Mortgagee may lawfully impose in connection with the placement of the insurance, until the effective date of the cancellation or expiration of the insurance. The costs of any such insurance may be added to the obligations secured hereby. The costs of the insurance may be more than the cost of insurance that Mortgagor may be able to obtain on its own.

17. Fixture Filing. This Mortgage constitutes a financing statement filed as a fixture filing under Article 9 of the Uniform Commercial Code, covering any Property which now is or later may become fixtures attached to the real estate or improvements. For this purpose, the respective addresses of Mortgagor, as debtor, and Mortgagee, as secured party, are as set forth in the preambles of this Mortgage.

[signature page follows]

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Mortgagor has executed this Mortgage the day and year first above written.

WEICHAI AMERICA CORP.

By: [Signature]  
 Name: Huisheng Liu  
 Title: Chairman and CEO

Property of  
 COUNTY OF DuPage )  
 ) ss.

STATE OF ILLINOIS )  
 ) ss.  
 COUNTY OF DuPage )

I, the undersigned, a Notary Public in and for said County and State, certify that Huisheng Liu, as the Chairman & CEO of Weichai America Corp., personally known or proven to me by adequate identification to be the person whose name is subscribed to the foregoing instrument, personally appeared before me this day and severally acknowledged that ~~she~~ he signed and delivered the said instrument in such capacity on behalf of such corporation as ~~her~~ his free and voluntary act for the uses and purposes therein set forth.

GIVEN under my hand the Notarial Seal this 26<sup>th</sup> day of March, 2018.



[Signature]  
 Notary Public

Notary's Office

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## EXHIBIT A LEGAL DESCRIPTION

### PARCEL 1:

THE SOUTH 919.84 FEET (AS MEASURED ON THE WEST LINE THEREOF) OF THAT PART OF SOUTH 1/2 OF THE SOUTH 1/2 OF SECTION 7, TOWNSHIP 41 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, LYING NORTH OF THE NORTH LINE OF GOLF ROAD AS DEDICATED BY DOCUMENT 10494972 AND LYING EAST OF A LINE DRAWN FROM A POINT ON THE SOUTH LINE OF SAID SECTION 7, 1688.86 FEET EAST (AS MEASURED ON SAID SOUTH LINE) OF THE CENTER LINE OF ROHLWING ROAD, AS OCCUPIED, (SAID CENTER LINE OF ROHLWING ROAD BEING 345.57 FEET EAST OF SOUTH WEST CORNER OF SAID SECTION 7 AS MEASURED ON SAID SOUTH LINE OF SAID SECTION 7) TO A POINT ON THE NORTH LINE OF THE SOUTH 1/2 OF THE SOUTH 1/2 OF SAID SECTION 303.0 FEET EAST OF THE SOUTH WEST CORNER OF THE NORTHEAST 1/4 OF THE SOUTH EAST 1/4 OF SAID SECTION 7, TOWNSHIP 41 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS, EXCEPT THE EAST 30 FEET THEREOF TAKEN FOR BARKER AVENUE (CURRENTLY KNOWN AS APOLLO DRIVE) AND EXCEPT THAT PART TAKEN FOR GOLF ROAD IN CASE 68L13469 IN COOK COUNTY, ILLINOIS, EXCEPTING THEREFROM THE FOLLOWING DESCRIBED TRACT: BEGINNING AT THE NORTHWEST CORNER OF THE ABOVE DESCRIBED TRACT; THENCE SOUTH ALONG THE WEST LINE OF SAID TRACT, 438.24 FEET; THENCE EAST PARALLEL TO THE NORTH LINE OF SAID TRACT, 274.00 FEET; THENCE NORTH AT RIGHT ANGLES TO THE LAST DESCRIBED COURSE, 47.00 FEET; THENCE EAST AT RIGHT ANGLES TO THE LAST DESCRIBED COURSE, 153.00 FEET; THENCE NORTH AT RIGHT ANGLES TO THE LAST DESCRIBED COURSE 325.25 FEET TO A POINT 66.00 FEET SOUTH OF THE NORTH LINE OF SAID TRACT; THENCE EAST PARALLEL TO THE NORTH LINE OF SAID TRACT 572.57 FEET TO THE EAST LINE OF SAID TRACT; THENCE NORTH ALONG THE EAST LINE OF SAID TRACT 66.00 FEET TO THE NORTHEAST CORNER OF SAID TRACT; THENCE WEST ALONG THE NORTH LINE OF SAID TRACT 1000.65 FEET TO THE POINT OF BEGINNING, ALL IN COOK COUNTY, ILLINOIS.

### PARCEL 2:

BEGINNING AT THE NORTHWEST CORNER OF THE ABOVE DESCRIBED TRACT; THENCE SOUTH ALONG THE WEST LINE OF SAID TRACT, 438.24 FEET; THENCE EAST PARALLEL TO THE NORTH LINE OF SAID TRACT, 274.00 FEET; THENCE NORTH AT RIGHT ANGLES TO THE LAST DESCRIBED COURSE, 47.00 FEET; THENCE EAST AT RIGHT ANGLES TO THE LAST DESCRIBED COURSE, 153.00 FEET; THENCE NORTH AT RIGHT ANGLES TO THE LAST DESCRIBED COURSE 325.25 FEET TO A POINT 66.00 FEET SOUTH OF THE NORTH LINE OF SAID TRACT; THENCE EAST PARALLEL TO THE NORTH LINE OF SAID TRACT 572.57 FEET TO THE EAST LINE OF SAID TRACT; THENCE NORTH ALONG THE EAST LINE OF SAID TRACT 66.00 FEET TO THE NORTHEAST CORNER OF SAID TRACT; THENCE WEST ALONG THE NORTH LINE OF SAID TRACT 1000.65 FEET TO THE POINT OF BEGINNING ALL IN COOK COUNTY, ILLINOIS.

Common Address: 3000-3100 Golf Road, Rolling Meadows, Illinois 60008

PIN: 08-07-403-017-0000 and 08-07-403-018-0000