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Cook County Recorder 57.50

COMMERCIAL MORTGAGE



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THIS COMMERCIAL MORTGAGE dated as of this 1st day of June, 1999, is made by WIDLACKI SAVAGE, LLC, an Illinois limited liability company (the "Obligor"), whose business address is c/o Astron Midwestern Inc., 6201 East Avenue, Hodgkins, Illinois 60525 in favor of AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO, a national banking association, whose address is 111 East Busse Avenue, Mt. Prospect, Illinois 60056, (herein, together with its successors and assigns, including each and every holder of the Direct Obligation Note hereinafter referred to, called the "Bank") and has reference to the following:

WHEREAS, the Obligor has executed and delivered to the Bank a Reimbursement Agreement of even date herewith (the "Reimbursement Agreement") pursuant to which they have agreed to reimburse the Bank in amounts drawn under the Bank's Irrevocable Letter of Credit No. 60745210 (the "Letter of Credit") in the amount of Four Million Sixty Thousand and No/100 Dollars (\$4,060,000.00), issued in favor of AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO, a national banking association, as Trustee under a Trust Indenture with the Illinois Development Finance Authority as Issuer of Four Million and No/100 Dollars (\$4,000,000.00) aggregate Variable Rate Demand Industrial Development Revenue Bonds Series 1999A and 1999B (Astron Midwestern Inc. Project);

WHEREAS, this Mortgage is given to secure the repayment of all sums due from the Obligor under the Reimbursement Agreement and this Mortgage secures not only the indebtedness from the Obligor to the Bank existing on the date of the Mortgage, but also all future advances under the Letter of Credit or the Reimbursement Agreement, whether such advances are obligatory or are to be made at the option of the Bank, or otherwise, as are made within twenty-one (21) years from the date of the Mortgage, to the same extent as if such future advances were made on the date of the execution of this Mortgage, even though there may be no

Prepared by and after recording return to:

William C. Graft, Esq.
William C. Graft & Associates, P.C.
1901 North Roselle Road, Suite 800
Schaumburg, Illinois 60195

Property Common Address

6140 River Road
Hodgkins, Illinois 60525

PIN(s): Part of 18-15-400-025

advance under the Letter of Credit or the Reimbursement Agreement made at the time of the execution of this Mortgage and even though there may be no indebtedness outstanding under the Letter of Credit or the Reimbursement Agreement at the time any advance is made; and

WHEREAS, the indebtedness evidenced by the Reimbursement Agreement and/or the Letter of Credit, including the principal thereof and interest and premium, if any, thereon, and any extensions, substitutions and renewals thereof, or any notes given in payment thereof, in whole or in part, and any and all other sums which may be at any time due or owing or required to be paid hereunder or as provided in the Reimbursement Agreement, are herein called the "Liabilities". This Mortgage secures the payment of the Liabilities. In no event shall the total amount of the Liabilities, including loan proceeds disbursed plus any additional charges provided for hereunder, exceed \$20,000,000.00.

NOW, THEREFORE, to secure payment of the Liabilities and in consideration of One Dollar (\$1.00) in hand paid, receipt whereof is hereby acknowledged, the Obligor does hereby grant, remise, release, alien, convey and mortgage to the Bank, its successors and assigns, the real estate commonly known as 6140 River Road, Hodgkins, Illinois whose legal description is set forth on Exhibit A hereto. Such real estate, together with the property described in the next succeeding paragraph, is herein called the "Mortgaged Property".

TOGETHER WITH all right, title and interest, including the right of use or occupancy, which the Obligor may now have or hereafter acquire in and to:

- (a) any lands occupied by streets, alleys, or public places adjoining said Mortgaged Property or in such streets, alleys or public places adjoining said Mortgaged Property or in such streets, alleys or public places;
- (b) all improvements, tenements, hereditaments, gas, oil, minerals, easements, fixtures and appurtenances, and all other rights and privileges thereunto belonging or appertaining;
- (c) all apparatus, machinery, equipment, and appliances (whether single units or centrally controlled) of the Obligor now or hereafter used to supply heat, gas, air conditioning, water, light, power, ventilation or refrigeration or to treat or dispose of refuse or waste;
- (d) all screens, window shades, blinds, wainscoting, storm doors and windows, floor coverings, and awnings of the Obligor;
- (e) all apparatus, machinery, equipment and appliances of the Obligor used or useful for or in connection with the maintenance of said real estate;
- (f) all replacements and substitutions for the foregoing whether or not any of the foregoing is or shall be on or attached to said real estate; and
- (g) all proceeds of the foregoing.

It is mutually agreed, intended, and declared, that all of the aforesaid property owned by the Obligor shall, so far as permitted by law, be deemed to form a part and parcel of said real estate and for the purpose of this Mortgage to be real estate and covered by this Mortgage. Items in (c), (d), (e) and (f) of the above paragraph are sometimes collectively referred to herein as "Collateral".

It is also agreed that if any of the property herein mortgaged is a fixture or of a nature so that a security interest therein can be perfected under the Uniform Commercial Code, this instrument shall constitute a fixture filing or a Security Agreement, as the case may be, and the Obligor agrees to execute, deliver and file or refile any financing statement, continuation statement, or other instruments the Bank may require from time to time to perfect or renew such security interest under the Uniform Commercial Code. The Bank's filing of one or more separate fixture filing financing statements shall in no way impair the Bank's security interest in said fixtures.

As additional security for the repayment of the Liabilities, the Obligor has executed and delivered to the Bank that certain Assignment of Leases and Rents of even date herewith (the "Assignment") which, among other things, pledges and assigns to the Bank all the rents, issues and profits of the Mortgaged Property and all rents, issues, profits, revenues, royalties, bonuses, rights and benefits due, payable or accruing (including all deposits or money as advance rent, for security or as earnest money or as down payment for the purchase of all or any part of the Mortgaged Property) under any and all present and future leases, contracts or other agreements relative to the ownership or occupancy of all or any portion of the Mortgaged Property. The terms and provisions of the Assignment are hereby incorporated by reference.

Notwithstanding any other provision of this Mortgage, as additional security for the repayment of the Liabilities, the Obligor has executed and delivered to the Bank that certain Security Agreement (Chattel Mortgage) of even date herewith (the "Security Agreement") which among other things, grants the Bank a security interest in and does hereby collaterally assign, pledge, mortgage, convey and set over unto the Bank that certain property described in said Security Agreement. The terms and provisions of the Security Agreement are hereby incorporated by reference.

Nothing herein contained shall be construed as constituting the Bank as a mortgagee-in-possession in the absence of the taking of actual possession of the Mortgaged Property by the Bank. In the exercise of the powers herein granted the Bank, no liability shall be asserted or enforced against the Bank, all such liability being expressly waived and released by the Obligor.

TO HAVE AND TO HOLD the Mortgaged Property, properties, rights and privileges hereby conveyed or assigned, unto the Bank, its successors and assigns, forever for the uses and purposes herein set forth. The Obligor hereby covenants that as of the date of this Mortgage, the Obligor is well seized of said real estate and Mortgaged Property in fee simple, and with full legal and equitable title to the Mortgaged Property, with good right, full power and lawful authority to sell, assign, convey and mortgage the same, and that it is free and clear of encumbrances, except for those certain encumbrances of record consented to by the Bank (the

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“Permitted Encumbrances”) set forth in Exhibit B hereto, and that the Obligor will forever defend the same against all lawful claims.

The following provisions shall constitute an integral part of this Mortgage:

1. Payment of Indebtedness and Performance of Covenants. The Obligor agrees to pay, when due or declared due, all of the Liabilities secured hereby and to duly and punctually observe all of the terms, provisions, conditions, covenants and agreements on the Obligor’s part to be performed or observed as provided in this Mortgage or in the Direct Obligation Note and all other documents which evidence, secure or guarantee the liabilities.

2. Representations. The Obligor hereby covenants and represents that:

(a) The Obligor is duly authorized to make and enter into this Mortgage and to carry out the transactions contemplated herein.

(b) This Mortgage has been duly executed and delivered pursuant to authority legally adequate therefor; the Obligor has been and is authorized and empowered by all necessary persons having the power of direction over it to execute and deliver this Mortgage; this Mortgage is a legal, valid and binding obligation of the Obligor, enforceable in accordance with its terms, subject to bankruptcy and other law, decisional or statutory, of general application affecting the enforcement of creditors’ rights, and to the fact that the availability of the remedy of specific performance or of injunctive relief in equity is subject to the discretion of the court before which any proceeding therefor may be brought.

(c) The Obligor is not now in default under any instruments or obligations relating to the Mortgaged Property and no party has asserted any claim of default against the Obligor relating to the Mortgaged Property.

(d) The execution and performance of this Mortgage and the consummation of the transactions hereby contemplated will not result in any breach of, or constitute a default under, any articles of incorporation, by-laws, articles of organization, partnership agreement, mortgage, lease, bank loan, or credit agreement, trust indenture, or other instrument to which the Obligor is a party or by which it may be bound or affected; nor do any such instruments impose or contemplate any obligations which are or may be inconsistent with any other obligations imposed on the Obligor under any other instrument(s) heretofore or hereafter delivered by the Obligor.

(e) There are no actions, suits, or proceedings (including without limitation any condemnation or bankruptcy proceedings) pending or, to the Obligor’s knowledge, threatened against or affecting the Obligor or the Mortgaged Property, or which may adversely affect the validity or enforceability of this Mortgage, at law or in equity, or before or by any governmental authority; the Obligor is not in default with respect to any writ, injunction, decree or demand of any court or any governmental authority affecting the Mortgaged Property.

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(f) The Obligor has made a physical investigation of the Mortgaged Property, and, to the Obligor's knowledge, no Environmental Conditions (as defined in Section 3(c) hereof) are present on or affect the Mortgaged Property.

(g) All statements, financial or otherwise, submitted to the Bank in connection with this transaction are true and correct in all material respects and fairly present the financial condition of the parties or entities covered by such statements as of the date hereof.

(h) The execution of this Mortgage does not subject the Mortgaged Property to the reporting requirements under the Illinois Responsible Property Transfer Act ("IRPTA") or the Obligor will prepare and record all necessary documents required under IRPTA and do all things necessary to comply with the provisions of IRPTA.

3. Maintenance, Repair, and Compliance with Law, etc.

(a) The Obligor agrees: (i) not to abandon the Mortgaged Property; (ii) to keep the Mortgaged Property in good, safe and insurable condition and repair, and not to commit or suffer waste; (iii) to refrain from impairing or diminishing the value of the Mortgaged Property or this Mortgage; and (iv) to cause the Mortgaged Property to be managed in a competent and professional manner.

(b) Without the prior written consent of the Bank, the Obligor shall not cause, suffer or permit any (i) material alterations of the Mortgaged Property except as required by law or ordinance or except as contemplated in the Loan Agreement dated as of June 1, 1999 between the Obligor and the Illinois Development Finance Authority; (ii) change in the intended use or occupancy of the Mortgaged Property for which the improvements were constructed, including, without limitation, any change which would increase any fire or other hazard; (iii) change in the identity of the person or firm responsible for managing the Mortgaged Property, (iv) zoning reclassifications with respect to the Mortgaged Property; (v) unlawful use of, or nuisance to exist upon, the Mortgaged Property, (vi) granting of any easements, licenses, covenants, conditions or declarations of use against the Mortgaged Property, or (vii) execution by the Obligor of any leases in breach of the terms and provisions of the Assignment.

(c) The Obligor agrees not to knowingly cause or permit any toxic or hazardous substance or waste, or underground storage tanks, or any other pollutants which could be detrimental to the Mortgaged Property, human health, or the environment, or that would violate any local, state or federal laws or regulations (collectively, the "Environmental Conditions") to be present on or affect the Mortgaged Property. If the Bank determines that Environmental Conditions either do or may exist at the Mortgaged Property, upon demand, the Obligor shall take at its own expense any and all measures necessary to eliminate the Environmental Condition to the extent required by law. If at any time Environmental Conditions are present or affect the Mortgaged Property, the Obligor agrees to indemnify, defend and save the Bank, its successors and assigns, harmless, from and against all actual damage suffered by reason of the Environmental Conditions. The Obligor has executed and delivered in favor of the Bank a separate Environmental Indemnity Agreement of even date herewith (the "Environmental Indemnity") in order to evidence and more specifically define the Obligor's obligations under

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this Paragraph 3(c). The terms and provisions of the Environmental Indemnity are incorporated herein by reference.

4. Taxes, Liens.

(a) The Obligor agrees to pay, not later than the due date and before any penalty or interest attaches, all general taxes and all special taxes, special assessments, water, drainage and sewer charges and all other charges, of any kind whatsoever, ordinary or extraordinary, which may be levied, assessed or imposed on or against the Mortgaged Property and, at the request of the Bank, to exhibit to the Bank, official receipts evidencing such payments. The Obligor may pay such taxes and/or charges under protest.

(b) The Obligor shall not create, suffer or permit any mortgage, lien, charge or encumbrance to attach to, or be filed against, the Mortgaged Property, whether such lien or encumbrance is inferior or superior to the lien of this Mortgage, including mechanic's liens, materialmen's liens, or other claims for lien made by parties claiming to have provided labor or materials with respect to the Mortgaged Property and excepting only the lien of real estate taxes and assessments not due or delinquent, and any liens and encumbrances of the Bank. Notwithstanding the preceding to the contrary, in the event any such lien, charge or encumbrance attaches or is filed against the Mortgaged Property, the Obligor may, in good faith, contest the same provided it has bonded or insured over such lien, charge or encumbrance to the Bank's reasonable satisfaction within ten (10) days of the Obligor's actual notice of such lien, charge or encumbrance.

5. Change in Tax Laws. The Obligor agrees that, if the United States or the State of Illinois or any of their subdivisions having jurisdiction, shall levy, assess, or charge any tax, assessment or imposition upon this Mortgage or the credit or indebtedness secured hereby or the interest of the Bank in the Mortgaged Property or upon the Bank by reason of or as holder of any of the foregoing, then, the Obligor shall pay (or reimburse the Bank for) such taxes, assessments or impositions, and, unless all such taxes, assessments and impositions are paid or reimbursed by the Obligor when and as they become due and payable, all sums hereby secured shall become immediately due and payable, at the option of the Bank, notwithstanding anything contained herein or in any law heretofore or hereafter enacted.

6. Restrictions on Transfer. The Obligor shall not, without the prior written consent of the Bank, create, effect, contract for, consent to, suffer or permit any "Prohibited Transfer". "Prohibited Transfer" shall mean any conveyance, sale, assignment, transfer, lien, pledge, mortgage, security interest or other encumbrances or alienation of any of the following:

(a) the Mortgaged Property or any part thereof or interest therein, excepting only sales or other dispositions of Collateral no longer useful in connection with the operation of the Mortgaged Property ("Obsolete Collateral");

(b) all or any portion of the undersigned's interest in and to the Mortgaged Property, if the Obligor is an individual;

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(c) all or any portion of the beneficial interest or power of direction in or to the trust under which the Obligor is acting, if the Obligor is a Trustee;

(d) any shares of capital stock of (i) a corporate mortgagor, (ii) a corporation which is a beneficiary of a land trust whose trustee is the Obligor, (iii) a corporation which is a general partner in a partnership mortgagor, (iv) a corporation which is a general partner in a partnership beneficiary of a trustee mortgagor, or (v) a corporation which is the owner of substantially all of the capital stock of any corporation described in this subparagraph. Provided however, that transfers of such shares in the ordinary course shall be allowed if (i) the transfer does not result in a change of legal or equitable control of any corporation described in this paragraph, or (ii) the Obligor's shares are publicly traded on a national securities exchange or on the National Association of Securities Dealers' Automated Quotation System;

(e) all or any part of the partnership or joint venture interest, as the case may be, of any mortgagor or any direct or indirect beneficiary of a trustee mortgagor if the mortgagor or such beneficiary is a partnership or a joint venture; or

(f) all or any part of the membership interest of the Obligor or any direct or indirect beneficiary of a trustee mortgagor if the mortgagor or such beneficiary is a limited liability company.

All of the above described transactions shall be a Prohibited Transfer if such occurs, is granted, accomplished, attempted or effectuated without the prior written consent of the Bank. Further all such transactions shall be a Prohibited Transfer regardless of whether such is effected directly, indirectly, voluntarily or involuntarily, by operation of law or otherwise. The Obligor acknowledges that the Bank shall be under no obligation to consent to any of the Prohibited Transfers and that such consent may be subject to the payment of a reasonable fee to the Bank or such other modifications to the terms and conditions of this Mortgage or any other agreement which evidences or secures the repayment of the Liabilities as the Bank in its reasonable discretion may determine. Further, any sale of Obsolete Collateral shall be allowed only to the extent that, prior to the sale or other disposition thereof, such Obsolete Collateral has been replaced by Collateral of at least equal value and utility which is subject to the lien hereof with the same priority as with respect to the Obsolete Collateral.

7. Insurance.

(a) The Obligor agrees to maintain in force at all times: (i) fire and extended coverage insurance (including, without limitation, if available and applicable, windstorm, earthquake, explosion and such other risks usually insured against by owners of like properties) on the Mortgaged Property in an amount not less than one hundred percent (100%) of the full insurable value of the Mortgaged Property; (ii) comprehensive public liability insurance against death, bodily injury and property damage not less than \$1,000,000 single limit coverage; (iii) if applicable, steam boiler, machinery and pressurized vessel insurance; (iv) rental or business interruption insurance in amounts sufficient to pay, for a period of up to four (4) months, all amounts required to be paid by the Obligor pursuant to this Mortgage; and (v) the types and amounts of insurance that are customarily maintained by owners or operators of like properties.

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(b) The Obligor will also maintain flood insurance if required by the Bank, pursuant to a designation of the area in which the Mortgaged Property is located as flood prone or a flood risk area, as defined by the Flood Disaster Protection Act of 1973, as amended, in an amount to be reasonably determined by the Bank from time to time, when appropriate, as well as comply with any additional requirements of the National Flood Insurance Program as set forth in said Act.

(c) All such insurance shall be written by companies and on forms with endorsements reasonably satisfactory to the Bank, all with suitable lender's loss-payable and standard non-contribution mortgagee clauses in favor of the Bank attached. Certified copies of the policies evidencing the same shall be kept constantly deposited with the Bank. All said policies shall provide for thirty (30) days prior written notice to the Bank of the expiration of any such policy, and a certified copy of an appropriate renewal policy shall be deposited with the Bank. The Bank is authorized to collect all insurance proceeds and apply them, at its option, to the reduction of the Liabilities hereby secured, whether due or not then due. The Bank may, at its option, allow the Obligor to use such money or any part thereof, in repairing the damage or restoring the improvements.

(d) The Obligor shall notify the Bank, in writing, of any loss to the Mortgaged Property covered by insurance, and the Obligor hereby directs each insurance company to make payment for such loss directly and solely to the Bank; and the Obligor agrees that any payment which is delivered, for any reason, to the Obligor shall be held in trust for the Bank and promptly delivered in the form received (except for any necessary endorsements thereon) to the Bank.

8. Compliance with Laws. The Obligor agrees that it will comply with all restrictions affecting the Mortgaged Property and with all laws, ordinances, acts, rules, regulations and orders of any legislative, executive, administrative or judicial body, commission or officer (whether federal, state or local) exercising any power or regulation or supervision over the Obligor, or any part of the Mortgaged Property, whether the same be directed to the repair thereof, manner or use thereof, structural alterations or buildings located thereon, or otherwise.

9. Stamp Tax. The Obligor agrees that, if the United States Government or any department, agency or bureau thereof or of the State of Illinois or any of its subdivisions shall at any time require documentary stamps to be affixed to the Mortgage, the Obligor will, upon request, pay for the stamps in the required amount and deliver them to the Bank and the Obligor agrees to indemnify the Bank against liability on account of such documentary stamps, whether such liability arises before or after payment of the Liabilities and regardless of whether this Mortgage shall have been released.

10. Deposits for Taxes and Insurance Premiums. Upon written request by the Bank, which shall only be made after the occurrence of a Default, the Obligor agrees to thereafter make monthly deposits in an account, which account shall be pledged to the Bank, at the Bank, of an amount equal to the sum of 1/12th of the annual general real estate taxes levied on the Mortgaged Property and 1/12th of the annual premium required to maintain insurance in force on the Mortgaged Property in accordance with the provisions of this Mortgage, the amount of such taxes and premiums, if unknown, to be estimated on the basis of the previous year's taxes or

premiums, if any, or by such person or corporation as is acceptable to the Bank. In the event the Obligor is required to maintain a tax and insurance escrow, the Obligor shall provide the Bank with the original real estate tax bill or insurance invoice not later than ten (10) days before the payment is due and shall concurrently deposit in said account an amount equal to the difference between the amount available in the aforesaid escrow account for such payment (giving effect to other taxes or expenses which are also paid from said account) as shown on the Bank's records and the amount required to be paid. Provided that no uncured Default, as hereinafter defined, then exists, funds in such account (including the supplemental deposits required by the preceding sentence) shall be used by the Obligor to pay such taxes and premiums on their respective due dates. From and after the occurrence of Default under this Mortgage, the Obligor will pay such funds to the Bank for application on the Liabilities. Until the Bank requires that such deposits be made, the Obligor shall furnish the Bank with copies of paid tax receipts and insurance premium receipts not later than five (5) days before the payment is due.

11. Leases. The Obligor agrees faithfully to perform all of its obligations under the Assignment and under all present and future leases or other agreements relative to the occupancy of the Mortgaged Property at any time assigned to the Bank as additional security for the payment and performance of the Liabilities. The Obligor shall refrain from any actions or inaction which could result in termination of any such leases or agreements or in the diminution of the value thereof or of the rents or revenues due thereunder. The Obligor further agrees that any lease of the Mortgaged Property made after the date of recording of this Mortgage shall contain a covenant to the effect that the lessee under such lease shall, at the Bank's option, following a Default and notice thereof to said lessee and the Obligor, agree to attorn to the Bank as lessor and, upon demand, to pay rent to the Bank.

12. Indemnification. In addition to the provisions of the Environmental Indemnity, the Obligor further agrees to indemnify the Bank from all loss, damage and expense, including reasonable attorneys' fees and expenses and the costs of any settlement or judgment, incurred in connection with any suit or proceeding in or to which the Bank may be made a party for the purpose of protecting the lien of this Mortgage, and all such fees, expenses and costs shall be additional Liabilities secured hereby.

13. Condemnation. The Obligor agrees that, if at any time it shall become aware of the institution of condemnation proceedings against the Mortgaged Property or any part thereof, it shall immediately inform the Bank of the pendency of such proceedings. The Bank may, at its option, participate in such proceedings, and the Obligor agrees to provide the Bank with any evidence that the Bank may seek in connection with such proceedings. The Obligor hereby assigns to the Bank, as additional security, all awards of damage resulting from condemnation proceedings or the taking of or injury to the Mortgaged Property for public use, and the Obligor agrees that the proceeds of all such awards shall be paid to the Bank and may be applied by the Bank, at its option, after the payment of all its expenses in connection with such proceedings, including reasonable attorneys' fees and expenses, to the reduction of the Liabilities hereby secured, and the Bank is hereby authorized, on behalf of and in the name of the Obligor, to execute and deliver valid acquittance for and to appeal from any such award.

14. The Bank's Performance of the Obligor's Obligations. The Obligor agrees that the Bank may, but need not, make any payment or perform any act hereinbefore required of the Obligor, in any form and manner deemed expedient after reasonable inquiry into the validity thereof. By way of illustration, and not in limitation of the foregoing, the Bank may, but need not (a) make full or partial payments of insurance premiums or tax payments which are unpaid by the Obligor, if any, and (b) purchase, discharge, compromise or settle any tax lien or any other lien, encumbrance, suit, proceeding, title or claim thereof, or (c) redeem all or any part of the Mortgaged Property from tax or assessment. All money paid for any of the purposes herein authorized and all other moneys advanced by the Bank to protect the Mortgaged Property and the lien hereof shall be additional Liabilities secured hereby and shall become immediately due and payable without notice and shall bear interest at the Default Rate, as such term is defined in the Reimbursement Agreement. In making any payment hereby authorized relating to taxes, assessments or prior or coordinate liens or encumbrances, the Bank shall be the sole but reasonable judge of the legality, validity and priority thereof and of the amount necessary to be paid in satisfaction thereof.

15. Inspection. The Bank, or any person designated by the Bank in writing, shall have the right, from time to time hereafter, to call at the Mortgaged Property (or at any other place where information relating thereto is kept or located) during reasonable business hours and, following reasonable notice, to make such inspection and verification of the Mortgaged Property, and the affairs, finances and business of the Obligor (including all books, records and documents relating thereto) in connection with the Mortgaged Property, as the Bank may consider reasonable under the circumstances, and to discuss the same with any agents or employees of the Obligor. The Obligor shall be liable for all costs and fees (up to \$1,000 per year, unless there shall be a default hereunder, in which case there shall be no limit to such expense so long as such expenses are reasonable) related to such inspections, field audits and verifications.

16. Default. Any of the following occurrences or acts shall constitute an event of default under this Mortgage ("Default") if such occurs and is not cured within any applicable cure period:

(a) the occurrence of a default or an Event of Default under the Reimbursement Agreement or in the payment or performance of the Liabilities and the Obligor shall fail to cure same (whether in payment or otherwise) within seven (7) days after receipt of written notice thereof;

(b) the occurrence of a default or an Event of Default under the Assignment, the Environmental Indemnity or any other agreement, security agreement, assignment, instrument or other agreement made by the Obligor in favor of the Bank which secures the repayment of the Reimbursement Agreement;

(c) the occurrence of a default or an Event of Default under any guaranty related to the Liabilities or any lease of the Mortgaged Property or any other agreement, security agreement, assignment, instrument or other agreement made by any guarantor in favor of the Bank with respect to the Liabilities;

(d) The Obligor shall fail to observe or perform any of the Obligor's covenants, agreements, or obligations under this Mortgage and the Obligor shall fail to cure such within twenty-one (21) days after being served with written notice from the Bank;

(e) the occurrence of a Prohibited Transfer; and

(f) the Mortgaged Property or a substantial part thereof shall have been abandoned for thirty (30) consecutive days.

Provided, however, that it shall not be a default under paragraph 16(d) if (i) the Obligor is diligently pursuing a cure following receipt of a written notice of default, (ii) the cure cannot reasonably be effected within twenty-one (21) days of such notice, and (iii) no more than forty-five (45) days have elapsed since the notice of default.

17. Rights Upon Default. If any such Default shall have occurred, then, to the extent permitted by applicable law, the following provisions shall apply:

(a) All sums secured hereby shall, at the option of the Bank, become immediately due and payable without presentment, demand or further notice.

(b) It shall be lawful for the Bank to take all actions authorized under applicable law or under any other agreement or instrument delivered by the Obligor to the Bank including, without limitation, the Reimbursement Agreement.

(c) It shall be lawful for the Bank to (i) immediately foreclose this Mortgage; or (ii) if allowed under Illinois law at the time of such Default, immediately sell the Mortgaged Property either in whole or in separate parcels, as prescribed by Illinois law, under power of sale, which power is hereby granted to the Bank to the full extent permitted by Illinois law, and thereupon, to make and execute to any purchaser(s) thereof deeds of conveyance pursuant to applicable law.

(d) If a suit is brought to foreclose this Mortgage, the court in which any proceeding is pending for the purpose of foreclosure of this Mortgage may, at once or at any time thereafter, either before or after sale, without notice and without requiring bond, and without regard to the solvency or insolvency of any person liable for payment of the Liabilities secured hereby, and without regard to the value of the Mortgaged Property or the occupancy thereof as a homestead, appoint the Bank as a mortgagee-in-possession or appoint a receiver (the provisions for the appointment of a receiver or mortgagee-in-possession being an express condition upon which the loan hereby secured is made) for the benefit of the Bank with power to collect the rents, issues and profits of the Mortgaged Property, due and to become due, during such foreclosure suit and to do all other things allowed under applicable law.

(e) The Bank shall, at its option, have the right, acting through its agents or attorneys, either with or without process of law (but in compliance with applicable law), forcibly or otherwise, to enter upon and take possession of the Mortgaged Property, expel and remove any persons, goods, or chattels occupying or upon the same, to collect or receive all the rents, issues and profits thereof and to manage and control the same, and to lease the same or any part thereof,

from time to time, at rates which the Bank, in reasonable discretion, believes to be commercially reasonable, and after deducting all reasonable attorneys' and paralegals' fees and expenses, and all reasonable expenses incurred in the protection, care, maintenance, management and operation of the Mortgaged Property, apply the remaining net income upon the Liabilities or other sums secured hereby or upon any deficiency decree entered in any foreclosure proceedings.

(f) The Bank or its duly authorized agent shall have the right upon reasonable notice to enter upon the Mortgaged Property during normal business hours to inspect, appraise and/or conduct any environmental assessments of the Mortgaged Property which the Bank, in its reasonable discretion, deems necessary. All reasonable expenses incurred by the Bank in connection with any inspections, appraisals or environmental assessments done pursuant hereto shall be additional Liabilities secured hereby and shall become immediately due and payable without notice and shall bear interest at the Interest Rate until paid to the Bank in full. Nothing contained in this paragraph shall create an affirmative duty on the part of the Bank, or otherwise bind the Bank in any respect, to conduct any such inspection, appraisal or environmental assessment.

(g) If more than one property, lot or parcel is covered by this Mortgage, and if this Mortgage is foreclosed upon, or judgment is entered upon any of the Liabilities, execution may be made upon any one or more of the properties, lots or parcels and not upon the others, or upon all of such properties or parcels, either together or separately, and at different times or at the same time, and execution, sales or sales by advertisement may likewise be conducted separately or concurrently, in each case at the Bank's election.

(h) In the event of a foreclosure of this Mortgage, the Liabilities then due the Bank shall not be merged into any decree of foreclosure entered by the court, and the Bank may concurrently or subsequently seek to foreclose one or more mortgages, which also secure said Liabilities.

18. Foreclosure. In any foreclosure of this Mortgage by action, there shall be allowed (and included in the decree for sale in the event of a foreclosure by action) to be paid out of the rents or the proceeds of such foreclosure proceeding or sale:

- (a) all of the Liabilities and other sums secured hereby which then remain unpaid;
- (b) all other items advanced or paid by the Bank pursuant to this Mortgage, the Assignment or the Environmental Indemnity, with interest thereon at the Default Rate from the date of advancement; and
- (c) all court costs, reasonable attorneys' and paralegals' fees and expenses, appraiser's fees, advertising costs, notice expenses, expenditures for documentary and expert evidence, stenographer's charges, publication costs, and costs (which may be estimated as to items to be expended after entry of the decree) of procuring all abstracts of title, title searches and examinations, title guarantees, title insurance policies, Torrens certificates and similar data with respect to title which the Bank may reasonably deem necessary. All such expense shall become additional Liabilities secured hereby and immediately due and payable, with interest

thereon at the Default Rate, when paid or incurred by the Bank in connection with any proceedings, including but not limited to probate and bankruptcy proceedings, to which the Bank shall be a party, either as plaintiff, claimant, or defendant, by reason of this Mortgage or any indebtedness hereby secured or in connection with the preparations for the commencement of any suit for the foreclosures, whether or not actually commenced, or sale by advertisement. The proceeds of any sale shall be distributed and applied to the items described in (a), (b) and (c) of this paragraph, as the Bank may in its sole discretion determine, and any surplus of the proceeds of such sale shall be paid to the Obligor.

19. Rights Cumulative. Each remedy or right of the Bank shall not be exclusive of but shall be in addition to every other remedy or right now or hereafter existing, at law or in equity. No delay in the exercise or omission to exercise any remedy or right accruing on any default shall constitute a waiver of default or constitute acquiescence therein, nor shall it affect any subsequent default of the same or different nature.

20. Execution of Additional Documents. The Obligor agrees that, upon the request of the Bank from time to time, it will execute, acknowledge and deliver all additional instruments and further assurances of title and will do or cause to be done all further acts and things as may reasonably be necessary to fully effectuate the intent of this Mortgage.

21. WAIVER OF RIGHT OF REDEMPTION. OBLIGOR REPRESENTS THAT IT HAS BEEN AUTHORIZED TO, AND OBLIGOR DOES HEREBY, WAIVE (TO THE FULL EXTENT PERMITTED UNDER ILLINOIS LAW) ANY AND ALL STATUTORY OR EQUITABLE RIGHTS OF REDEMPTION, FOR REINSTATEMENT OR ANY OTHER RIGHT UNDER ANY "MORATORIUM LAW" ON BEHALF OF OBLIGOR AND EACH AND EVERY PERSON, EXCEPT DECREE OR JUDGMENT CREDITORS OF OBLIGOR, ACQUIRING ANY INTEREST IN OR TITLE TO THE MORTGAGED PROPERTY SUBSEQUENT TO THE DATE HEREOF.

22. Representation of Title. At the time of the delivery of this Mortgage, the Obligor is well seized of an indefeasible estate in fee simple in the portion of the Mortgaged Property which constitutes real property and owns good title to the portion of the Mortgaged Property which constitutes personal property and has good right, full power and lawful authority to convey and mortgage and grant a security interest in the same, in the manner and form aforesaid; that the same is free and clear of all liens, charges, easements, covenants, conditions, restrictions and encumbrances whatsoever (except as may be agreed to in advance by the Bank); and that the Obligor shall and will forever defend the title to the Mortgaged Property against the claims of all persons whatsoever.

23. Future Advances. At all times, regardless of whether any letter of credit proceeds have been disbursed, this Mortgage secures as part of the Liabilities the payment of any and all loan commissions, service charges, letter of credit fees, liquidated damages, reasonable attorneys' and paralegals' fees, expenses and advances due to or incurred by the Bank in connection with the Liabilities, all in accordance with this Mortgage, and any other security documents.

24. Non-Marshalling Provision. The Obligor hereby agrees that the Bank shall have no obligation to marshal any collateral which secures the Liabilities and it shall require any other of its creditors to waive any such marshalling obligation.

25. Miscellaneous.

(a) The Obligor agrees that, without affecting the liability of any person for payment of the Liabilities or affecting the lien of this Mortgage upon the Mortgaged Property or any part thereof (other than persons or property explicitly released as a result of the exercise by the Bank of its rights and privileges hereunder), the Bank may at any time and from time to time, without notice to any person liable for payment of any Liabilities secured hereby, extend the time or agree to alter the terms of payment of the Liabilities.

(b) The Obligor certifies and agrees that the proceeds of the Letter of Credit will be used for proper business purposes and consistently with all applicable laws and statutes.

(c) The Obligor agrees that this Mortgage is to be construed and governed by the laws of the State of Illinois. Wherever possible, each provision of this Mortgage shall be interpreted in such manner as to be effective and valid under applicable law, but, if any provision of this Mortgage shall be prohibited by or invalid under applicable law, such provision shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Mortgage.

(d) Upon full payment of all sums secured hereby or upon application on the Liabilities of the proceeds of any sale of the Mortgaged Property in accordance with the provisions of this Mortgage, at the time and in the manner provided, this conveyance shall be null and void and, upon demand therefore following such payment, a satisfaction of mortgage shall be provided by the Bank to the Obligor.

(e) This Mortgage shall be binding upon the Obligor and upon the successors, assigns and vendees of the Obligor and shall inure to the benefit of the Bank's successors and assigns. All references herein to the Obligor and to the Bank shall be deemed to include their successors and assigns. The Obligor's successors and assigns shall include, without limitation, a receiver, trustee or debtor in possession of or for Obligor. Further, the term "Reimbursement Agreement" as used herein shall also be read to refer to any note or other evidence of indebtedness executed in renewal, substitution, amendment or replacement thereto.

(f) Time is of the essence of this Mortgage, and any other document or instrument evidencing or securing the Liabilities.

(g) All notices, demands, consents, requests, approvals, undertakings or other instruments required or permitted to be given in connection with this Mortgage shall be in writing and shall be hand delivered or sent by United States registered or certified mail, return receipt requested, addressed to the addresses shown below (or such other address as specified by either party in writing) and shall be deemed served on the date hand delivered or two (2) days after mailing the notice if served by registered or certified mail.

UNOFFICIAL COPY

If to Debtor: William E. Widlacki and
Widlacki Savage, LLC
c/o Astron Midwestern Inc.
6201 East Avenue
Hodgkins, Illinois 60525

with a copy to: Alan B. Castator, Esq.
502 West Burlington Avenue
LaGrange, Illinois 60525

99630083

If to Secured Party: Michael E. Culp
Commercial Banking Department
American National Bank and Trust
Company of Chicago
111 East Busse Avenue
Mt. Prospect, Illinois 60056

with a copy to: William C. Graft, Esq.
William C. Graft & Associates, P.C.
1961 North Roselle Road, Suite 800
Schaumburg, Illinois 60195

(h) No modification, waiver, estoppel, amendment, discharge or change of this Mortgage or any related instrument shall be valid unless the same is in writing and signed by the party against which the enforcement of such modification, waiver, estoppel, amendment, discharge or change is sought.

(i) TO INDUCE THE BANK TO ACCEPT THIS MORTGAGE, THE OBLIGOR IRREVOCABLY AGREES THAT ALL ACTIONS OR PROCEEDINGS IN ANY WAY, MANNER OR RESPECT, ARISING OUT OF OR FROM OR RELATED TO THIS MORTGAGE SHALL BE LITIGATED ONLY IN COURTS HAVING SITUS WITHIN THE COUNTY OF COOK, STATE OF ILLINOIS. THE OBLIGOR HEREBY CONSENTS AND SUBMITS TO THE JURISDICTION OF ANY LOCAL, STATE OR FEDERAL COURT LOCATED WITHIN SAID COUNTY AND STATE AND HEREBY WAIVES ANY OBJECTION IT MAY HAVE BASED ON IMPROPER VENUE OR FORUM NON CONVENIENS TO THE CONDUCT OF ANY PROCEEDING BROUGHT AGAINST THE OBLIGOR BY THE BANK IN ACCORDANCE WITH THIS PARAGRAPH.

(j) THE OBLIGOR AND THE BANK IRREVOCABLY WAIVE ANY RIGHT TO TRIAL BY JURY IN ANY ACTION OR PROCEEDING (i) TO ENFORCE OR DEFEND ANY RIGHTS UNDER OR IN CONNECTION WITH THIS MORTGAGE OR ANY AGREEMENT DELIVERED OR WHICH MAY IN THE FUTURE BE DELIVERED IN CONNECTION HERewith; OR (ii) ARISING FROM ANY DISPUTE OR CONTROVERSY IN CONNECTION WITH OR RELATED TO THIS MORTGAGE OR ANY SUCH AGREEMENT, AND AGREE THAT ANY SUCH ACTION OR PROCEEDING SHALL BE TRIED BEFORE A COURT AND NOT BEFORE A JURY.


UNOFFICIAL COPY

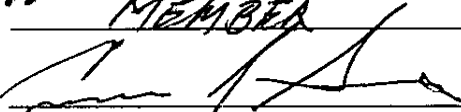
99630083

IN WITNESS WHEREOF, this instrument is executed by the Obligor as of the date and year first above written.

OBLIGOR:

WIDLACKI SAVAGE, LLC,
an Illinois limited liability company

By: 
Its: MEMBER

By: 
Its: MEMBER

2839-C

Property of Cook County Clerk's Office

STATE OF ILLINOIS)
)
) SS
COUNTY OF COOK)

I, the undersigned, a Notary Public in and for the above County and State, do hereby certify that William E. Widlacki and Charles J. Savage of WIDLACKI SAVAGE, LLC, an Illinois limited liability company, personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person, and acknowledged before me that they signed and delivered the said instrument in their capacity as member and member and as a free and voluntary act, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal, this 29th day of Jun, 1999.

Zoran Milutinovic
Notary Public



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EXHIBIT A

LEGAL DESCRIPTION

LOT 2 IN INDUSTRIAL STEEL SUBDIVISION, BEING A RESUBDIVISION OF LOT 3 IN TRACT 10 SUBDIVISION – UNIT 1, (RECORDED JANUARY 30, 1992 AS DOCUMENT NUMBER 92062668), BEING A SUBDIVISION OF PART OF THE SOUTHWEST ¼ OF SECTION 15 AND PART OF THE NORTHEAST ¼ OF SECTION 22, ALL IN TOWNSHIP 38 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED JANUARY 20, 1998 AS DOCUMENT NUMBER 98083801, IN COOK COUNTY, ILLINOIS.

PERMANENT INDEX NUMBER: PART OF 18-15-400-025

COMMONLY KNOWN AS: 6140 RIVER ROAD, HODGKINS, ILLINOIS

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EXHIBIT B

99630083

PERMITTED ENCUMBRANCES

NONE

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