

**UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
Washington, D.C. 20549**

**FORM 8-K**

**Current Report  
Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934**

**Date of Report (Date of earliest event reported) February 1, 2018**

**Universal Logistics Holdings, Inc.**

(Exact name of registrant as specified in its charter)

**Michigan**  
(State or other jurisdiction  
of incorporation)

**0-51142**  
(Commission  
File Number)

**38-3640097**  
(I.R.S. Employer  
Identification No.)

**12755 E. Nine Mile Road, Warren, Michigan**  
(Address of principal executive offices)

**48089**  
(Zip Code)

**(586) 920-0100**  
(Registrant's telephone number, including area code)

(Former name, former address and former fiscal year, if changed since last report)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions (see General Instruction A.2. below):

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
- Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
- Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
- Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 (§230.405 of this chapter) or Rule 12b-2 of the Securities Exchange Act of 1934 (§240.12b-2 of this chapter).

Emerging growth company

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act.

## **Introductory Note**

On February 1, 2018, Mason Dixon Intermodal, Inc. (“Universal Intermodal”) and UTSI Finance, Inc. (“UTSI Finance”), each a wholly-owned subsidiary of Universal Logistics Holdings, Inc. (the “Company”), entered into and closed on an equity purchase agreement to acquire Fore Transportation, Inc., Fore Transport, Inc. and 4 Cargo, LLC (collectively, “Fore”), and APA Holdings, LLC (“Apa Holdings”). Fore provides comprehensive intermodal solutions, including local and regional drayage services. Apa Holdings owns and leases real property and improvements, including a 28-acre terminal that serves as Fore’s corporate headquarters and its secured trailer and container storage facility for 1,100 units. To finance a portion of the acquisition, the Company’s applicable borrowing subsidiaries amended the existing Revolving Credit and Security Agreement and executed a new Real Estate Credit Agreement.

### **Item 1.01 Entry into a Material Definitive Agreement.**

#### Revolving Credit and Security Agreement

On February 2, 2018, the Company’s applicable borrowing subsidiaries entered into Amendment No. 5 (the “Amendment”) to the Revolving Credit and Security Agreement (as amended, the “Credit Agreement”) with PNC Bank National Association (“PNC”).

The Amendment modified the Credit Agreement to add Fore as an additional borrower and allow for advances of up to \$125,000,000. The Amendment also increased the applicable account advance percentage, as defined in the Amendment, through July 1, 2019. During the period of increased availability, an increased interest rate margin applies; however, the Company may elect at any time to reduce the increased availability.

On February 2, 2018, the Company’s applicable borrowing subsidiaries borrowed an additional \$17,800,000 under the Credit Agreement and, after giving effect to the borrowing, the total principal balance outstanding was \$84,164,000.

The foregoing summary of the Amendment does not purport to be complete and is subject to, and qualified in its entirety by, the full text of Amendment, which is filed as Exhibit 10.1 and is incorporated by reference into this report.

#### Real Estate Credit Agreement

On February 1, 2018, UTSI Finance, Inc. (“Borrower”) entered into a loan and financing agreement (the “Loan Agreement”) with Flagstar Bank (“Flagstar”) and, in connection with the Loan Agreement, executed and delivered a promissory note (the “Secured Note”) and commercial mortgage (the “Mortgage”). Under the Loan Agreement, Flagstar loaned \$7,170,000 to Borrower in order for Borrower to purchase all of the membership interests of Apa Holdings, LLC. The Secured Note bears interest at a rate of LIBOR plus 2.25% and will be repaid in consecutive monthly installment payments of principal and accrued interest beginning March 5, 2018. The Secured Note matures on February 1, 2028. As security for Borrower’s obligations under the Loan Agreement, Borrower granted to Flagstar a first priority mortgage on the acquired company’s owned real estate pursuant to the Mortgage. Borrower may prepay all or a portion of the Secured Note, plus applicable breakage charges and fees. The Loan Agreement also contains customary affirmative and negative covenants and events of default, and it requires Borrower to maintain a debt service coverage ratio of not less than 1.02:1.

The foregoing summary does not purport to be complete and is subject to, and qualified in its entirety by, the full text of the Loan Agreement, Secured Note and Mortgage, which are filed as Exhibits 10.2, 10.3 and 10.4, respectively, and incorporated by reference into this current report.

### **Item 2.03 Creation of a Direct Financial Obligation or an Obligation under an Off-Balance Sheet Arrangement of a Registrant.**

The information set forth under Item 1.01 of this current report on Form 8-K is hereby incorporated by reference into this Item 2.03.

### **Item 8.01 Other Event.**

On February 2, 2018, the Company issued a press release announcing the acquisition of Fore Transportation, Inc. A copy of the press release is furnished as Exhibit 99.1 to this Form 8-K.

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**Item 9.01 Financial Statements and Exhibits.**

(d) Exhibits.

Exhibit No.	Description
10.1	<a href="#"><u>Amendment No. 5 to the Revolving Credit and Security Agreement dated as of February 2, 2018 among Universal Truckload, Inc., Universal Dedicated, Inc., Mason Dixon Intermodal, Inc., Logistics Insight Corp., Universal Logistics Solutions International, Inc., Universal Specialized, Inc., Cavalry Logistics, LLC and Universal Management Services, Inc., and PNC Bank, National Association, as lender and as agent.</u></a>
10.2	<a href="#"><u>Loan and Financing Agreement dated as of February 1, 2018 between UTSI Finance and Flagstar.</u></a>
10.3	<a href="#"><u>Promissory Note dated as of February 1, 2018 by UTSI Finance in favor of Flagstar.</u></a>
10.4	<a href="#"><u>Commercial Mortgage dated as of February 1, 2018 between UTSI Finance and Flagstar.</u></a>
99.1	<a href="#"><u>Press Release dated February 2, 2018 announcing the Company's acquisition of Fore Transportation, Inc.</u></a>

## SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized.

UNIVERSAL LOGISTICS HOLDINGS, INC.

Date: February 6, 2018

*/s/ Steven Fitzpatrick*

Steven Fitzpatrick  
Secretary

**AMENDMENT NO. 5 TO  
REVOLVING CREDIT AND SECURITY AGREEMENT**

THIS AMENDMENT NO. 5 TO REVOLVING CREDIT AND SECURITY AGREEMENT (this “*Amendment*”) is entered into as of February 2, 2018 by and among **UNIVERSAL TRUCKLOAD, INC.**, a corporation organized under the laws of the State of Delaware (“*UTP*”), **UNIVERSAL DEDICATED, INC.**, a corporation organized under the laws of the State of Michigan (“*UDI*”), **MASON DIXON INTERMODAL, INC.**, a corporation organized under the laws of the State of Michigan (“*UIS*”), **LOGISTICS INSIGHT CORP.**, a corporation organized under the laws of the State of Michigan (“*Logistics*”), **UNIVERSAL LOGISTICS SOLUTIONS INTERNATIONAL, INC.**, a corporation organized under the laws of the State of Illinois (“*Solutions*”), **UNIVERSAL SPECIALIZED, INC.**, a corporation organized under the laws of the State of Michigan (“*Specialized*”), **CAVALRY LOGISTICS, LLC**, a limited liability company organized under the laws of the State of Tennessee (“*Cavalry*”) and **UNIVERSAL MANAGEMENT SERVICES, INC.**, a corporation organized under the laws of the State of Michigan (“*Management Services*”) and each of the New Borrowers (as defined below) (each a “**Borrower**”, and collectively the “**Borrowers**”), **PNC BANK, NATIONAL ASSOCIATION (“PNC”)**, the various financial institutions named therein or which hereafter become a party thereto, (together with PNC, collectively, “*Lenders*”) and PNC, as agent for the Lenders (in such capacity, “*Agent*”).

**BACKGROUND**

WHEREAS, Borrowers (other than the New Borrowers, as defined below), Agent, and Lenders are parties to a Revolving Credit and Security Agreement dated as of December 23, 2015 (as amended, restated, supplemented or otherwise modified from time to time, the “*Loan Agreement*”) pursuant to which Agent and Lenders provide Borrowers with certain financial accommodations.

WHEREAS, Borrowers have notified the Agent that UIS intends to acquire all of the Equity Interests of Fore Transportation, Inc., Fore Transport, Inc. and 4 Cargo, LLC (each a “**New Borrower**” and collectively, the “**New Borrowers**”), on the terms and conditions set forth in that certain Equity Purchase Agreement by and among UIS, UTSI Finance, Inc. and the Persons identified as Sellers therein (the “*Fore Acquisition*”).

WHEREAS, Borrowers have requested that Agent and Lenders amend certain provisions of the Loan Agreement, and Agent and Lenders are willing to do so on the terms and conditions set forth in this Amendment.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. **Consent to Fore Acquisition.** The Agent and Lenders hereby consent (the “*Consent*”) to the Fore Acquisition and agree that such acquisition shall be deemed to be a Permitted Acquisition; provided that the Fore Acquisition shall be disregarded for purposes of calculating the limitations contained in clause (b) of the definition of “Permitted Acquisition”. The Consent shall become effective on the Amendment No. 5 Closing Date (as defined below).
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2. Amendments to Loan Agreement.

- (a) The following definitions in Section 1.2 of the Loan Agreement are amended and restated as follows:

*"Applicable Margin" shall mean, for each type of Advance, the applicable percent per annum set forth in the pricing table below corresponding to the Average Excess Availability for the fiscal quarter then ending, as adjusted on a quarterly basis on the date on which the quarterly financial statements of Borrowers and related Compliance Certificate required under Section 9.8 for each fiscal quarter are due to be delivered (each day on which such delivery is due an "Adjustment Date").*

<b>Level</b>	<b>Quarterly Average Excess Availability</b>	<b>Applicable Margin for LIBOR Rate Loans</b>	<b>Applicable Margin for Domestic Rate Loans</b>
<i>I</i>	<i><math>\geq 50\%</math> of the Maximum Revolving Advance Amount</i>	<i>During the Increased Availability Period: 1.50%</i>  <i>At all other times: 1.25%</i>	<i>During the Increased Availability Period: .50%</i>  <i>At all other times: .25%</i>
<i>II</i>	<i>&lt;50% and <math>\geq 25.0\%</math> of the Maximum Revolving Advance Amount</i>	<i>During the Increased Availability Period: 1.75%</i>  <i>At all other times: 1.50%</i>	<i>During the Increased Availability Period: .75%</i>  <i>At all other times: .50%</i>
<i>III</i>	<i>&lt; 25.0% of the Maximum Revolving Advance Amount</i>	<i>During the Increased Availability Period: 2.00%</i>  <i>At all other times: 1.75%</i>	<i>During the Increased Availability Period: 1.00%</i>  <i>At all other times: .75%</i>

*If Borrowers shall fail to deliver the financial statements, certificates and/or other information required under Section 9.8 by the dates required pursuant to such sections, each Applicable Margin shall be conclusively presumed to equal the highest Applicable Margin specified in the pricing table set forth above until the date of delivery of such financial statements, certificates and/or other information, at which time the rate will be adjusted based upon Average Excess Availability reflected in such statements. Notwithstanding anything to the contrary contained herein, no downward adjustment in any Applicable Margin shall be made on any Adjustment Date on which any Event of Default shall have occurred and be continuing. Notwithstanding anything to the contrary contained herein, immediately and automatically upon the occurrence of any Event of Default, each Applicable Margin shall increase to and equal the highest Applicable Margin specified in the pricing table set forth above and shall*

*continue at such highest Applicable Margin until the date (if any) on which such Event of Default shall be waived or cured in accordance with the provisions of this Agreement, at which time the rate will be adjusted based upon the Average Excess Availability reflected on the most recently delivered Compliance Certificate delivered by Borrowers to Agent pursuant to Section 9.8. Any increase in interest rates and/or other fees payable by Borrowers under this Agreement and the Other Documents pursuant to the provisions of the foregoing sentence shall be in addition to and independent of any increase in such interest rates and/or other fees resulting from the occurrence of any Event of Default (including, if applicable, any Event of Default arising from a breach of Sections 9.8 hereof) and/or the effectiveness of the Default Rate provisions of Section 3.1 hereof or the default fee rate provisions of Section 3.2 hereof.*

*If, for any reason, Agent determines that (a) the Average Excess Availability as previously calculated as of any applicable date for any applicable period was inaccurate, and (b) a proper calculation of the Average Excess Availability for any such period would have resulted in different pricing for such period, then (i) if the proper calculation of the Average Excess Availability would have resulted in a higher interest rate and/or fees (as applicable) for such period, automatically and immediately without the necessity of any demand or notice by Agent or any other affirmative act of any party, the interest accrued on the applicable outstanding Advances and/or the amount of the fees accruing for such period under the provisions of this Agreement and the Other Documents shall be deemed to be retroactively increased by, and Borrowers shall be obligated to immediately pay to Agent for the ratable benefit of Lenders an amount equal to the excess of the amount of interest and fees that should have been paid for such period over the amount of interest and fees actually paid for such period; and (ii) if the proper calculation of the Average Excess Availability would have resulted in a lower interest rate and/or fees (as applicable) for such period, then the interest accrued on the applicable outstanding Advances and the amount of the fees accruing for such period under the provisions of this Agreement and the Other Documents shall be deemed to remain unchanged, and Agent and Lenders shall have no obligation to repay interest or fees to the Borrowers; provided, that, if as a result of any restatement or other event or other determination by Agent a proper calculation of the Average Excess Availability would have resulted in a higher interest rate and/or fees (as applicable) for one or more periods and a lower interest rate and/or fees (as applicable) for one or more other periods, then the amount payable by Borrowers pursuant to clause (i) above shall be based upon the excess, if any, of the amount of interest and fees that should have been paid for all applicable periods over the amounts of interest and fees actually paid for such periods. “Application Date” shall have the meaning set forth in Section 2.8(b) hereof.”*

*“Maximum Revolving Advance Amount” shall mean \$125,000,000 plus any increases in accordance with Section 2.24.*

- (b) The following definitions are added to Section 1.2 of the Loan Agreement:

“Amendment No. 5 Closing Date” shall mean February 2, 2018.

“Applicable Accounts Advance Percentage” shall mean the applicable percentage set forth in the table below for the periods specified therein:

<b>Applicable Time Period</b>	<b>Applicable Accounts Advance Percentage</b>
<i>Amendment No. 5 Closing Date through and including June 30, 2018</i>	90%
<i>July 1, 2018 through and including September 30, 2018</i>	89%
<i>October 1, 2018 through and including December 31, 2018</i>	88%
<i>January 1, 2019 through and including March 31, 2019</i>	87%
<i>April 1, 2019 through and including June 30, 2019</i>	86%
<i>July 1, 2019 and thereafter</i>	85%

Borrower may elect to have the percentage reduced to eighty five percent (85%) at any time by providing written notice of such election to the Agent and such election shall be irrevocable.

“Fore Acquisition Documents” shall mean the Fore Purchase Agreement and any other related documents or agreements arising from or entered into pursuant to the terms of such Fore Purchase Agreement, in each case as amended as permitted hereunder from time to time.

“Fore Purchase Agreement” shall mean that certain Equity Purchase Agreement (including all schedules, exhibits and attachments to same) by and among UIS, UTSI Finance, Inc. and the Fore Sellers dated as of February 2, 2018, as amended, restated or otherwise modified from time to time to the extent permitted hereunder.

“Fore Sellers” shall mean Michael R Apa, Sr. Irrevocable Business Trust dated June 30, 2016, Michael R. Apa, Sr. Irrevocable Real estate Trust dated June 30, 2016 and James A. Apa.

“Increased Availability Period” shall mean the period of time from the Amendment No. 5 Closing Date until the date that the Applicable Accounts Advance Percentage is equal to or less than 85%.

(c) The references to “85%” in Section 2.1(a)(y) are deleted and replaced with references to “Applicable Accounts Advance Percentage”.

(d) Section 6.14 of the Loan Agreement is amended and restated as follows:

“6.14 Deposit Accounts. (i) Cause all of the Borrowers’ (other than Fore

*Transportation, Inc., Fore Transport, Inc. and 4 Cargo, LLC) deposit accounts, other than the Excluded Accounts, the Permitted KeyBank Account and the accounts maintained in Canada as of the Closing Date, to be maintained with the Agent and (ii) on or before April 2, 2018, or such later date as Agent may agree in writing, cause all of the deposit accounts of Fore Transportation, Inc., Fore Transport, Inc. and 4 Cargo, LLC, other than the Excluded Accounts, to be maintained with the Agent.”*

- (e) The following is added to the Loan Agreement as new Section 7.18:

*“7.18 Amendment to Fore Acquisition Documents. Make, permit or consent to any amendment to or other modification of the Fore Acquisition Documents without the prior written consent of the Agent, except to the extent that any such amendment or modification (i) does not violate the terms and conditions of this Agreement or any of the Other Documents, (ii) does not adversely affect the interest of the Lenders as creditors and/or as secured parties under any Other Document and (iii) could not reasonably be expected to have a Material Adverse Effect.”*

3. Joinder to Loan Agreement. Upon the consummation of the Fore Acquisition, the signature of each New Borrower to this Amendment and the Other Documents to which it is a party shall be deemed to confirm its agreement to each of the following provisions:

(a) Such New Borrower shall, and does hereby, become a Borrower under the Loan Agreement as if an original signatory thereto, and agrees to execute and deliver any such additional agreements, documents and instruments as Agent shall reasonably request.

(b) Such New Borrower hereby ratifies and confirms its obligations under the Loan Agreement, all in accordance with the terms thereof, and shall be deemed to have made each representation and warranty set forth therein to the extent applicable to it, except that such representations and warranties shall be deemed to have been made on and as of the date of the consummation of the Fore Acquisition, rather than on and as of the date of this Amendment.

(c) Each New Borrower (a) acknowledges and agrees that it has been afforded the opportunity to completely read and understand the Loan Agreement, the Notes and any Other Documents executed in connection therewith; (b) consents to all of the provisions of the Loan Agreement and the Notes and any Other Documents executed in connection therewith relating to such New Borrower; and (c) acknowledges and agrees that the Loan Agreement and the Other Documents to which it is a party have been freely executed without duress and after an opportunity was provided to it for review by competent legal counsel of its choice.

(d) Each New Borrower acknowledges and agrees that it shall be primarily liable for the obligations under the Loan Agreement and the Other Documents to which it is a party as a joint and several obligor, in accordance with the terms set forth in Section 15.1(c) of the Loan Agreement.

4. Commitments and Percentages. The parties hereto acknowledge and agree that on and as of the Amendment No. 5 Closing Date, each Lender shall have Revolving Commitment Amounts and Revolving Commitment Percentages equal to the applicable amounts and

percentages set forth on the signature page hereto.

5. Schedules. The Borrowers represent and warrant that the supplements to the Schedules to the Loan Agreement attached hereto as Attachment 1 include all of the respective information applicable to the New Borrowers and that all of the Schedules are true, correct and complete as of the date hereof.

6. Expenses. Upon the execution of this Amendment, Borrowers must pay to Agent all costs and expenses incurred by Agent in connection with this Amendment, including reasonable attorneys' fees of Agent's counsel.

7. Conditions Precedent to Effectiveness of this Amendment. This Amendment shall become effective (according to the terms hereof) on the date that the following conditions have been satisfied:

(a) Agent shall have received counterpart originals of this Amendment, duly executed and delivered by the Agent, the Borrowers and the Lenders.

(b) Agent shall have received counterpart originals of the new Revolving Credit Notes, in each case duly executed and delivered by the Borrowers and the Lenders;

(c) Agent shall have received evidence from Borrowers (i) that the aggregate amount of Eligible Domestic Billed Receivables, Eligible Foreign Billed Receivables and Eligible Pledged Securities, is sufficient in value and amount to support the outstanding Revolving Advances and Swing Loans in the amounts requested by Borrowers on the Amendment No. 5 Closing Date and (ii) that Borrowers shall have Excess Availability of at least \$25,000,000 after giving effect to the consummation of the Fore Acquisition and the Advances to be made on the Amendment No. 5 Closing Date.

(d) Agent shall have received a certificate of the Secretary or Assistant Secretary (or other equivalent officer, partner or manager) of each New Borrower in form and substance satisfactory to Agent dated as of the Amendment No. 5 Closing Date which shall certify (i) copies of resolutions in form and substance reasonably satisfactory to Agent, of the board of directors (or other equivalent governing body, member or partner) of such New Borrower authorizing (x) the execution, delivery and performance of this Agreement, the Notes and each Other Document to which such New Borrower is a party (including authorization of the incurrence of indebtedness, borrowing of Revolving Advances and Swing Loans and requesting of Letters of Credit on a joint and several basis with all New Borrowers as provided for herein), and (y) the granting by such New Borrower of the security interests in and liens upon the Collateral to secure all of the joint and several Obligations of New Borrowers (and such certificate shall state that such resolutions have not been amended, modified, revoked or rescinded as of the date of such certificate), (ii) the incumbency and signature of the officers of such New Borrower authorized to execute this Agreement and the Other Documents, (iii) copies of the Organizational Documents of such New Borrower as in effect on such date, complete with all amendments thereto, and (iv) the good standing (or equivalent status) of such New Borrower in its jurisdiction of organization and, each applicable jurisdiction where the conduct of such New Borrower's business activities or the ownership of its properties necessitates qualification, as evidenced by good standing certificate(s) (or the equivalent thereof issued by any applicable jurisdiction) dated not more than 30 days prior to the Amendment No. 5 Closing Date, issued by

the Secretary of State or other appropriate official of each such jurisdiction.

(e) Agent shall have received in form and substance satisfactory to Agent, (i) evidence that adequate insurance, including without limitation, casualty and liability insurance, required to be maintained under this Agreement is in full force and effect, and (ii) insurance certificates issued by New Borrowers' insurance broker containing such information regarding New Borrowers' casualty and liability insurance policies as Agent shall request and naming Agent as an additional insured as applicable.

(f) Agent shall have received execution copies of the final Fore Acquisition Documents in effect on the Amendment No. 5 Closing Date, such documents to be in form and substance reasonably satisfactory to Agent and the Lenders.

(g) Agent shall have received the final funds flow memorandum evidencing the use of proceeds with respect to the financing transactions of the Borrowers, to be consummated prior to or simultaneously with the making of the Advances on the Amendment No. 5 Closing Date together with a summary of terms of such financing transactions all of which shall be satisfactory in form and substance to Agent.

(h) Agent shall have received a copy of the fully executed payoff letters from The Huntington National Bank, in each case form and substance satisfactory to Agent.

(i) Agent shall have received payment of an amendment fee in an amount equal to \$75,000 for distribution to the Lenders on a pro rata basis.

8. Representations and Warranties. Each Borrower represents, warrants, and agrees that:

(a) The execution, delivery, and performance of this Amendment are within its corporate, limited liability company, or limited partnership powers, have been duly authorized, and do not violate any statute, law, regulation, or its articles of incorporation, articles of organization, by-laws, or other organizational documents, or any material agreement or undertaking to which it is a party or by which it is bound.

(b) This Amendment is a legal, valid, and binding obligation of such Borrower, enforceable against such Borrower in accordance with its terms.

(c) After giving effect to the amendments in this Amendment, the representations and warranties of such Borrower contained in the Loan Agreement and the Other Documents are true on and as of the date of this Amendment with the same force and effect as if made on and as of the date of this Amendment.

(d) No Default or Event of Default exists on the date of this Amendment.

(e) All Obligations are due and owing in accordance with their terms without setoff, counterclaim, or defense.

9. Effect on the Agreement.

(a) Except as specifically amended herein, the Loan Agreement, and all other

documents, instruments and agreements executed and/or delivered in connection therewith, shall remain in full force and effect, and are hereby ratified, reaffirmed, confirmed and approved.

(b) If there is an express conflict between the terms of this Amendment and the terms of the Loan Agreement or the Other Documents, the terms of this Amendment control.

(c) The execution, delivery and effectiveness of this Amendment shall not operate as a waiver of any right, power or remedy of Agent or Lenders, nor constitute a waiver of any provision of the Loan Agreement, or any other documents, instruments or agreements executed and/or delivered under or in connection therewith.

10. Governing Law. This Amendment shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns and shall be governed by and construed in accordance with the laws of the State of Michigan, without regard to any conflicts of laws principles thereto that would call for the application of the laws of another jurisdiction.

11. Headings. Section headings in this Amendment are included herein for convenience of reference only and shall not constitute a part of this Amendment for any other purpose.

12. Counterparts; Facsimile. This Amendment may be executed by the parties hereto in one or more counterparts, each of which shall be deemed an original and all of which when taken together shall constitute one and the same agreement. Any signature delivered by a party by facsimile transmission or electronic transmission in PDF format shall be deemed to be an original signature hereto.

13. Release. As a condition of the above amendments and waiver, each Borrower waives, discharges, and forever releases Agent, Lenders and their respective employees, officers, directors, attorneys, stockholders and successors and assigns, from and of any and all claims, causes of action, allegations or assertions known to Borrower that Borrower has or may have had at any time up through, and including, the date of this Amendment, against any or all of the foregoing in connection with the Loan Agreement, including the Amendment thereto regardless of whether any such claims, causes of action, allegations or assertions arose as a result of Agent's or such Lender's actions or omissions.

[Signatures appear on next page.]

IN WITNESS WHEREOF, this Amendment has been duly executed as of the day and year first written above.

**PNC BANK, NATIONAL ASSOCIATION,**  
as Agent and Lender

By: /s/ John Wenzinger  
Name: John Wenzinger  
Its: Senior Vice President

Revolving Commitment Percentage: 100%  
Revolving Commitment Amount \$125,000,000

SIGNATURE PAGE TO AMENDMENT NO. 5  
(14901278)

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ACKNOWLEDGED AND AGREED:

**UNIVERSAL TRUCKLOAD, INC.**

By: /s/ Mark Limback  
Mark Limback  
Its: President

**UNIVERSAL DEDICATED, INC.**

By: /s/ Darren W. Coast  
Darren Coast  
Its: President

**MASON DIXON INTERMODAL, INC.**

By: /s/ Timothy Phillips  
Timothy Phillips  
Its: President

**LOGISTICS INSIGHT CORP.**

By: /s/ Michael Bautch  
Michael S. Bautch  
Its: President

**UNIVERSAL LOGISTICS SOLUTIONS  
INTERNATIONAL, INC.**

By: /s/ Michael Bautch  
Michael S. Bautch  
Its: President

**UNIVERSAL SPECIALIZED, INC.**

By: /s/ Mark Limback  
Mark Limback  
Its: President

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SIGNATURE PAGE TO AMENDMENT NO. 5  
(14901278)

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**CAVALRY LOGISTICS, LLC**

By: /s/ Steven Fitzpatrick  
Steven A. Fitzpatrick  
Its: Secretary

**UNIVERSAL MANAGEMENT SERVICES, INC.**

By: /s/ Steven Fitzpatrick  
Steven A. Fitzpatrick  
Its: Secretary

Immediately after consummation of the Fore Acquisition:

**FORE TRANSPORTATION, INC.**

By: /s/ Violeta V. Golematis  
Violeta V. Golematis  
Its: Treasurer

**FORE TRANSPORT, INC.**

By: /s/ Violeta V. Golematis  
Violeta V. Golematis  
Its: Treasurer

**4 CARGO LLC**

By: /s/ Violeta V. Golematis  
Violeta V. Golematis  
Its: Treasurer

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SIGNATURE PAGE TO AMENDMENT NO. 5  
(14901278)

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ATTACHMENT 1

Supplemental Schedules

[please see attached schedules]

SIGNATURE PAGE TO AMENDMENT NO. 5  
(14901278)

## **LOAN AND FINANCING AGREEMENT**

This Loan and Financing Agreement ("Agreement") made February 1, 2018, by and between FLAGSTAR BANK, F.S.B., a federally chartered savings bank ("Bank"), whose address is 5151 Corporate Drive, Troy, Michigan 48098-2639, and UTSI FINANCE, INC., a Michigan corporation ("Borrower") having the address of 12755 East Nine Mile Road, Warren, Michigan, 48089.

### **1. DEFINITIONS:**

In this Agreement and in the Collateral Documents (unless the context thereof requires a contrary definition or unless the same shall be defined therein, in which latter event, the definitions shall be cumulative and not exclusive), the following words, phrases, and expressions shall have the respective meanings attributed to them, to be equally applicable to both the singular and plural forms, unless the plural form is the term so defined.

1.1               **"Affiliate"** shall mean any Person, directly or indirectly, (i) under the same ultimate Control as Borrower or (ii) any Person owned by M. J. Moroun, M.T. Moroun, trusts for their respective benefit (and/or the benefit of their respective spouses and lineal descendants) and/or corporations, limited liability companies, partnerships or other entities of which any of them may, in the aggregate, have voting control.

1.2               **"Agreement"** shall mean this Loan and Financing Agreement, and all extensions, amendments, modifications and alterations thereto, in writing, from time to time.

1.3               **"Applicable Laws"** shall mean any law, regulation, ordinance or similar requirement of the United States, or any state, county and/or municipality in which the Premises are located, or any other department, agency or subdivision of any of the foregoing, including for specificity, not for limitation, Environmental Laws and Licenses.

1.4               **"Assignment of Leases and Rents"** shall mean the assignment of the Leases and Income, contained in the Mortgage.

1.5               **"Bank Approval"** shall mean prior, written approval following written request of Borrower, such approval not to be unreasonably withheld, conditioned or delayed.

1.6               **"Business Days"** shall mean each weekday on which the Bank is open during Bank's normal course of business. Any other reference to days shall mean calendar days.

1.7               **"Collateral"** shall mean all property (real, personal, mixed, tangible and intangible) now owned or hereafter acquired or leased by Borrower (excluding titled vehicles)

relating to, owned or leased by Borrower, and which is the subject of the Mortgage, now or hereafter existing.

1.8                   **“Collateral Documents”** shall mean any and all documents, instruments, notes, agreements, and written memoranda, referred to in this Agreement or referred to in any of the foregoing, and/or executed in connection herewith or therewith, now or hereafter existing, and specifically, but not by way of limitation, the Note, Mortgage, Assignment of Leases and Rents and Environmental Certificate and Environmental Indemnification Agreement.

1.9                   **“Consistent Basis”** shall mean, in reference to the application of GAAP, that the accounting principles observed in the current period are comparable in all material respects to those applied in the preceding periods .

1.10                  **“Control” or “Controlling”** shall mean the possession of the power to direct, or cause the direction of, management, operation and policies.

1.11                  **“Cure Period”** shall mean with respect to an Event of Default requiring a Notice of Default:

(a)                   Fifteen (15) Business Days following the Receipt Date of the Notice of Default with respect to a Monetary Event of Default; and

(b)                   Thirty (30) Business Days following the Receipt Date of the Notice of Default with respect to a Non-Monetary Event of Default. If the nature of the Non-Monetary Event of Default is such that it cannot be cured within said 30-day period and Borrower is diligently pursuing curative action, the Cure Period for a Non-Monetary Event of Default shall be extended for a period of time (not to exceed an additional forty five (45) days) and in a manner and upon terms and conditions as meet Bank’s Approval, provided that any such extension shall not imply, or be deemed to imply, any obligation on the part of the Bank to grant any other or similar extension.

1.12                  **“Debt Service Coverage Ratio”** shall mean, as of the date of determination, that ratio determined (subject to Section 2.4, which shall not be less than 1.02:1.00), in accordance with GAAP applied on a Consistent Basis, by a fraction:

(a)                   the numerator of which is the gross rental income from the Premises received by Borrower for the twelve (12) full calendar months then ended, minus the aggregate of (x) actual cash operating expenses (excluding those paid by lessees under Leases) (y) distributions made from cash generated from the Premises (excluding and deducting from such distributions those Permitted Distributions as defined under Section 1.40(a), (b), (e)), and (z) management fees in an amount equal to the greater of (i) the actual management fee paid by Borrower, or (ii) one percent (1%) of the gross rental income from the Premises; and

(b)                   the denominator of which is the Debt Service Expense of the Premises for the twelve (12) full calendar months then ended.

1.13

**"Debt Service Expense"** means Interest Charges, plus the current portion of any debt, excluding any prepayment of any debt, plus the portion attributable to principal of all payments on Capital Leases, if any (computed at the implicit rate, if known, or five percent (5%) per annum otherwise), computed in accordance with GAAP.

1.14

**"Environmental Certificate and Environmental Indemnification Agreement"** shall mean the Environmental Certificate and Environmental Indemnification Agreement in a form reasonably required by Bank, relating to the Premises, now or hereafter existing, executed by Borrower.

1.15

**"Environmental Laws"** means all laws, regulations, rules, directions and orders of the United States of America, any state, county or local authorities in which the Premises are located and their respective agencies and departments which pertain to the environment, including but without limitation, the Clean Air Act (42 USC 7401 et seq.), Clean Water Act (33 USC 1251 et seq.), Resource Conservation and Recovery Act of 1976 (42 USC 6901 et seq.), Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 USC 9601 et seq.), Hazardous Materials Transportation Act (49 USC 1801 et seq.), Solid Waste Disposal Act (42 USC 6901 et seq.), Toxic Substances Control Act (15 USC 2601 et seq.), Michigan Natural Resources and Environmental Protection Act (MCL 324.101 et seq.) as each of such laws have been or are hereafter amended, together with all rules, regulations, directions and orders promulgated by the U.S. Environmental Protection Agency or the Michigan Departments of Natural Resources or of Environmental Quality, and all additional environmental laws, rules, and regulations in effect on the date of this Agreement.

1.16

**"Environmental Reserve"** means the amount of Fifty Five Thousand and 00/100 Dollars (\$55,000.00).

1.17

**"ERISA"** means the Employee Retirement Income Security Act of 1974, as amended, and any successor act.

1.18

**"Event of Default"** shall mean the occurrence of any event, act, omission, breach, failure, violation or other non-observance or non-performance by Borrower or any other Person of any covenant, condition, agreement, duty, provision, or undertaking under any Loan Document, which would constitute a Matured Event of Default after:

(a) the lapse of time applicable thereto during which the same may be performed in accordance with the terms of the Loan Documents; or

(b) the giving of a required Notice of Default and failure to cure in full within the applicable Cure Period.

1.19

**"GAAP"** means generally accepted accounting principles, using the accrual basis of accounting and consistently applied, subject to fiscal year-end adjustments with respect to any interim financial statements or reports. If there occurs after the date hereof any change in GAAP that affects in any respect the calculation of any covenant contained in this Agreement or the definition of any term defined under GAAP used in such calculations, Bank and Borrower

shall negotiate in good faith to amend the provisions of this Agreement that relate to the calculation of such covenant with the intent of having the respective positions of Bank and Borrower after such change in GAAP conform as nearly as possible to their respective positions as of the date hereof; provided, that until any such amendments have been agreed upon, the covenants in this Agreement shall be calculated as if no such change in GAAP had occurred and Borrower shall provide additional financial statements or supplements thereto, regarding such financial covenant as Bank may reasonably require in order to provide the appropriate financial information required hereunder with respect to Borrower both reflecting any applicable changes in GAAP and as necessary to demonstrate compliance with the financial covenant before giving effect to the applicable changes in GAAP.

1.20

**"Governmental Agency"** shall mean:

(a) any Issuer; and

(b) the United States, any foreign country, state, county, city, or other department, agency or subdivision of any of the foregoing, including any governmental body, quasi-governmental body, commission, board, bureau, instrumentality or other duly constituted authority (judicial, legislative, administrative or otherwise), having jurisdiction over the Borrower and/or the Premises.

1.21

**"Governmental Regulations"** shall mean any applicable, or to the extent applicable to the Premises or Borrower, law, regulation, rule, order, directive, condition, promulgation, requirement, consent, approval, writ, injunction, decree, demand, or interpretation of, or pursuant to, any of the foregoing, of any Governmental Agency.

1.22

**"Improvements"** shall mean all buildings, structures and fixtures, owned by the Borrower, now or hereafter located in and/or on the Premises.

1.23

**"Income"** shall mean all now or hereafter existing, whether due or to become due, rents, security or similar deposits, revenues, issues, royalties, earnings, products proceeds, profits and income derived from the Premises.

1.24

**"Indebtedness"** shall mean:

(a) all indebtedness, obligations and liabilities of the Borrower under any Loan Documents, of whatsoever kind, nature and description, primary or secondary, direct, indirect or contingent, due or to become due, and whether now existing or hereafter arising and howsoever evidenced or acquired; and

(b) all present and future Money Advances made by Bank pursuant to the Loan Documents, or otherwise, and whether made at Bank's option or otherwise, and the Loan and all Notes now or hereafter executed or existing in connection herewith, and interest accrued thereon, from time to time; and

(c)

all future advances made by Bank for the protection or preservation of Bank's

rights and interests in the Collateral, or arising under the Loan Documents, including, but not by way of limitation, advances for taxes, levies, assessments, insurance or maintenance of the Collateral, and reasonable attorney fees on an hourly basis plus expenses; and

(d)

all costs and expenses incurred by Bank in connection with or arising out of

the protection, enforcement or collection of any of the foregoing, including, without limitation, reasonable attorney fees on an hourly basis plus expenses; and

(e)

all costs and expenses incurred by Bank in connection with, or arising out of,

the sale, disposition, liquidation or other realization [including, but not by way of limitation, the taking, retaking or holding, and all proceedings (judicial or otherwise)] of the Collateral, including, without limitation, reasonable attorney fees on an hourly basis plus expenses.

1.25

**"Interest Charges"** means, for any period all interest charges payable with respect to that

fiscal period to a lender in connection with borrowed money or the deferred purchase price of assets that are treated as interest in accordance with GAAP, plus (b) the portion of rent payable with respect to that fiscal period under Capital Leases, if any, that should be treated as interest in accordance with GAAP.

1.26

**"Issuer"** shall mean any Person, now or hereafter existing, duly authorized, empowered,

directed, appointed, constituted, delegated, or otherwise acting, to enact, administer, promulgate, issue direct, enforce, revoke, suspend, terminate or condition any of the Licenses or Governmental Regulations.

1.27

**"Leases"** shall mean any and all agreements (written or oral) demising any part of the

Premises, or pursuant to which any Person occupies any portion of the Premises, now or hereafter existing, including all rights of Borrower thereunder, and all rights to Income and other sums due thereunder.

1.28

**"Licenses"** shall mean all licenses, permits, registrations, permissions, requirements, consents,

approvals, and authorizations, required by any applicable Governmental Agency, or any Governmental Regulation, and now or hereafter existing and applicable to Borrower and/or Borrower's operations.

1.29

**"Loan"** shall mean the term loan and the commitment governing the foregoing, as hereinafter

set forth in Section 2, any Money Advance made thereunder, and the Note, collectively.

1.30

**"Loan Documents"** shall mean this Agreement and the Collateral Documents, collectively.

1.31

**"Material Adverse Effect"** shall mean any of the following: (a) a material adverse change in,

or material adverse effect upon, the business, condition (financial or otherwise), operations, performance or properties of Borrower; (b) a material impairment of the

ability of Borrower to perform its obligations under the Collateral Documents; (c) a material adverse effect upon: (i) the legality, validity, binding effect or enforceability of any Loan Document to which Borrower is a party, or (ii) the rights and remedies of Bank under or in respect of any Loan Document.

1.32

**"Matured Event of Default"** shall mean any Event of Default which remains uncured in full

after:

(a) if Notice of Default is not required, the lapse of time applicable thereto during which the same may be performed in accordance with the terms of the Loan Documents; or

(b) the giving of a required Notice of Default and failure to cure in full within the applicable Cure Period.

1.33

**"Monetary Event of Default"** shall mean any Event of Default which may be cured by the

payment of money.

1.34

**"Money Advance"** shall mean a loan or disbursement of money by Bank, or any other advance of credit by Bank, to or for the account of Borrower.

1.35

**"Mortgage"** shall mean the Mortgage executed by Mortgagor in favor of Bank, with respect to the Premises (as may be amended, modified or restated, from time to time), given as security for the Note.

1.36

**"Mortgagor"** shall mean Apa Holdings, LLC, an Illinois limited liability company.

1.37

**"Non-Monetary Event of Default"** shall mean any Event of Default which is not a Monetary Event of Default.

1.38

**"Note"** shall mean the Promissory Note (Term Loan) dated of even date herewith, including all renewals, extensions, amendments, modifications, restatements, roll-overs or substitutions thereof, from time to time.

1.39

**"Notice of Default"** shall mean that written notice of an Event of Default required to be given by Bank pursuant to Section 9.

1.40

**"Obligations"** shall mean any of the respective obligations, undertakings, agreements, covenants, representations, warranties or liabilities of Borrower to Bank, howsoever created, arising or evidenced, whether direct or indirect, absolute or contingent, now or hereafter existing, or due or to become due, under the Loan Documents.

1.41

**"Permitted Distributions"** shall mean distributions made by Borrower when no Event of Default exists or would be created thereby and which are:

(a)

proceeds from this financing, a refinancing and/or sale proceeds from the

Premises; or

(b)

distributions made to pay tax liabilities incurred as part of a consolidated or combined group which are attributable to the income of Borrower; or

(c)

compliance with the Debt Service Coverage Ratio;

quarterly distributions made without Bank Approval where Borrower is in

(d)

quarterly distributions with Bank approval; or

(e)

non-cash distributions.

1.42

**"Permitted Exceptions"** shall mean all liens and encumbrances accepted by Bank as set forth in the final title insurance policies issued for the Property, as well as liens and encumbrances permitted by any section of this Agreement or any other Loan Document.

1.43

**"Permitted Tenant"** shall mean a tenant who executes a new Lease and such tenant:

1.1 in the Bank's reasonable discretion, and subject to Bank Approval, not to be unreasonably denied, has equivalent or better financial strength than the prior tenant under any terminated or expired Lease; or

1.2

is an Affiliate.

1.44

**"Person"** shall mean, by way of example but not by way of limitation, an individual, partnership, limited partnership, corporation, limited liability company, trust, unincorporated organization, entity, government, governmental agency or governmental subdivision.

1.45

**"Premises"** shall mean the Property and the Improvements located thereon.

1.46

**"Property"** shall mean the real property in the City of Harvey, Cook County, Illinois located at 250 East 167<sup>th</sup> Street, as more particularly described in Exhibit "A", attached hereto.

1.46

**"Receipt Date"** shall mean with respect to a Notice of Default, the earlier of:

(a)

the actual date of receipt by Borrower; or

(b)

mail delivery service; or

one (1) Business Day following the date of delivery by Bank to an overnight

(c)

expedited mail delivery service; or

(d) five (5) Business Days following the date of delivery by Bank to the U.S. Postal Service if mailed by first class postage.

1.47                    **“Termination Date”** shall mean Term Loan Maturity Date, as defined in the Note.

1.48                    **“Title Insurer”** shall mean Chicago Title Insurance Company with its offices located at 711 Third Avenue, New York, NY 10017.

1.49                    **“Uniform Commercial Code”** shall mean Act 174 of the Michigan Public Acts 1962, as amended, and except as otherwise expressly provided herein all other terms shall have the meanings assigned to them in Article 9, or absent definition in Article 9, in any other Article of the Uniform Commercial Code.

**2. LOAN COMMITMENT:**

Subject to the terms and conditions contained herein, and upon the condition that no Event of Default shall exist, Bank agrees that it shall fund the Loan pursuant to the following commitment:

2.1**Commitment.** Bank agrees to make a Money Advance in an amount of Seven Million One Hundred Seventy Thousand and 00/100 Dollars (\$7,170,000.00), the proceeds of which are to be used to purchase the outstanding membership interests of Mortgagor, which owns the Premises. The proceeds of the Loan are to be repaid in accordance with the Note. This Agreement and the Note are of equal materiality and shall each be construed in such manner as to give full force and effect to all provisions of both documents.

2.2                    **Conditions.** Subject to the terms and conditions contained in this Agreement, and upon the condition that no Event of Default shall then exist, and further provided all conditions precedent hereto or thereto have been met in the sole discretion of Bank, Bank agrees that it shall fund the Loan.

2.3                    **Commitment Fee.** Borrower shall pay to Bank a commitment fee for making available the Loan, in the amount of Thirty Five Thousand Eight Hundred Fifty and 00/100 Dollars (\$35,850.00).

3.                    **LOAN ACCOUNT:** The Loan shall be charged to a Loan Account in Borrower's name on Bank's books. Bank shall render to Borrower, from time to time, but not less frequently than monthly, a statement of the Loan Account, which shall be presumed to be correct and accepted by and binding upon Borrower absent manifest error, unless Bank receives a written statement of exception within ten (10) Business Days after such statement has been rendered.

4.                    **EVIDENCE OF INDEBTEDNESS:** Borrower shall execute a Promissory Note (Term Loan) in the amount of Seven Million One Hundred Seventy Thousand and 00/100 Dollars (\$7,170,000.00) evidencing the Loan.

## **5. SECURITY FOR LOAN:**

5.1                   **Collateral Documents.** As part of the Loan Documents providing security for the payment of the Indebtedness, and for the timely and faithful performance and observance of the Obligations of Borrower under this Agreement and the Notes, Borrower shall execute and deliver the following:

(a)                   A Mortgage with Assignment of Leases and Rents which shall constitute a first priority lien and first priority security interest with respect to the Premises and granting a security interest to Bank in the Lease and Income related thereto. The Mortgage and Assignment of Leases and Rents shall secure payment of the Note but shall not secure payment of any other Note or otherwise provide for cross-collateralization.

(b)                   Uniform Commercial Code Financing Statement(s), which Bank is hereby authorized to prepare and file, perfecting a security interest in favor of Bank, in and to the Collateral, and which shall constitute a first and perfected lien with respect to such Collateral.

(c)                   Environmental Certificate and Environmental Indemnification Agreement executed by Borrower.

(d)                   Subordination, Non-Disturbance and Attornment Agreement executed by Borrower and tenant under the Lease(s).

## **6. REPRESENTATIONS AND WARRANTIES:**

Borrower represents and warrants to Bank that:

6.1                   **Compliance.** Except as has been disclosed to Bank in the Environmental Certificate and Environmental Indemnification Agreement dated of even date herewith, Borrower is in compliance with all Applicable Laws in all material respects.

6.2                   **Organization and Authority.** Borrower is a solvent corporation and is organized and validly existing under the laws of the State of Michigan, has the power to own its property and to conduct its business as is now being conducted, and is duly qualified to do business and is in good standing in every jurisdiction in which the nature of its business makes such qualification necessary, except where the failure to so qualify would not have a Material Adverse Effect upon Borrower, including, but not by way of limitation, the State of Michigan.

6.3                   **Permissions.** Borrower has all requisite, material permissions, Licenses, registrations and permits required to conduct its business under the laws of the United States, as well as any state or any foreign country in which it conducts business. The foregoing constitute all of the material authorizations required by any Person for the operation of the Borrower's business in the same manner as presently conducted, and as proposed to be conducted or conducted from and after the date hereof. All of the foregoing have been validly issued and are in full force and effect. To the best of the knowledge and belief of the Borrower, after due

investigation, no event has occurred which permits, or after notice or lapse of time, or both, would permit, revocation or termination of any of the foregoing or which has had a Material Adverse Effect, or in the future may (so far as the Borrower can now reasonably foresee) have a Material Adverse Effect, on the rights of the Borrower.

6.4

**Transactions Legal and Authorized.** The execution, delivery and performance of the Loan

Documents and the other instruments and documents related thereto have been duly authorized by appropriate company action of the Borrower, and the execution, delivery and performance of the Loan Documents and other instruments related thereto are not in contravention of (a) its Articles of Incorporation and Bylaws or (b) the terms of any indenture, agreement or undertaking to which Borrower is a party or by which it is bound, except where such contravention would not have a Material Adverse Effect upon Borrower.

6.5

**Title and Encumbrances.** Borrower owns the Premises free of liens or encumbrances, subject

only to: (a) liens in favor of or approved in writing by Bank, (b) liens for taxes not delinquent or being contested in good faith, liens created in connection with worker's disability compensation, unemployment insurance and social security, or to secure the performance of bids, tenders or contracts, leases, statutory obligations, surety and appeal bonds, (c) other obligations of like nature made in the ordinary course of business, and leases, liens or charges incidental to the conduct of Borrower's business or the ownership of its property and assets which were not incurred in connection with the borrowing of money or the obtaining of an advance or credit, and which do not in the aggregate materially detract from the value of its property or assets or could if enforced have a Material Adverse Effect on the use thereof in the operation of its business, and (d) Permitted Exceptions.

6.6

**Environmental Compliance.** Except as has been disclosed to Bank in the Environmental

Certificate and Environmental Indemnification Agreement dated of even date herewith, the Premises is in compliance in all material respects with all Environmental Laws.

6.7

**Pending Litigation.** No litigation or other proceeding before any court or administrative

agency, domestic or foreign, is pending, or threatened in writing, the outcome of which could materially impair the financial condition of Borrower or its ability to conduct its business. Borrower is not in default with respect to any order, writ, injunction, decree or demand of any court or federal, state, municipal or other governmental department, commission, board, bureau, agency or instrumentality, which might have consequences which would have a Material Adverse Effect on the business or properties of the Borrower.

6.8

**Financial Information.** All financial data and information which has been or shall hereafter be

furnished to the Bank has been and/or shall be prepared in accordance with GAAP and fully and fairly presents the financial condition of the Borrower (any accounting terms used in this Agreement which are not specifically defined herein shall have the meanings customarily given them in accordance with GAAP). There has been no material adverse change in the Borrower's business, assets or financial condition since the date of Borrower's latest financial statements provided to the Bank.

6.9

**Tax Returns/Taxes.** Borrower has filed all federal, state, local and foreign tax returns which are required to be filed and has paid all taxes which have become due pursuant to said returns or pursuant to any assessments of any nature whatsoever to the extent that such taxes have become due, or constitute a lien, on any of the assets of Borrower, except for those taxes or assessments which are being contested by Borrower in good faith. Borrower does not know of any proposed material additional tax assessment against it, or any of its properties, or any basis therefore.

6.10

**Restrictions.** Borrower is not a party to any contract or agreement, or subject to any charter or other restriction (including, but not without limitation, any agreement among the Company and its shareholders) or any order of any Governmental Agency which would have a Material Adverse Effect on its business, properties or assets, or its condition, financial or otherwise, and the execution and performance of this Agreement will not result in the creation of any encumbrance or charge upon any assets of the Borrower pursuant to the terms of any other agreement or instrument.

6.11

**Non-Reliance.** The Bank has not undertaken to advise Borrower with respect to the adequacy of the financial accommodations herein set forth, but the financial accommodations are solely the decision of the Bank as to the type and amount of credit it is willing to extend and Borrower has made the decision, exclusive of any statements of the Bank, or any of its officers or employees, to accept the same without inducement and/or reliance upon the Bank and/or any of its officers and employees.

6.12

**Full Disclosure.** Neither this Agreement nor any written statement furnished by or on behalf of the Borrower to Bank in connection with the negotiation or the making of the Loan contemplated hereby, taken as a whole, contains any untrue statement of a material fact or omits a material fact necessary to make the statements contained therein or herein not misleading. There is no fact relating to the Borrower, or the business of Borrower which the Borrower has not disclosed to Bank in writing, which has a Material Adverse Effect, nor as far as the Borrower can now foresee, will have a Material Adverse Effect on any of the properties, business, prospects, profits or conditions (financial or otherwise) of the Borrower, or the ability of the Borrower to consummate the transactions or perform and carry out its obligations and undertakings contemplated or provided in this Agreement. It is understood that the Borrower does not purport to make any representation or warranty with respect to general economic conditions or matters of general application to its industry (including any proposed or pending changes in statutes or regulations pertaining to its industry generally).

6.13

**No Defaults.** No Event of Default exists on the date hereof.

6.14

**ERISA.** The Borrower does not maintain any "defined benefit plan" (as such term is defined in Section 3 of ERISA).

6.15

**Survival and Continuation.** Except as hereafter provided, all representations and warranties contained in any of the Loan Documents shall be, and continue at all times while any Indebtedness is outstanding, to be true and accurate in all material respects. Provided,

however, that (y) the representations and warranties set forth in Section 6.7, 6.12 and 6.13, and the last sentence of each of Sections 6.8 and 6.9, are made only as of the date hereof (and shall not be continuing representations and warranties) and (z) the representations and warranties set forth in Section 6.5 shall only be continuing representations and warranties as to the Premises, but are only made as of the date hereof as to the remainder of Borrower's assets. Borrower shall immediately notify Bank, in writing, if any of the foregoing are or, as to continuing representations and warranties, have become untrue.

## 7. **COVENANTS:**

From the date hereof and for so long as any Money Advance is outstanding or commitment therefore exists under this Agreement and until all Indebtedness (other than indemnification obligations which remain contingent) due Bank is paid in full, Borrower covenants and agrees as follows:

7.1

### **Reporting Requirements.** Borrower shall furnish to Bank:

(a) Within one hundred fifty (150) days after the end of each fiscal year, financial statements of Borrower, including an itemized detail of expenses, certified by an authorized officer of the Borrower as true and accurate in all material respects;

(b) Within one hundred fifty (150) days after the end of each fiscal year, summary rent roll of the Premises certified by an authorized officer of the Borrower as true and accurate in all material respects, including copies of any Lease and/or any amendments to the Lease not previously delivered to Bank; and

(c) Within one hundred fifty (150) days after the end of each fiscal year, financial covenant compliance certificate, including calculations certified by an authorized officer of the Borrower as true and accurate in all material respects.

7.2

### **Financial Requirements.** Borrower shall demonstrate, beginning with the fiscal year ending December 31, 2018, a Debt Service Coverage Ratio ("DSCR") of not less than 1.02:1.00, tested as of the last business day of December (or Borrower's fiscal year-end, as applicable) of each year. Notwithstanding anything to the contrary herein, Borrower's failure to maintain the applicable DSCR requirements shall not constitute an Event of Default provided that Borrower receives an injection of cash either as: (a) fully subordinated debt in accordance with documents reasonably satisfactory to Bank or (b) a capital contribution in the form of paid in capital or issuance of new equity of Borrower, within thirty (30) days following receipt of the financial statements, in an amount sufficient to achieve the applicable DSCR, either by: (x) treating such cash injection as if it were gross rental income, or (y) paying down the principal balance of the Loan.

7.3

### **Negative Covenants:** Borrower shall not:

(a) **Other Indebtedness.** Incur, suffer or permit the amount of other indebtedness incurred with respect to the Premises to exceed Five Hundred Thousand and 00/100

Dollars (\$500,000.00), without prior Bank Approval unless Borrower is in compliance with the Debt Service Coverage Ratio;

(b)                   Guarantees of Other Indebtedness. Become a guarantor, surety or otherwise guaranty the debt or obligation of any other person or entity, except indebtedness and obligations to Bank, in excess of Five Million and 00/100 Dollars (\$5,000,000.00) in the aggregate, outstanding at any time, without prior Bank Approval;

(c)                   Distributions. Make any distributions or other payments of cash or property, to any owners of Borrower unless such distributions qualify as Permitted Distributions;

(d)                   Liens. Except for Permitted Exceptions, directly or indirectly create, assume, incur nor suffer nor permit to exist any mortgage, security interest or other lien or charge of any kind or character upon the Premises, except liens for taxes, assessments or other governmental charges not yet due or which are being contested in good faith by appropriate proceedings in such a manner as not to make the property forfeitable; liens or charges incidental to the conduct of its business or the ownership of the Premises, being contested in good faith, which were not incurred in connection with the borrowing of money or the obtaining of an advance or credit; liens arising out of judgments or awards against Borrower with respect to which it shall concurrently therewith be prosecuting a timely appeal or proceeding for review and with respect to which it shall have secured a stay of execution pending such appeal or proceedings for review; and liens granted to Bank;

(e)                   Disposal of Assets. Sell, transfer, or otherwise dispose, voluntarily or involuntarily (collectively a "Disposition") the Premises unless: (i) to an Affiliate, or (ii) in connection with a taking under the power of eminent domain;

(f)                   Acquisitions. Acquire or purchase, directly or indirectly, a Controlling stock or other equity interest in any other Person, or substantially all the assets of any of the foregoing, without Bank Approval unless no Event of Default exists or will be created thereby. Provided, however, that if such transaction is the equivalent of making a real estate purchase, such as acquiring a sole member interest in a limited liability company owning real estate, or the direct purchase of real estate from such person, then Bank Approval shall not be required.

(g)                   Mergers. Merge, consolidate or effect any other business combination with any other Person, or purchase all or substantially all of the assets of any Person without prior Bank Approval unless permitted by clause (f) above or:

i.                      no Event of Default exists or will be created thereby; and

y.                      Borrower is in compliance with the Debt Service Coverage Ratio;

ii.                     the survivor of such merger is:

y.                      the Borrower; or

z. an Affiliate and such Affiliate expressly assumes the Obligations arising under the Loan Documents.

(h) Event of Default. Permit any Event of Default to occur.

(i) Default in Payment. Default in any payment of the principal or interest on any Indebtedness to Bank when and as the same shall have become due and payable, whether at maturity, by acceleration or otherwise, which default shall remain uncured for a period of seven (7) Business Days (or such longer Cure Period as may be applicable thereto), whether such Indebtedness is now existing or hereafter created.

(j) Judgment. Suffer or permit or there shall occur any judgment, decree or order not fully covered by insurance (less the applicable deductible) in excess of Five Million and 00/100 Dollars (\$5,000,000.00) to be entered by a court of competent jurisdiction against Borrower, or permit, suffer or there shall occur, any writ or warrant of attachment or any similar process to be filed against Borrower or against any property or asset of Borrower, which judgment, decree, order, writ or warrant of attachment or similar process shall have remained unsatisfied, unvacated, unbonded or unstayed for a period of sixty (60) days, unless covered by a capital contribution or cash infusion.

(k) Insolvency. Become insolvent or admit, in writing, its inability to meet its or their obligations as they mature, or Borrower shall be adjudicated bankrupt, or apply for the appointment of a trustee, receiver or custodian for or of any portion of its properties, or if any such trustee or receiver shall be appointed, and if appointed in a proceeding brought against Borrower, Borrower by any action, shall indicate its approval of, consent to or acquiescence in such appointment, or if any such trustee or receiver shall not be discharged within sixty (60) days; or any proceedings shall be commenced by or against Borrower under any bankruptcy, reorganization, arrangement, insolvency, readjustment of debt, dissolution or liquidation law or statute of the United States or any state thereof, and if such proceeding shall be instituted against Borrower, Borrower shall, by any action, indicate its approval of, consent to, or acquiescence therein, or that the same shall remain undismissed for sixty (60) days.

7.4 **General Covenants:** Borrower shall:

(a) Payment of Indebtedness. Pay the principal amount of the Money Advance and accrued interest thereon when due in accordance with the terms of the Note, whether by acceleration or otherwise, and have no Money Advance outstanding hereunder contrary to any provisions, limitations or restrictions hereof.

(b) Performance of Obligations. Perform or cause to be performed, all of the obligations and covenants of Borrower as required by the Loan Documents, or any other agreement, note or other document executed between the Bank and Borrower related hereto, whether now existing or hereafter created, and maintain and take all action (or not fail to take any action or suffer or permit any omission) necessary to maintain the representations and warranties made herein, as true and accurate in all material respects.

(c) Maintenance of Existence. Maintain its corporate existence and all rights, Licenses, agreements and franchises necessary to continue the operation of its business in the same manner as of the date of execution hereof.

(d) Insurance. Maintain adequate insurance with responsible companies in such amounts and against such risks and hazards as are normally insured against by similar businesses. All insurance policies shall be in such amounts, upon such terms, in form, and carried with such insurers, as are reasonably acceptable to Bank. Borrower shall provide evidence satisfactory to Bank of all insurance coverage and that the policies are in full force and effect. Bank hereby agrees that the insurance coverages currently maintained by Borrower, evidenced by Certificate of Insurance (only) provided to and approved by Bank on the date hereof, satisfy Borrower's requirements under this Section.

(e) Information. Furnish promptly and in a form satisfactory to Bank, such information as Bank may reasonably request in writing, from time to time. Such request shall not be made more than four (4) times per any calendar year unless an Event of Default exists.

(f) Notification of Disputes. Notify Bank promptly of any material claims adverse to, litigation, or administrative or tax proceeding, or other actions threatened or instituted against the Borrower or any property of Borrower or any other material matters which are not fully covered by insurance (less the applicable deductible) which could adversely impair the Borrower's financial condition or its ability to conduct its business including, but not limited to, any inquiries or proceedings initiated by any state, federal or foreign regulatory agency. For the purposes of this Agreement, any such claims, litigation, proceedings, matters, actions or inquiries in which the aggregate sum(s) in dispute at any time are Five Million and 00/100 Dollars (\$5,000,000.00) or more shall be deemed material.

(g) Payment of Taxes:

i. Pay when due all FICA taxes and all withheld federal, state and/or city income taxes, and notify Bank promptly in the event of its failure to make any such payment when due.

ii. Pay all other taxes, assessments, and other governmental charges to which the Premises, Borrower or the property of same is or shall be subject before such charges become delinquent, except that no such charge need be paid so long as its validity or amount is being contested in good faith by appropriate proceedings provided that any such tax, assessment, charge or levy against any of the Premises shall be paid forthwith (under protest) upon the commencement of proceedings to foreclose any liens securing the same or upon institution of distress proceedings and further provided, the Borrower shall in any case involving a contested payment(s) due from the Borrower in excess of Five Million and 00/100 Dollars (\$5,000,000.00) in the aggregate at any time, give notice in writing thereof to Bank.

(h) Payment of Expenses. Pay all reasonable expenses incurred by Bank with respect to consummating this Agreement, including reasonable attorney fees on an hourly

basis plus expenses, and any other reasonable expenses in reference to structuring, documenting, closing, monitoring or enforcing the Loan or any Loan Documents.

(i) **Compliance with Laws.** Continue at all times to comply in all material respects with all Applicable Laws, Environmental Laws and Governmental Regulations relating to Borrower's business, property or affairs, and to the Premises.

(j) **Continuation of Business.** Maintain and conduct its business in substantially the same manner as such business is now or has heretofore been carried on.

(k) **Notices of Adverse Events.** Promptly inform Bank of the occurrence of an Event of Default, or any event (including, without limitation, any pending or threatened litigation or other proceedings before any governmental body or agency) which could reasonably be expected to have a Material Adverse Effect upon Borrower's business, properties, financial condition or ability to comply with its obligations under the Loan Documents.

(l) **Financial Information/Reports.** Borrower shall within the time periods specified (and promptly if no time period is specified) deliver to Bank, all financial information, reports, certificates, notices and other information herein required of Borrower, pursuant to any provision of the Loan Documents, if such information/reports are not made available to the public.

(m) **Maintenance of Accounts.** Maintain all primary depository accounts of Borrower with Bank.

(n) **Leases.** Upon the expiration or termination of the Lease, Borrower shall execute a new Lease on substantially similar financial terms with a Permitted Tenant within one (1) year of the date the Lease was terminated. Failure to obtain a Permitted Tenant on the terms herein shall be an Event of Default unless (i) Borrower has timely made and continues to make all monthly payments due under the Note; and (ii) Borrower provides Bank with additional collateral or credit support, satisfactory to Bank in Bank's sole reasonable discretion, prior to the one year anniversary of the expiration/termination date of the Lease. An Affiliate shall be an acceptable subsequent tenant approved by Bank.

## **8. BOOKS/RECORDS/FINANCIAL REPORTS/CERTIFICATES:**

Borrower covenants and agrees, that so long as any Money Advance is outstanding or commitment therefore exists under this Agreement, and until all Indebtedness (other than indemnification obligations which remain contingent) due Bank is paid in full, it will keep proper books of accounts in a manner reasonably satisfactory to Bank, and Borrower authorizes Bank to inspect and confirm Borrower's books, records and papers, upon five (5) Business Days prior written notice thereof while in the custody of Borrower or under the custody and control of others, and Bank shall have the right to make copies and abstracts thereof provided, however, that Bank shall not disclose any information concerning Borrower obtained thereby to any third person or entity, except as necessary or appropriate in connection with the enforcement of any of

Bank's rights hereunder. In no event shall such an inspection be made more than four (4) times per any calendar year unless an Event of Default occurs.

## **9. NOTICE OF DEFAULT:**

9.1

**Required Notice of Default.** Bank shall be required to give Borrower a Notice of Default with respect to any Event of Default except as provided in Section 9.2, and Borrower shall be allowed to cure such Event of Default within the applicable Cure Period.

9.2

**No Required Notice of Default.** Bank shall not be required to give Borrower a Notice of Default with respect to any Event of Default arising out of the Borrower's failure to notify and/or report to Bank, those matters herein required.

9.3

**Commercially Reasonable.** Borrower agrees that the Cure Periods shall respectively constitute commercially reasonable notice.

## **10. EVENTS OF DEFAULT.** An Event of Default shall exist upon the occurrence of any of the following provided Bank has given Borrower written notice thereof ("Notice of Cure") delivered by licensed courier, US Mail (certified with return receipt requested) or facsimile.

10.1

**Nonpayment of Obligations.** Any amount due and owing on the Loan or any fees due Bank hereunder, any expenses incurred by Bank hereunder or any and all other liabilities and obligations of Borrower to Bank under the Loan Documents, whether now or hereafter existing, whether now due or to become due, direct or indirect, absolute or contingent, and whether several, joint or joint and several, whether by its terms or as otherwise provided herein, is not paid when due.

10.2

**Misrepresentation.** Any warranty, representation, certificate or statement in this Agreement, the Loan Documents or any other agreement with Bank or otherwise made by or for Borrower shall be knowingly false in any material respect when made or at any time, or if any financial data or any other information now or hereafter furnished to Bank by or on behalf of Borrower shall prove to be knowingly false, inaccurate or misleading in any material respect.

10.3

**Nonperformance.** Any failure to perform or default in the performance of any covenant, condition or agreement contained in this Agreement, or in the other Loan Documents, all of which covenants, conditions and agreements contained therein are hereby incorporated in this Agreement by express reference.

10.4

**Default on Other Obligations.** Any default in the payment of principal, interest or any other sum due Bank.

10.5

**Assignment for Creditors.** Borrower makes an assignment for the benefit of creditors, fails to pay, or admits in writing its inability to pay its debts as they mature (other than in a court of law or pursuant to a request of Bank); or if a trustee of any substantial part of the assets of Borrower is applied for or appointed, and in the case of such trustee being appointed in a proceeding brought against Borrower by any action or failure to act indicates its approval of,

consent to, or acquiescence in such appointment and such appointment is not vacated, stayed on appeal or otherwise shall not have ceased to continue in effect within sixty (60) days after the date of such appointment.

10.6                   **Bankruptcy.** Any proceeding involving Borrower is commenced by or against Borrower under any Bankruptcy, reorganization, arrangement, insolvency, readjustment of debt, dissolution or liquidation law or statute of the federal government or any state government, and in the case of any such proceeding being instituted against Borrower, (i) Borrower, by any action or failure to act indicates its approval of, consent to or acquiescence therein, or (ii) an order shall be entered approving the petition in such proceedings and such order is not vacated, stayed on appeal or otherwise shall not have ceased to continue in effect within sixty (60) days after the entry thereof.

10.7                   **Judgments.** The entry of any final, non-appealable material judgment, decree, levy, attachment, garnishment or other process, or the filing of any judgment lien against Borrower which is not fully covered by insurance, and such judgment or other process shall not have been, within sixty (60) days from the entry thereof, (i) bonded over to the satisfaction of Bank and appealed, (ii) vacated, (iii) discharged, or (iv) a capital contribution in the form of paid in capital or issuance of new equity of Borrower which contribution equals 100% of the issue causing the default shall be made into the Borrower and such funds held as a reserve against such issue causing the default.

11.                   **REMEDIES IN EVENT OF DEFAULT:** Subject to Section 15 herein, if a Matured Event of Default exists, the Bank shall have the following rights and remedies, provided further that the rights and remedies contained herein or otherwise available shall be cumulative and not exclusive, and Bank shall have the right to exercise any and all other rights and remedies which may be available, whether contained in the Loan Documents, or available by virtue of law, including the Uniform Commercial Code or other similar laws or statutes applicable, or contained in any other instruments or agreements between the Bank and the Borrower and/or any other Person.

11.1                   **Acceleration.** All Indebtedness shall accelerate upon written notice or demand to Borrower, and immediately be due and payable, without further presentation, notice or demand, notwithstanding the maturity or due date therein to the contrary, all of which are expressly waived by the Borrower.

11.2                   **Access to Records.** Bank or any of its agents or representatives shall have the right to enter the premises of Borrower or any other place(s) where the books and records of Borrower may then be kept and maintained and make copies of all such books, records in accordance with Section 8 herein.

11.3                   **Injunctions.** Borrower acknowledges that upon the occurrence of a Matured Event of Default, to the extent there is no remedy at law that will provide adequate relief to Bank, Borrower agrees that Bank shall be entitled to temporary and permanent injunctive, or other equitable relief in any such case without proving actual damages.

11.4            **Expenses.** Borrower shall pay to Bank, on demand, any and all reasonable expenses, including reasonable attorneys' fees on an hourly basis plus expenses, and outside consultants' fees reasonably incurred or paid by Bank in protecting or enforcing its rights under the Loan Documents or pursuant to any other document or agreement.

11.5            **Enforcement of Rights.** Bank shall be entitled to enforce its rights hereunder, simultaneously or successively, in such order and priority as Bank shall determine, and all such rights and remedies shall continue in full force and effect until all Indebtedness of the Borrower shall be satisfied in full, and no one or more of such actions shall be deemed an election of remedies.

11.6            **Right of Offset.** Bank or its assigns shall have the right of offset against any funds of Borrower on deposit with Bank for the Indebtedness upon seven (7) Business Days prior written notice.

**12.            NOTICES:**

Any notice or demand, which by any provision of this Agreement is required or provided to be given or served to or upon Borrower, shall be given to Borrower for all purpose by being sent certified mail, return receipt requested, postage prepaid, or other expedited mail service, addressed to Borrower (to the attention of its President, and with a required copy of such notice to its secretary) at the address hereinabove set forth or at such other address as shall be designated by Borrower to Bank in writing, and any such notice shall be given to Bank, for all purposes, by being sent certified mail, return receipt requested, postage prepaid, or other expedited mail service, to Bank at address hereinabove set forth, or at such other address as Bank may designate to Borrower in writing.

**13.            TERMINATION:**

Bank may terminate this Agreement and its obligations hereunder upon the occurrence of a Matured Event of Default. Provided this Agreement shall not have been terminated earlier because of a Matured Event of Default, this Agreement terminates on the Termination Date. All of the Borrower's obligations, duties, promises, covenants, representations or warranties under this Agreement and the Borrower or others' obligations, duties, promises, covenants, representations or warranties under the Collateral Documents, shall continue and remain in full force and effect after the Termination Date until the Indebtedness is paid in full. Upon termination, the Indebtedness and all other obligations due Bank from Borrower pursuant to the Loan Documents, shall then be immediately due and payable, notwithstanding any Maturity Date or Due Date to the contrary, plus the interest accrued thereon until payment in full.

**14.            CONDITIONS PRECEDENT:** The obligation of the Bank to make the disbursement is subject to all the conditions and requirements of this Agreement and delivery of the following required documents or other action, all of which are conditions precedent:

14.1 **Organizational Status.** Receipt of a certified copy of the Articles of Incorporation of Borrower from the State of Michigan and a Certificate of Good Standing from the State of Michigan.

14.2 **Certified Organizational Resolutions.** Receipt of Certified Organizational Resolutions of Borrower authorizing the consummation of the transactions contemplated hereby and providing for the execution of a written direction of payment if proceeds are to be paid to a Person other than Borrower.

14.3 **Certified Documents.** Receipt of a true copy, as of the date of execution hereof, of the bylaws of the Borrower, including all amendments to the foregoing, certified to by the secretary of the Borrower and a certified list of all names under which Borrower has or now conducts business in each jurisdiction where it has or now conducts business under such name(s).

14.4 **Maximum Loan-To-Value.** Receipt and satisfactory review of an appraisal of the Premises indicating a loan-to-value not to exceed eighty five percent (85%) of the amount equal to the appraised value of the Premises less the Environmental Reserve.

14.5 **Due Diligence.** Receipt from Borrower and satisfactory review of commercial real estate due diligence materials for the Premises including, but not limited to:

(a) **Survey.** An original current ALTA survey of the Premises, prepared by a registered land surveyor, certified and acceptable to Bank and the Title Insurer (as defined below);

(b) **Title Insurance.** A pro forma title insurance policy issued by Title Insurer for the Property in an amount equal to the amount of the Note secured by the Mortgage on the Property. The title insurance policy issued shall be without standard exceptions and insure a first priority lien of Bank subject only to Permitted Exceptions and have the following endorsements to coverage: (i) access; (ii) comprehensive; (iii) land division; (iv) location; (v) survey; (vi) tax parcel; (vii) zoning; and (viii) loss of priority.

(c) **Insurance.** Insurance policies insuring the Borrower and the Premises with respect to loss, damage and destruction and against liabilities, naming Bank as loss payee/mortgagee/additional insured;

(d) **Environmental Report.** A current Environmental Site Assessment satisfactory to Bank.

(e) **Taxes.** Evidence that all current and past due real property taxes, and any special assessments, levied or assessed against the Premises have been paid.

(f) **Leases.** Copies of all Leases.

(g) **Licenses.** Copies of all Licenses.

14.6 **Tenants.** Receipt of documentation from tenants under the Leases, in form and substance reasonably satisfactory to the Bank and the Bank's counsel, including but not limited to Subordination, Non-Disturbance and Attornment Agreements and Tenant Estoppel Certificates;

14.7 **First Priority Lien.** Termination or subordination of UCC Financing Statements filed against Borrower or liens recorded against the Premises, as determined by Bank to be necessary to reflect Bank's first priority position in the Collateral;

14.8 **No Material Adverse Change.** Reaffirmation by Borrower that all financial information previously provided by Borrower to Bank is true and accurate as of the date of closing and there have been no changes that would have a Material Adverse Effect;

14.9 **Collateral Documents.** Execution and delivery of all Collateral Documents; and

14.10 **Payment of Expenses.** Payment of all reasonable fees and expenses incurred by Bank subject to reimbursement; and

15. **CROSS-DEFAULT:** An Event of Default under any of the Loan Documents shall not be cross-defaulted with any other obligations of Borrower to Bank and the Bank shall be limited to its rights and remedies under the Loan Documents.

The liability of Borrower under the Note shall be non-recourse to Borrower, and Bank's rights and remedies for an Event of Default under the Loan Documents shall be limited to its rights and remedies under the Mortgage and Assignment of Leases and Rents, and Borrower shall have no liability for any deficiency. Provided, however, that if the Event of Default involved is under Section 7.3(i) (excluding a default in payment of any accelerated amount), then Borrower shall remain liable for any such deficiency.

16. **MISCELLANEOUS:**

16.1 **Non-Waiver:** No Event of Default or Matured Event of Default shall be waived by the Bank except in writing and a waiver of any such Event of Default or Matured Event of Default shall not be a waiver of any other Event of Default or Matured Event of Default or of the same for similar default on a future occasion. No single or partial exercise of any right, power or privilege hereunder, or any delay in the exercise hereof, shall preclude other or further exercise of the rights of the parties to this Agreement or any of the Collateral Documents. No forbearance on the part of the Bank in enforcing any of its rights under the Loan Documents, nor any renewal, extension or rearrangement of any payment or covenant to be made or performed by the Borrower hereunder shall constitute a waiver of any of the terms of this Agreement, any of the Collateral Documents or of any such right.

16.2 **Interpretation:** The Loan Documents shall be construed, applied and enforced in accordance with the internal laws of the State of Michigan, without regard to

conflicts of law principles, provided, however, that to the extent the enforcement of any remedy or foreclosure of any lien, encumbrance or other interest in any Collateral granted or conveyed by any mortgage or other security instrument is required to be governed by the laws of the State in which the Collateral is located, such State's laws shall be deemed to govern and control such remedies. All covenants, agreements, representations and warranties made in connection with the Loan Documents and any document contemplated hereby shall survive the borrowing hereunder, for a period of five (5) years and shall be deemed to have been relied upon by the Bank.

16.3

**Entire Agreement:** The Loan Documents, and all other written agreements between Borrower

and Bank, constitute the entire agreement of the parties and there are no other agreements, express or implied. The Loan Documents supersede any and all commitment letters or term sheets heretofore issued in connection with the Loan. None of the parties shall be bound by anything not expressed in writing, and neither the Loan Documents, nor any other agreement can be modified except by a writing executed by Borrower and by the Bank. The Loan Documents shall inure to the benefit of and shall be binding upon the parties hereto and their respective heirs, personal representatives, successors and assigns; provided, however, that the Borrower shall not assign or transfer its rights or obligations hereunder without prior written Bank Approval.

16.4

**Survival:** If any provision of the Loan Documents shall be held or deemed to be or shall, in

fact, be inoperative or unenforceable as applied in any particular case in any or all jurisdictions, or in all cases because it conflicts with any other provision or provisions hereof or any constitution or statute or rule of public policy, or for any other reason, such circumstances shall not have the effect of rendering the provision in question inoperative or unenforceable in any other case or circumstance, or of rendering any other provision or provisions herein contained invalid, inoperative, or unenforceable to any extent whatever. This Agreement may be executed in any number of counterparts, all of which taken together shall constitute one agreement, and any of the parties hereto may execute this Agreement by signing any such counterpart.

**Waiver of Jury Trial:** Borrower does knowingly, voluntarily, and intelligently waive its constitutional right to a trial by jury with respect to any claim, dispute, conflict, or contention, if any, as may arise under the Loan Documents, and agree that any litigation between the parties concerning the Loan Documents shall be heard by a court of competent jurisdiction sitting without a jury. Borrower hereby confirms to Bank that it has reviewed the effect of this waiver of jury trial with competent legal counsel of their choice, or have been afforded the opportunity to do so, prior to signing the Loan Documents and each acknowledges and agrees that Bank is relying upon this waiver in extending the Loan to Borrower.

[SIGNATURES ON FOLLOWING PAGE]

The parties hereto have executed this Agreement the day and year first appearing above.

**Bank:**

FLAGSTAR BANK, F.S.B.,  
a federally chartered savings bank

**Borrower:**

UTSI FINANCE, INC.,  
a Michigan corporation

By: /s/ Kelly Hamrick  
Name: Kelly Hamrick  
Its: First Vice President

By: /s/ Violeta Golematis  
Name: Violeta V. Golematis  
Its: Treasurer

**Exhibit "A"**

**Legal Description of Property**

Land situated in the City of Harvey, Cook County, Illinois more particularly described as follows:

**PARCEL 1A:**

LOTS 12 TO 37 IN BLOCK 1; LOTS 12 TO 37 IN BLOCK 2; LOTS 12 TO 37 IN BLOCK 3; LOTS 12 TO 37 IN BLOCK 4; LOTS 1 TO 48 IN BLOCK 6; LOTS 1 TO 29 AND LOTS 36 TO 48 IN BLOCK 7; LOTS 1 TO 48 IN BLOCK 8 ALL IN BROWN AND BINGHAM'S SUBDIVISION OF THE WEST 1/2 OF THE SOUTH 1/2 OF THE SOUTHEAST 1/4 OF SECTION 20, TOWNSHIP 36 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

**PARCEL 1B:**

LOTS 1 TO 48 IN BLOCK 5, EXCEPTING THEREFROM THAT PART OF BLOCK 5 IN BROWN & BINGHAM'S SUBDIVISION, BEING A SUBDIVISION OF THE WEST HALF OF THE SOUTHEAST QUARTER OF SECTION 20, TOWNSHIP 36 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN IN COOK COUNTY, ILLINOIS, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF BLOCK 5 IN SAID BROWN & BINGHAM'S SUBDIVISION; THENCE NORTH 00 DEGREES 30 MINUTES 24 SECONDS WEST ALONG THE WEST LINE OF SAID BLOCK 5, A DISTANCE OF 85.00 FEET TO A LINE 85.00 FEET NORTH OF AND PARALLEL WITH THE SOUTH LINE OF SAID BLOCK 5; THENCE NORTH 89 DEGREES 14 MINUTES 40 SECONDS EAST, ALONG SAID PARALLEL LINE, 10.00 FEET TO A LINE 10.00 FEET EAST OF AND PARALLEL TO THE WEST LINE OF SAID BLOCK 5; THENCE SOUTH 00 DEGREES 30 MINUTES 24 SECONDS EAST, ALONG SAID PARALLEL LINE 35.00 FEET; THENCE SOUTH 63 DEGREES 21 MINUTES 26 SECONDS EAST, A DISTANCE OF 21.35 FEET TO A LINE 40.00 FEET NORTH OF AND PARALLEL TO THE SOUTH LINE OF SAID BLOCK 5; THENCE NORTH 89 DEGREES 14 MINUTES 40 SECONDS EAST, ALONG SAID PARALLEL LINE, 40.00 FEET TO A LINE 69.00 FEET EAST OF AND PARALLEL TO THE WEST LINE OF SAID BLOCK 5; THENCE SOUTH 00 DEGREES 30 MINUTES 24 SECONDS EAST, ALONG SAID PARALLEL LINE, 40.00 FEET TO THE SOUTH LINE OF SAID BLOCK 5; THENCE SOUTH 89 DEGREES 14 MINUTES 40 SECONDS WEST, ALONG SAID SOUTH LINE OF SAID BLOCK 5, A DISTANCE OF 69.00 FEET TO THE POINT OF BEGINNING, IN COOK COUNTY, ILLINOIS.

**PARCEL 2:**

ALL OF THE NORTH/SOUTH 16-FOOT VACATED ALLEYS, LYING WEST OF AND ADJOINING LOTS 12 TO 24 AND LYING EAST OF AND ADJOINING LOTS 25 TO 37, ALL IN BLOCKS 1 AND 2 IN BROWN AND BINGHAM'S SUBDIVISION AFORESAID; ALSO, ALL OF THE NORTH/SOUTH 16-FOOT WIDE VACATED ALLEYS, LYING WEST OF AND ADJOINING LOTS

1 TO 24, LYING EAST OF AND ADJOINING LOTS 25 TO 48, ALL IN BLOCKS 5, 6, AND 8 IN BINGHAM'S SUBDIVISION AFORESAID; ALSO THAT PART OF THE NORTH/SOUTH 16-FOOT WIDE VACATED ALLEYS, LYING WEST OF AND ADJOINING LOTS 1 TO 13 AND LYING EAST OF AND ADJOINING LOTS 36 TO 48 IN BLOCK 7 IN BROWN AND BINGHAM'S SUBDIVISION AFORESAID; ALSO, THAT PART OF VACATED WILLARD AVENUE (66.00 FEET WIDE), LYING WEST OF AND ADJOINING LOTS 25 TO 37 IN BLOCK 1 AND LOTS 25 TO 48 IN BLOCK 8 AND LYING EAST OF AND ADJOINING LOTS 12 TO 24 IN BLOCK 2 AND LOTS 1 TO 24 IN BLOCK 7 IN BROWN AND BINGHAM'S SUBDIVISION AFORESAID; ALSO, THAT PART OF VACATED FISK AVENUE (66.00 FEET WIDE), LYING WEST OF AND ADJOINING LOTS 25 TO 37 IN BLOCK 2 AND LOTS 36 TO 48 IN BLOCK 7 AND LYING EAST OF AND ADJOINING LOTS 12 TO 24 IN BLOCK 3 AND LOTS 1 TO 13 IN BLOCK 6 IN BROWN AND BINGHAM'S SUBDIVISION AFORESAID; ALSO, THAT PART OF VACATED WEST AVENUE (66.00 FEET WIDE), LYING WEST OF AND ADJOINING LOTS 25 TO 37 IN BLOCK 3 AND LOTS 25 TO 48 IN BLOCK 6 AND LYING EAST OF AND ADJOINING LOTS 12 TO 24 IN BLOCK 4 AND LOTS 1 TO 24 IN BLOCK 5 IN BROWN AND BINGHAM'S SUBDIVISION AFORESAID; ALSO, THAT PART OF VACATED 166TH STREET (60.00 FEET WIDE), AS HERETOFORE DEDICATED IN BROWN AND BINGHAM'S SUBDIVISION, A SUBDIVISION OF THE WEST 1/2 OF THE SOUTH 1/2 OF THE SOUTHEAST 1/4 OF SECTION 20, TOWNSHIP 36 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED AUGUST 5, 1891 AS DOCUMENT 1515492, LYING EAST OF THE SOUTHERLY PROLONGATION OF THE WEST LINE OF BLOCK 4 IN SAID SUBDIVISION AND LYING WEST OF THE SOUTHERLY PROLONGATION OF THE EAST LINE OF BLOCK 1 IN SAID SUBDIVISION, IN COOK COUNTY, ILLINOIS.

Commonly known as: 250 East 167th Street, Harvey, Illinois 60426

Tax ID Nos.: 29-20-416-058-0000 and 29-20-416-059-0000

**PROMISSORY NOTE**  
**(Term Loan)**

\$7,170,000.00

February 1, 2018

**FOR VALUE RECEIVED**, UTSI FINANCE, INC., a Michigan corporation ("Borrower") having the address of 12755 East Nine Mile Road, Warren, Michigan, 48089, promise(s) to pay to the order of FLAGSTAR BANK, F.S.B., a federally chartered savings bank (together with its successors and assigns, "Bank"), or to order, on or before February 1, 2028 ("Term Loan Maturity Date"), the principal amount not to exceed Seven Million One Hundred Seventy Thousand and 00/100 Dollars (\$7,170,000.00), together with interest on the unpaid principal amount hereof until paid at the rates per annum set forth below ("Term Loan").

**The Loan Agreement**

This Promissory Note (Term Loan) (this "Note") has been executed pursuant to that certain Loan and Financing Agreement of even date between Bank and the Borrower (as amended, restated or otherwise superseded from time to time, the "Loan Agreement"). Capitalized terms used but not otherwise defined in this Note have the meanings given them in the Loan Agreement. This Note is issued pursuant to the Loan Agreement. This Note is secured by a Commercial Mortgage against property commonly known as 250 East 167th Street, Harvey, Illinois 60426.

**Interest**

While no Event of Default exists, amounts outstanding under this Note will (except to the extent specifically provided to the contrary) bear interest at a rate per annum equal to the sum of (a) LIBOR plus (b) two and one-quarter percent (2.25%). During any period(s) a Matured Event of Default exists, the outstanding principal amount of this Note shall bear interest at a rate equal to three percent (3.0%) per annum greater than the interest rate otherwise charged hereunder ("Default Rate").

The following terms shall have the respective meanings attributed to them:

**"Base Rate"** means, as determined for any day, a variable rate of interest equal to one percent (1%) per annum less than the greater of (a) the Federal Funds Rate plus 1/2 of 1% and (b) the Prime Rate for such day.

**"Federal Funds Rate"** means, for any day, the rate per annum equal to the weighted average of the rates on overnight federal funds transactions with members of the Federal Reserve System arranged by federal funds brokers on such day, as published by the Federal Reserve Bank of New York on the Business Day next succeeding such day.

**"Interest Period"** means (i) the period beginning the day principal is first advanced under this Note to, but excluding, the first Payment Date, and (ii) each subsequent period commencing on (and including) the last day of the preceding Interest Period and ending on (but excluding) the next Payment Date; provided that in no event shall any Interest Period extend beyond the Term Loan Maturity Date.

**"LIBOR"** means, with respect to any Interest Period, the interest rate per annum determined by Bank by dividing (i) the rate that appears as the one (1) month ICE Benchmark Administration LIBOR Rate for United States Dollar deposits (as quoted by Bloomberg Finance L.P.) offered by leading banks in

the London interbank deposit market at approximately 11:00 a.m. London time, two (2) Business Days prior to the first day of such Interest Period (or, if for any reason, such source for rate information no longer exists, a comparable replacement rate determined by Bank at such time), by (ii) a number equal to 1.00 minus the LIBOR Reserve Percentage.

**"LIBOR Reserve Percentage"** means the maximum effective percentage in effect on such day as prescribed by the Board of Governors of the Federal Reserve System (or any successor) for determining the reserve requirements (including, without limitation, supplemental, marginal, and emergency reserve requirements) with respect to eurocurrency funding (currently referred to as "Eurocurrency liabilities").

**"Payment Date"** means the 5th day of each month.

**"Prime Rate"** means, for any day, the variable per annum rate of interest so designated from time to time by Bank as its "prime rate." The Borrower acknowledges that the Prime Rate is a reference rate and does not necessarily represent the lowest or best rate being charged to any customer of Bank and that changes in the rate of interest applicable to this Note resulting from changes in the Prime Rate shall take place immediately without notice or demand of any kind.

The following provisions shall also apply to the principal from time to time evidenced by this Note:

(a) Except as specifically provided to the contrary in this Note, the entire principal balance shall be carried in consecutive Interest Periods, each of one-month duration and commencing on the expiration of each preceding Interest Period;

(b) LIBOR may be deemed by Bank (in Bank's sole reasonable discretion) to be unavailable if Bank reasonably determines that (i) no adequate basis exists for determining LIBOR, (ii) adverse or unusual conditions in or changes in applicable law or the London interbank eurodollar market make it illegal or, in the reasonable judgment of Bank, impossible to fund loans at LIBOR or make LIBOR unreflective of the actual costs of funds to Bank, or (iii) it has become unlawful for Bank to charge interest on Loans by reference to LIBOR; and

(c) If LIBOR is deemed by Bank to be unavailable, then Bank shall so notify the Borrower, and all LIBOR Loans (as defined below) shall immediately and automatically begin bearing interest at the Base Rate (and shall continue to do so until LIBOR is reasonably deemed available by Bank).

### **Interest Computations**

Interest due with respect to this Note shall be computed on the basis of a year of 360 days and paid for the actual number of days elapsed. If the due date for any payment required under this Note is extended by operation of law, interest shall be payable for such extended time. If any payment required under this Note is due on a day that is not a Business Day, such payment may be made on the next succeeding Business Day (with interest continuing to accrue until paid), unless such extension would carry such date for payment into the next month, in which event such payment shall be made on the preceding Business Day.

### **Principal plus Interest Payments**

The Borrower shall repay the outstanding balance of this Note in consecutive monthly installments of principal in the amount of Fifty Nine Thousand Seven Hundred Fifty and 00/100 Dollars

(\$59,750) plus interest due on each Payment Date. On the Term Loan Maturity Date, the Borrower shall repay all Obligations then outstanding with respect to the Term Loan, including, without limitation, the outstanding principal balance of this Note, all interest accrued thereon, prepayment fees, charges and premiums, and all costs and expenses payable to Bank.

The Borrower may prepay this Note in whole or in part at any time, without premium or additional charge, except as set forth in this Note. Amounts so prepaid may not be borrowed or reborrowed, and the Term Loan shall be permanently reduced by the amount so prepaid.

#### **Prepayment; Yield Maintenance and Breakage**

Except for any obligations under a Swap, if any, so long as interest is accruing at a LIBOR-based rate ("LIBOR Loan"), the Borrower may prepay only upon at least three (3) Business Days' prior written notice to Bank (which notice shall be irrevocable), and the Borrower shall pay the applicable Yield Maintenance Fee (if any) to Bank and any actual breakage costs incurred by Bank, upon request of Bank, in connection with the payment of a LIBOR Loan on a date other than the last day of the Interest Period for such LIBOR Loan. As used herein, "***Yield Maintenance Fee***" means an amount computed as follows in connection with prepayment of LIBOR Loans: the current rate for United States Treasury securities (bills on a discounted basis shall be converted to a bond equivalent) with a maturity date closest to the last day of the Interest Period applicable to the LIBOR Loan as to which the prepayment is made shall be subtracted from the LIBOR in effect at the time of prepayment. If the result is zero or a negative number, there shall be no Yield Maintenance Fee. If the result is a positive number, then the resulting percentage shall be multiplied by the amount of the principal balance being prepaid. The resulting amount shall be divided by 360 and multiplied by the number of days remaining in the applicable Interest Period. The resulting amount shall be the Yield Maintenance Fee, which shall be due and payable upon the prepayment of a LIBOR Loan. If by reason of an Event of Default, Bank elects to declare the Obligations under this Note to be immediately due and payable, then a Yield Maintenance Fee with respect to then outstanding LIBOR Loans shall be due and payable. The Borrower acknowledges that Bank will incur substantial additional costs and expenses, including loss of yield and anticipated profitability, in the event of prepayment of a LIBOR Loan and that the Yield Maintenance Fee compensates Bank for such costs and expenses and is bargained for consideration and not a penalty. Prepayment of the principal amount of the Note, in whole or in part, whether voluntary or involuntary, will be subject to payment by Borrower to Lender of all assessments, losses, fees and costs of any kind or nature incurred by Lender under any and all Swap Transaction Documents (as defined in the Loan Agreement) by and between Borrower and Lender, which arise, directly or indirectly, as a result of such prepayment. Moreover, at no time during the term of the loan may the then principal balance of the loan be less than the then remaining notional amount of the Swap, and any prepayment of the Note below the notional amount will require an equivalent reduction in the notional amount under the Swap Transaction Documents. This prepayment penalty provision is only applicable if the Borrower and Lender have entered into a Swap Transaction evidenced by a separate Swap Transaction Documents.

#### **Acceleration; Default Interest and Late Charges**

Upon the occurrence of a Matured Event of Default, (a) Bank may declare the aggregate unpaid balance of principal of this Note, plus all accrued interest and all other unpaid Obligations, to be immediately due and payable, and (b) all Obligations evidenced by this Note shall bear interest at the Default Rate. In addition, if any payment required under this Note is not paid in full within ten days after its due date, the Borrower shall pay to Bank, on demand, a late payment charge equal to two percent (2%) of the overdue payment. The provisions of this Section, and Borrower's liability and responsibility under this Note and with respect to other Obligations, and Bank's rights with respect thereto, are expressly subject to the provisions of Section 15 of the Loan Agreement.

**Application of Payments**

Any payments received by Bank with respect to this Note prior to the occurrence of a Matured Event of Default shall be applied first to any costs, expenses, fees, or prepayment premiums due to Bank, second to any accrued interest, and third to the unpaid principal. Any payments received after the occurrence of a Matured Event of Default shall be applied to the Obligations in such a manner as Bank shall determine.

**Place for Payments**

All payments under this Note shall be made at the office of Bank at the address set forth on the signature page of this Note (or at such other place as Bank may designate from time to time in writing) in lawful money of the United States of America, in federal or other immediately available funds.

**Waivers by the Borrower**

To the extent permitted by applicable law, the Borrower waives presentment, demand, notice of dishonor, protest, and all other demands and notices (except as provided in or required by the Loan Agreement or other Loan Documents) in connection with the delivery, acceptance, performance, and enforcement of this Note. The Borrower's liability under this Note shall remain unimpaired, notwithstanding (i) any extension of the time for payment or other indulgence granted by Bank, (ii) the release of all or any part of the security granted to Bank, or (iii) the liability (or release of liability) of any party that may assume or otherwise be liable for the payment of the indebtedness evidenced by this Note or the performance of the Obligations of the Borrower under any of the other Loan Documents.

**Business Purposes**

The Borrower represents to Bank that the proceeds of this Note will be used solely for business purposes and shall not be used for personal, family, or household purposes.

**Note as Loan Document**

This Note constitutes a Loan Document as defined in the Loan Agreement and shall be governed by the provisions of the Loan Agreement pertaining to setoff, governing law, and jurisdiction and forum.

**WAIVER OF JURY TRIAL, SERVICE OF PROCESS AND DAMAGES**

**THE BORROWER AND, BY ITS ACCEPTANCE OF THIS NOTE, BANK EACH KNOWINGLY, VOLUNTARILY, AND INTENTIONALLY WAIVES THE RIGHT TO A TRIAL BY JURY WITH RESPECT TO ANY CLAIM ARISING OUT OF, UNDER, OR IN CONNECTION WITH THIS NOTE OR ANY COURSE OF CONDUCT, COURSE OF DEALINGS, STATEMENTS (WHETHER ORAL OR WRITTEN), OR ACTIONS OF THE BORROWER OR BANK, INCLUDING, WITHOUT LIMITATION, BANK'S ADMINISTRATION OF THE TERM LOAN OR ENFORCEMENT OF THIS NOTE OR THE OTHER LOAN DOCUMENTS. THE BORROWER AGREES IT SHALL NOT SEEK TO CONSOLIDATE ANY SUCH ACTION WITH ANY OTHER ACTION IN WHICH A JURY CANNOT BE WAIVED OR HAS NOT BEEN WAIVED.**

**IN ANY ACTION OR PROCEEDINGS ARISING OUT OF, OR RELATING TO, THIS NOTE, THE BORROWER ABSOLUTELY AND IRREVOCABLY WAIVES PERSONAL SERVICE OF ANY SUMMONS, COMPLAINT, DECLARATION, OR OTHER PROCESS AND ABSOLUTELY AND IRREVOCABLY AGREES THAT SERVICE OF PROCESS MAY BE MADE IN THE MANNER (AND TO THE ADDRESS FOR NOTICES TO THE BORROWER) SPECIFIED IN THE LOAN AGREEMENT.**

THE BORROWER CERTIFIES THAT NO REPRESENTATIVE, AGENT, OR ATTORNEY OF BANK HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT BANK WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVERS AND AGREEMENTS, EACH OF WHICH CONSTITUTES A MATERIAL INDUCEMENT FOR BANK TO ACCEPT THIS NOTE AND TO MAKE THE TERM LOAN.

*[Remainder of Page Intentionally Left Blank; Signature Page Follows]*

IN WITNESS WHEREOF, the Borrower has executed this Note as of the date first above written.

**BORROWER:**

UTSI FINANCE, INC.,  
a Michigan corporation,

By: /s/ Violeta V. Golematis

Violeta V. Golematis

Its: Treasurer

Address for Payments:

Flagstar Bank, FSB  
Commercial Loan Operations  
5151 Corporate Drive  
Mail Stop E-203-3  
Troy, Michigan 48098

**This instrument was Prepared By**

Donald A. Wagner  
Couzens, Lansky, et al  
39395 West Twelve Mile  
Suite 200  
Farmington Hills, Michigan 48331

**After Recording Return To**

Donald A. Wagner  
Couzens, Lansky, et al  
39395 West Twelve Mile  
Suite 200  
Farmington Hills, Michigan 48331

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Space Above This Line for Recorder's Use

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

Loan No. 33453

THIS MORTGAGE, ASSIGNMENT OF LEASES AND RENTS, SECURITY AGREEMENT, AND FINANCING STATEMENT (this "Mortgage") is made on February 1, 2018, by and between the Grantor, as herein defined, and FLAGSTAR BANK, FSB, a federally chartered savings bank (together with its successors and/or assigns, "Bank"), whose address is 5151 Corporate Drive, Troy, Michigan 48098.

IN CONSIDERATION of loans, advances or other financial accommodations from the Bank to the Grantor and/or the Borrower, Grantor does hereby covenant, promise and agree to and with the Bank, which covenants, promises and agreements shall, to the extent permitted by law, be deemed to run with the land, as follows:

1. **Definitions.** The following terms shall have the following meanings when used in this Mortgage. All capitalized terms not otherwise defined herein shall have the meaning ascribed to them in the Loan Agreement (as defined below).

a. **"Borrower"** means UTSI FINANCE, INC., a Michigan corporation, whose address is 12755 East Nine Mile Road, Warren, Michigan, 48089 and its permitted successors and assigns.

b. **"Grantor"** means APA HOLDINGS, LLC, an Illinois limited liability company, whose address is 12755 East Nine Mile Road, Warren, Michigan, 48089 and its permitted successors and assigns.

c.       **"Lease(s)"** means any and all agreements (written or oral) to which Grantor is a party or has any interest therein, demising any part of the Property, or pursuant to which any Person occupies any portion of the Property, now or hereafter existing, including all rights of Grantor thereunder, and all rights to rents, profits, Income and other sums due thereunder, and all guaranties thereof by any other Person.

d.       **"Secured Liabilities"** means all liabilities and obligations of any and every kind and nature heretofore, now or hereafter owing from the Borrower to the Bank, under the Note, the Swap Obligations (to the extent allocable to the Note) and this Mortgage, plus all interest, costs, expenses and reasonable attorney fees on a time and charges basis which may be made or incurred by the Bank in the disbursement, administration or collection of such liabilities and obligations and in the protection, maintenance and liquidation of the Property and the performance of the covenants and conditions of this Mortgage, and **ANY FUTURE ADVANCES, WITH INTEREST THEREON**, made by the Bank to or for the benefit of Grantor and/or the Borrower and/or with respect to the Property, all of which are secured by this Mortgage pursuant to the provisions hereof. The term "Secured Liabilities" does not include, and this Mortgage does not secure, any other amounts due with respect to the Loan.

e.       **"Loan"** means the loan extended under the Loan Agreement and currently due on Term Loan Maturity Date as defined in the Note evidencing such loan.

f.       **"Loan Agreement"** means the Loan and Financing Agreement by and among Bank and Borrower dated of even date herewith, and all amendments, modifications, extensions, and/or restatements thereof, from time to time.

g.       **"Note"** means Promissory Note (Term Loan), in the amount of Seven Million One Hundred Seventy Thousand and 00/100 Dollars (\$7,170,000.00), as may be amended, modified, extended and/or restated, from time to time, evidencing the Loan.

h.       **"Property"** means all the estate, title, and interest and rights of Grantor in the real property situated in the City of Harvey, Cook County, Illinois commonly known as 250 East 167th Street, Harvey, Illinois 60426, together with all easements, rights, privileges, appurtenances, tenements and hereditaments thereunder belonging and which may hereafter attach thereto and all heretofore or hereafter vacated alleys and streets abutting thereto, described in Exhibit "A" attached hereto ("Real Estate") together with the following:

All buildings, structures, replacements, furnishings, fixtures, fittings and other improvements and property of every kind and character now or hereafter located or erected on the Real Estate and owned or purported to be owned by Grantor, together with all building or construction materials, equipment, appliances, machinery, fittings, apparatus, fixtures and other articles of any kind or nature whatsoever now or hereafter found on, affixed to or attached to the Real Estate and owned or purported to be owned by Grantor, including, without limitation, all trees, shrubs and landscaping materials, reels, and all heating, venting, electrical, lighting, power, plumbing, air conditioning, refrigeration and ventilation equipment (all of the foregoing are herein referred to collectively as the "Improvements");

and

All furniture, furnishings, equipment (including, without limitation, telephone and other communications equipment, office and record keeping equipment, window cleaning, building cleaning, signs, monitoring, garbage, air conditioning, computers, point of sale devices, drive-through equipment and other equipment), inventory and goods and all other tangible property of any kind or character now or hereafter owned or purported to be owned by Grantor and used or useful in connection with the Real Estate and located on the Real Estate including, without limitation, all rights of Grantor under any lease to equipment, furniture, furnishings, fixtures and other items of personal property located on the Real Estate at any time during the term of such lease;

and

All option rights, purchase contracts, condemnation claims, demands, awards and settlement payments, insurance contracts, insurance payments and proceeds, unearned insurance premiums, warranties, guaranties, utility deposits of Grantor relating to the Real Estate or the Improvements and all accounts, contract rights, instruments, chattel paper and other rights of Grantor for payment of money to it for property sold or lent by it, for services rendered by it, for money lent by it, or for advances or deposits made by it related to the Real Estate or the Improvements;

and

All rents, security or similar deposits, issues, profits, revenue, royalties, earnings, products, proceeds, income and other benefits owned and/or derived, by Grantor from the Real Estate or the Improvements;

and

All rights of Grantor under all leases, licenses, occupancy agreements, concessions or other arrangements, whether written or oral, whether now existing or entered into at any time hereafter, whereby any Person agrees to pay money to Grantor or any consideration for the use, possession or occupancy of, or any estate in, the Real Estate or the Improvements or any part thereof, and all rents, income, profits, benefits, avails, advantages and claims against guarantors under any of the foregoing;

and

All rights of Grantor, if any, to all plans and specifications, designs, drawings and other matters prepared in connection with the Real Estate or the Improvements;

and

All rights of Grantor under any contracts executed by Grantor with any provider of goods or services for or in connection with any construction undertaken on, or services performed or to be performed in connection with, the Real Estate or the Improvements, including, without limitation, any architect's contracts, construction contracts and management contracts;

and

All rights of Grantor as seller or borrower under any agreement, contract, understanding or arrangement pursuant to which Grantor has, with the prior written consent of Bank, obtained the agreement of any Person to pay or disburse any money for Grantor's sale (or borrowing on the security) of the Collateral or any part thereof;

and

All rights of Grantor in any licenses, permits, registrations, permissions, approvals, consents and other authorizations in connection with the Real Estate or the Improvements;

and

All other property or rights of Grantor of any kind or character related to the Real Estate or the Improvements, all substitutions, replacements and additions thereto, whether now existing or hereafter acquired, and all proceeds (including, without limitation, insurance and condemnation proceeds) and products of any of the foregoing.

Together with:

All proceeds (whether cash proceeds or noncash proceeds) of the foregoing property, including without limitation proceeds of insurance payable by reason of loss or damage to the foregoing property and of eminent domain or condemnation awards.

All products of, additions and accessions to, and substitutions, betterments and replacements for the foregoing property.

2. **Grant of Mortgage.** Grantor does hereby GRANT, SELL, CONVEY, MORTGAGE, ASSIGN and WARRANT to the Bank and its successors and assigns forever the Property and grants to the Bank and its successors and assigns a continuing security interest in the Property to secure the timely repayment and performance of the Secured Liabilities, to have and to hold the Property, with all of the tenements, hereditaments, easements, appurtenances and other rights and privileges thereunto belonging or in any manner now or hereafter appertaining thereto, for the use and benefit of the Bank upon the conditions hereinafter set forth. Grantor acknowledges that, as an affiliate of Borrower, it directly benefits from the making of the Loan to Borrower.

3. **Future Advances.** Upon request of Borrower, the Bank at the Bank's option prior to release of this Mortgage, may enter into additional credit facilities, including additional Secured Liabilities, accept any Note, and/or make future advances to or for the benefit of Borrower and Grantor and all of the foregoing, with interest thereon, may be secured by this Mortgage if Grantor expressly so agrees in writing.

4. **Covenant to Pay Secured Liabilities.** Grantor shall promptly pay and perform all Secured Liabilities for which it is liable or obligated in accordance with the terms thereof subject to all applicable cure periods. Grantor acknowledges and agrees that this Mortgage shall not be extinguished and the priority of this Mortgage shall not be altered in any way until a Mortgage discharge has been executed by the Bank and recorded in the proper county, which shall be recorded when the Secured Liabilities have been paid in full.

5. **Covenant of Title.** At the time of the execution and delivery of this Mortgage, Grantor is, and will be, the owner of the Property in fee simple, free of all easements, liens (except as set forth in the Loan Agreement and except for liens that are validly subordinated to the lien of the Bank by written instrument in form and substance satisfactory to Bank in its sole and absolute discretion) and encumbrances whatever (other than those easements of record as of the date hereof, the rights of the public in any part of the Property used or taken for road purposes and any other mortgages, liens or encumbrances to which the Bank has consented in writing, including, but not limited to, those encumbrances set forth on the attached Exhibit "B"), and will forever warrant and defend the same against any and all other claims whatever except as provided herein, and the lien created hereby is and will be kept as a valid lien upon the Property and every part thereof, subject only to the foregoing exceptions.

6. **Maintenance of Property.** Grantor shall make all necessary improvements and repairs so the value and efficiency of the Property is at all times maintained and Bank's security is not materially impaired. Bank shall have the right to enter upon and inspect the Property at all reasonable times, but not more than once in any twelve (12) month period, and if, upon inspection of the Property, Bank reasonably determines the Property or any part thereof requires any material repair, maintenance, or care of any material kind which the Borrower or Grantor, after notice from Bank, fails to perform within the Cure Period for a Non-Monetary Event of Default, Bank may declare the same to be a Matured Event of Default and may, at Bank's option, by its agent, enter, repair and care for the Property, paying such amount therefor as the Bank deems reasonably appropriate, and all costs incurred by Bank shall be added to the Secured Liabilities secured by this Mortgage.

7. **Payment of Taxes, Liens and Insurance.** Grantor shall pay before delinquency all taxes, assessments, and governmental charges levied upon the Property and all claims, liens, encumbrances, levies, judgments and charges which are at any time levied, recorded, placed upon, or assessed against the Property, and shall promptly deliver to Bank receipts, upon Bank's written request, evidencing such payment; provided, however, that Grantor will not be required to pay any tax, assessment, governmental charge, claim, lien, encumbrance, levy, judgment or charge if Grantor is in good faith contesting the validity thereof and has provided a reserve for payment of the entire amount of any such contested tax, assessment, governmental charge, claim, lien, encumbrance, levy, judgment or charge on its financial statements.

8. **Insurance.** Until the Secured Liabilities (other than indemnification obligations which remain contingent) are fully satisfied, Grantor will keep the Property continuously insured against loss by fire, windstorm and other hazards, casualties and contingencies, including vandalism and malicious mischief, in such amounts, for such periods, and by policies issued by such insurers, as required by the Loan Agreement. All premiums shall be paid promptly when due all premiums for such insurance and deliver to the Bank, upon request, receipts showing such payment. All insurance shall be carried in companies approved by the Bank and shall have attached thereto a mortgagee and loss payee clause(s) acceptable to the Bank, making all loss or losses under such policies payable to the Bank, its successors and assigns, as its or their interest may appear. In the event of loss or damage to the Property, Grantor shall give immediate notice in writing by mail to the Bank, who may make proof of loss if not made promptly by Grantor. In the event of any inconsistency, the provisions of the Loan Agreement shall control.

In the event the amount of the loss is an amount equal to Two Hundred Thousand Dollars (\$200,000.00) or less, the insurance proceeds shall be released to the Grantor, upon request by the Grantor. Grantor shall be obligated to use such proceeds to restore or repair the Property unless the Bank otherwise specifies in writing.

In the event the amount of the loss is greater than an amount equal to Two Hundred Thousand Dollars (\$200,000.00) each insurance company concerned is hereby authorized and directed upon request by the Bank, to make payment for such loss, to the extent of the Secured Liabilities, directly to the Bank instead of to Grantor and the Bank jointly and in such event, provided no Event of Default hereunder then exists nor any event which with notice or the passage of time or both would become an Event of Default hereunder and further provided that the Bank shall reasonably determine that sufficient funds are available from insurance proceeds and any funds to be provided by Grantor to repair or restore the Property within a reasonable time (and in all events at least six months prior to the Due Date of the Note) and that such repair or restoration is economically feasible. Economically feasible means that after giving effect to the use of proceeds, the principal amount of the Secured Liabilities (drawn and undrawn) is not more than 85% of the appraised value of the Property as reasonably determined by Bank, the Bank agrees, upon request by the Grantor, to apply the insurance proceeds to repair or restore the Property, after reimbursement of all costs and expenses of the Bank in collecting such proceeds, subject to the following terms and conditions:

a. The Bank shall retain all insurance proceeds in a non-interest bearing escrow account to be disbursed to pay the costs of repair or restoration in accordance with procedures reasonably established by the Bank unless agreed otherwise, and

b. All plans and specifications for repair or restoration shall be subject to Bank Approval prior to the commencement of any repair or restoration or the improvements may be constructed to the same specifications as previously existed, which Bank Approval shall not be unreasonably denied, and

c. All repair or restoration shall be done by or under the direction of Grantor, shall be in accordance with the approved plans and specifications, shall be in a workmanlike manner free from all defects, shall be in compliance with all statutes, ordinances, rules and

regulations applicable thereto and shall be completed free of all construction liens except those being contested in good faith by appropriate proceedings, and

d. The Bank shall have the right, at Grantor's expense, and with reasonable notice, to inspect all repairs and restoration and, if the Bank reasonably determines that any work or materials are not in conformity with the approved plans and specifications, the Bank's standard construction loan practices and procedures, or other requirements of sub-paragraph (c) above, to stop the work and order replacement or correction thereof by Grantor, and

e. The Bank shall not be obligated to make disbursements more frequently than monthly and the remaining undisbursed proceeds shall always be sufficient to meet the total estimated remaining costs to complete the repair or restoration and any shortfall, from time to time, shall be provided to Bank in cash by Borrower or Grantor, and

f. All insurance proceeds in excess of the amounts necessary to repair or restore the Property shall be released to Grantor if all of the provisions of this Section are satisfactory and the restoration has been substantially completed (subject to punchlist items), and

g. The Property and the use thereof after the restoration will be in compliance with and permitted under all applicable zoning laws, ordinance, rules and regulations, and

h. The restoration shall be done and completed by the Grantor in an expeditious and diligent fashion and in compliance with all applicable laws, including without limitation, all applicable Environmental Laws and/or Applicable laws, and

i. Such fire or other casualty, as applicable, does not result in the loss of access to the Property or to the improvements located thereon, and

j. Bank shall determine there has been no material adverse effect upon either:

- (i) the ability of Grantor to make payments on or to satisfy, the Note, when due; or
- (ii) the value of the Property (after giving effect to the restoration).

In the event all of the conditions to the use of the insurance proceeds to repair or restore the Property which are outlined above are not satisfied, the Bank, at its option, may apply the insurance proceeds or any part thereof, first, toward reimbursement of all costs and expenses of the Bank in collecting such proceeds, and then, to the Secured Liabilities (without any penalty for prepayment), to fulfill any other covenant herein or any other obligation of Grantor to the Bank, or to the restoration or repair of the Property. Application by the Bank of any insurance proceeds to the Secured Liabilities shall not excuse, extend or reduce the regularly scheduled payments due thereunder. In the event of foreclosure of this Mortgage or other transfer of title to the Property in extinguishment of the Secured Liabilities, all right, title and interest of Grantor in and to any insurance policies then in force shall pass to the purchaser or grantee and Grantor

hereby appoints the Bank its attorney-in-fact, in Grantor's name, to assign and transfer all such policies and proceeds to such purchaser or grantee.

If at any time the Property is identified by the Director of the Federal Emergency Management Agency or any other person or entity designated with such responsibility under the National Flood Insurance Act of 1968, Flood Disaster Protection Act of 1973 and the National Flood Insurance Reform Act of 1994, all as amended (collectively called the "Flood Act"), as being located in a flood hazard area, Grantor shall keep the Property covered by flood insurance in such amount as is required by Bank and in at least the amount required by the Flood Act and all regulations issued thereunder.

9. **Eminent Domain.** In the event the entire Property is taken under the power of eminent domain, the entire award or payment in lieu of condemnation, to the full extent of the Secured Liabilities, shall be paid to the Bank. The Bank shall apply such award or payment, first, toward reimbursement of all of the Bank's costs and expenses incurred in connection with collecting such award or payment, and then, at the Bank's option, to the Secured Liabilities (without any penalty for prepayment), to fulfill any other covenant herein or to any other obligation of Grantor to the Bank.

In the event of a partial taking of the Property which materially detrimentally impacts the usability of the Property for the purpose intended under the power of eminent domain, the entire award or payment in lieu of condemnation, to the full extent of the Secured Liabilities, shall be paid over to the Bank and provided no Event of Default hereunder then exists, nor any event which with notice or the passage of time or both would become an Event of Default hereunder, and the Bank shall reasonably determine that sufficient funds are available from the award or payment and any funds to be provided by Grantor to repair or restore the remaining portion of the Property within a reasonable time and that such repair or restoration is economically feasible [economically feasible (as defined in Section 8 hereof)], in the reasonable business judgment of Bank, the Bank agrees, upon request by the Grantor, to apply the award or payment to repair or restore the remaining portion of the Property, after reimbursement of all costs and expenses of the Bank in collecting the award or payment, subject to the following terms and conditions:

a. The Bank shall retain the award or payment in a non-interest bearing escrow account to be disbursed to pay the costs of repair or restoration in accordance with procedures reasonably established by the Bank.

b. All plans and specifications for repair or restoration shall be subject to Bank Approval (which shall not be unreasonably denied) prior to the commencement of any repair or restoration or the improvements may be constructed to the same specifications as previously existed.

c. All repair or restoration shall be done by or under the direction of Grantor, shall be in accordance with the approved plans and specifications, shall be in a workmanlike manner free from all defects, shall be in compliance with all statutes, ordinances, rules and regulations applicable thereto and shall be completed free of all construction liens except those being contested in good faith by appropriate proceedings and with respect to which Grantor shall have provided security satisfactory to Bank.

d. The Bank shall have the right, at Grantor's expense, to inspect all repairs and restoration and, if the Bank reasonably determines that any work or materials are not in conformity with the approved plans and specifications or other requirements of sub-paragraph (c) above, to stop the work and order replacement or correction thereof by Grantor.

e. The Bank shall not be obligated to make disbursements more frequently than monthly and the remaining undisbursed proceeds shall always be sufficient to meet the total estimated remaining costs to complete the repair or restoration.

f. All proceeds of the award or payment in excess of the amounts necessary to repair or restore the Property may be applied, at the Bank's option, to the Secured Liabilities (without penalty for prepayment), to fulfill any other covenant herein or any other obligation of Grantor to the Bank, or released to Grantor.

In the event all of the conditions to the use of the award or payment to repair or restore the Property which are outlined above are not satisfied, the Bank, at its option, may apply the award or payment or any part thereof, first, toward reimbursement of all costs and expenses of the Bank in collecting such award or payment, and then, to the Secured Liabilities (without any penalty for prepayment), to fulfill any other covenant herein or any other obligation of Grantor to the Bank, or to the restoration or repair of the Property. Application by the Bank of any condemnation award or payment or portion thereof to the Secured Liabilities shall not excuse, extend or reduce the regularly scheduled payments due thereunder.

10. **Removal of Improvements.** Except for replacement, maintenance, and relocation in the ordinary course of business or for tenant improvements made for tenants of the Property, or as previously disclosed to Bank by Grantor, Grantor shall not remove from the Property any improvement, accessions, fixtures, machinery, or equipment pertaining to or forming a part of the Property (which are owned by Grantor) without Bank Approval. All replacements shall be with improvements, fixtures, machinery and equipment of the same or better quality than those replaced.

11. **Bank's Right to Make Expenditures.** Should a Matured Event of Default occur hereunder as a result of Grantor's failure to pay any taxes or assessments or procure and maintain insurance or make necessary repairs to the Property to the extent required pursuant to the provisions of the Loan Documents, the Bank may pay such taxes and assessments, effect such insurance and make such repairs, and the monies so paid by it shall be a further lien on the Property, payable forthwith, with interest at the Default Rate applicable to the Secured Liabilities as provided in the Loan Documents. The Bank may make advances without curing the Matured Event of Default and without waiving the Bank's right of foreclosure or any other right or remedy of the Bank under this Mortgage. The exercise of the right to make advances pursuant to this paragraph shall be optional with the Bank and not obligatory and the Bank shall not be liable in any case for failure to exercise such right or for failure to continue exercising such right once having exercised it.

12. **Compliance with Law.** Grantor will comply promptly with all material laws, ordinances, regulations and orders of all public authorities having jurisdiction over the Property relating to the use, occupancy and maintenance thereof, and shall upon request promptly submit

to the Bank evidence of such compliance. Nothing herein shall be deemed to prohibit Grantor from contesting the enforceability or applicability of any law, ordinance, regulation or order; provided, however, that the Bank, in its sole discretion, may require that Grantor comply with any such law, ordinance, regulation or order during the pendency of any such contest and all appeals therefrom. Grantor will not permit the Property or any portion thereof to be used for any unlawful purpose.

13. **Environmental Warranties, Compliance, and Indemnification.** Grantor agrees to at all times observe and promptly comply with the provisions of the Environmental Certificate and Environmental Indemnity Agreement from Grantor to Bank of even date herewith.

14. **Assignment of Rents and Leases.** As additional security for the Secured Liabilities and performance of the covenants and agreements set forth herein, Grantor hereby assigns to the Bank, and grants Bank a security interest in, any oil and gas located in, on or under the Property (to the extent of Grantor's interest therein), any and all Leases of the Property, and all rents, issues, income and profits derived from the use of the Property or any portion thereof, whether due or to become due. These assignments shall run with the land and shall be good and valid against Grantor and all persons claiming by, under, or through Grantor from the date of recording of this Mortgage and shall continue to be operative during foreclosure or any other proceedings taken to enforce this Mortgage. If any foreclosure sale results in a deficiency, the assignments shall continue as security during the foreclosure redemption period, to the extent permitted under applicable law.

15. **Assignment of Contracts and Agreements.** Grantor hereby assigns to the Bank, as further security for the Secured Liabilities, Grantor's interest in all agreements, contracts (including contracts for the lease or sale of the Property or any portion thereof), licenses and permits affecting the Property. Such assignment shall not be construed as a consent by the Bank to any agreement, contract, license, or permit so assigned, or to impose upon the Bank any obligations with respect thereto. Grantor shall not cancel or amend any of the material agreements, contracts, licenses and permits hereby assigned (nor permit any of the same to terminate if they are necessary or desirable for the operation of the Property), except in the ordinary course of business, without first obtaining, on each occasion, the written approval of the Bank, which approval will not be unreasonably withheld, delayed or conditioned. This paragraph shall not be applicable to any agreement, contract, license or permit that terminates if it is assigned without the consent of any party thereto (other than Grantor) or issuer thereof, unless such consent has been obtained or this assignment is ratified by such party or issuer; nor shall this paragraph be construed as a present assignment of any agreement, contract, license or permit that Grantor is required by law to hold in order to operate the Property for the purposes intended.

16. **Due on Sale.** The Bank in making the loan secured by this Mortgage is relying upon the integrity of Grantor and its undertaking to maintain the Property. If Grantor should (a) sell, transfer, convey or assign the Property, or any right, title or interest therein, whether legal or equitable, whether voluntarily or involuntarily, by outright sale, deed, installment sale contract, land contract, contract for deed, leasehold interest (other than leases to tenants or any other method of conveyance of real property interests; or (b) cause, permit or suffer any change in the current ownership of the Grantor which results in an Affiliate not Controlling Grantor, without paying the remaining balance of the Note, and interest thereon, in full, then, and in any such

event, the Bank shall have the right at its sole option thereafter to declare all sums secured hereby and then unpaid to be due and payable forthwith although the period limited for the payment thereof shall not then have expired, anything contained to the contrary hereinbefore notwithstanding, and thereupon to exercise all of its rights and remedies under this Mortgage. If the ownership of the Property, or any part thereof, or Grantor becomes vested in a person other than the Borrower (with or without the Bank's consent), the Bank may deal with such successor or successors in interest with reference to this Mortgage, and the Secured Liabilities, in the same manner as with the Grantor, without in any manner vitiating, releasing or discharging the Grantor's liability hereunder or upon the Secured Liabilities. No sale of the Property and no forbearance or extensions by the Bank of the time for payment of the Secured Liabilities or the performance of the covenants and agreements herein provided shall in any way operate to release, discharge, modify, change or affect the lien of this Mortgage or the liability of Grantor, if any, on the Secured Liabilities or for the performance hereof, either in whole or in part.

17. **Secondary Financing.** Except for the loans, liens and obligations that are subordinated to Bank by written instrument acceptable to Bank in its sole and absolute discretion and except for liens which are being diligently contested in good faith Grantor will not, without the prior written consent of the Bank, mortgage or pledge the Property or any part thereof as security for any other loan or obligation of Grantor or suffer or permit any encumbrance or charge on the Property not allowed by this Mortgage or the Loan Agreement. If any such mortgage or pledge is entered into or encumbrance or charge exists without the prior written consent of the Bank, the same shall be an Event of Default. Further, Grantor also shall pay any and all other obligations, liabilities or debts which may become liens, security interests, or encumbrances upon or charges against the Property for any repairs or improvements that are now or may hereafter be made thereon, and shall not, without the Bank's prior written consent, permit any lien, security interest, encumbrance or charge of any kind to accrue and remain outstanding against the Property or any part thereof, or any improvements thereon, irrespective of whether such lien, security interest, encumbrance or charge is junior to the lien of this Mortgage, except as otherwise allowed by this Mortgage or the Loan Agreement. Notwithstanding the foregoing, if any personal property by way of additions, replacements or substitutions is hereafter purchased and installed, affixed or placed by Grantor on the Property under a security agreement, the lien or title of which is superior to the lien created by this Mortgage, all the right, title and interest of Grantor in and to any and all such personal property, together with the benefit of any deposits or payments made thereon by Grantor, shall nevertheless be and are hereby assigned to the Bank and are covered by the lien of this Mortgage.

18. **Waste.** Except as allowed by this Mortgage or the Loan Agreement, Grantor's failure, refusal or neglect to pay any taxes or assessments levied against the Property or any insurance premiums due upon policies of insurance covering the Property will constitute waste under Applicable Law, and the Bank shall have a right to appointment of a receiver of the Property and of the rents and income from the Property, with such powers as the Court making such appointment confers. Grantor hereby consents to such appointment in such event, and agrees that Bank's costs and expenses, including reasonable attorney fees, incurred in such proceeding shall be added to the Secured Liabilities. Payment by the Bank for and on behalf of Grantor of any delinquent taxes, assessments, or insurance premiums payable by Grantor under the terms of this Mortgage will not cure the Event of Default herein described nor in any manner impair the Bank's right to appointment of a receiver as set forth herein.

19. **Remedies Upon Default.** The Bank may, in addition to and not in lieu of or substitution for, all other rights and remedies provided by law:

a. **Accelerate Secured Liabilities.** If a Matured Event of Default exists, with written notice to Grantor, declare the entire unpaid and outstanding principal balance of the Secured Liabilities, and all accrued interest, to be due and payable in full forthwith, and at the Bank's option, to bring suit therefor and to take any and all steps and institute any and all other proceedings that the Bank deems necessary to enforce the Secured Liabilities and to protect the lien of this Mortgage.

b. **Advance Sums for Other Liens.** Upon the occurrence of any Event of Default arising out of the existence of any lien upon the Property, the Bank shall have the right (without being obligated to do so or to continue to do so), with written notice to Grantor, to advance on and for the account of Grantor such sums as the Bank in its sole discretion deems necessary to cure such Event of Default or to induce the holder of any such lien to forbear from exercising its rights thereunder. The repayment of all such advances, with interest thereon at the highest rate applicable to the Secured Liabilities from the date of each such advance, shall be secured hereby and shall be immediately due and payable without demand.

c. **Mortgage Foreclosure.** If a Matured Event of Default exists, foreclose this Mortgage and sell the Property at public auction or venue or judicially foreclose this Mortgage pursuant to Applicable Law, and Grantor agrees to pay all of Bank's actual, costs and expenses, including reasonable attorney fees on an hourly basis plus expenses, which shall be added to the Secured Liabilities. Any foreclosure sale may, at the sole option of the Bank, be made en masse or in parcels, any law to the contrary notwithstanding, and Grantor hereby knowingly, voluntarily and intelligently waives any right to require any such foreclosure sale to be made in parcels or any right to select which parcels shall be sold. The proceeds of any foreclosure sale of the Property, or any portion thereof, shall be applied, as the Bank elects, to the payment of all costs and expenses, including reasonable attorney fees, incurred by the Bank acting in a commercially reasonable manner, and/or payment of the Secured Liabilities, with the surplus, if any, to Grantor or Grantor's successor in interest. Commencement of proceedings to foreclose this Mortgage in any manner authorized by law shall be deemed an exercise of the Bank's option to accelerate the Secured Liabilities. After the date upon which the maturity of the Secured Liabilities has been accelerated, Bank acceptance of any amount(s) paid by Grantor less than the full unpaid principal balance of the Secured Liabilities plus accrued interest, late charges and Bank's costs and expenses in this Mortgage described, shall not waive the default or acceleration, but shall only be credited upon the unpaid balance of the Secured Liabilities unless the Bank specifically agrees in writing to waive any such default and/or acceleration.

**To the extent permitted under Applicable Law, this Mortgage contains a power of sale and upon a Matured Event of Default may be foreclosed by advertisement. In a foreclosure by advertisement, no hearing is involved and the only notice required is publication of a foreclosure notice in a local newspaper and posting a copy of the notice upon the Property. If this Mortgage is foreclosed by advertisement under the provisions of Applicable Law, Grantor hereby knowingly, voluntarily, and intelligently waives all rights to any notice or hearing in connection with a foreclosure by advertisement except as set forth in Applicable Law.**

d. Collection of Rents. If a Matured Event of Default exists, enter into peaceful possession of the Property and/or to collect and receive all rents, issues, income and profits from the Property, terminate any tenancy, maintain proceedings to recover rents or possession of any of the Property from any tenant or trespasser, rent or lease the Property or any portion thereof upon such terms as the Bank deems best, and have the right to all oil and gas royalties and any other income from the Property. Bank, in such order as Bank in its sole discretion elects, may apply the proceeds of any rents, issues, profits and income to: (i) preservation, maintenance or operation of the Property, (ii) payment of taxes due on the Property; and (iii) payment of the Secured Liabilities. Grantor irrevocably consents and agrees that the lessee(s) under any Lease, upon demand and notice from Bank of Grantor's default, shall be required to pay all rents, issues, profits and income to Bank, without any obligation upon such lessee(s) to determine the actual existence of any default by Grantor. Bank may enter upon the Property or any part thereof, by its officers, agents, or employees, for the collection of the rents, issues and profits and for the operation and maintenance of the Property, and Grantor hereby authorizes Bank in general to perform all acts necessary for the operation and maintenance of the Property in the same manner and to the same extent that the Grantor might so act. Such entry and taking possession of the Property or any part thereof by Bank, may be made by actual entry and possession or by written notice served personally upon or sent by certified mail to the last owner of the Property appearing on the records of the Bank, as the Bank elects, without further authorization or notice.

Bank shall be entitled, to the extent provided by law, to the appointment of a receiver of the Property and of income derived therefrom, and all collateral. This appointment shall be in addition to any other rights, relief or remedies afforded Bank. Such receiver, in addition to any other rights to which he shall be entitled, shall be authorized to sell any and all property of the Grantor located at the Property for the benefit of Bank pursuant to provisions of Applicable Law and the applicable Uniform Commercial Code. Grantor acknowledges, agrees and irrevocably consents to, the appointment of such receiver and that such receiver shall have the power to take possession of, sell, collect monies due from, and otherwise manage, the Property, and take, or refrain from taking, all other actions with respect to the Property as if the owner thereof, or do any of the foregoing in whole or in part as Bank may request. In the event of any deficiency, Grantor and all other parties liable or otherwise obligated therefore, shall remain liable and obligated therefore.

e. Title Reports. Procure mortgage foreclosure or title reports. Grantor covenants to pay forthwith to the Bank all sums paid for such purposes with interest at the Default Rate applicable to the Secured Liabilities, and such sums and the interest thereon shall constitute a further lien upon the Property.

f. Appraisals and Audits. Procure appraisals, environmental audits and such other investigations or analyses of the Property as the Bank may reasonably determine to be required by regulatory or accounting rules, procedures or practices or to otherwise be reasonably prudent or necessary. Grantor shall grant the Bank free and unrestricted access to the Property for such purposes. Grantor covenants to pay forthwith to the Bank all sums paid for such purposes with interest at the rate applicable to the Secured Liabilities, and such sums and the interest thereon shall constitute a further lien upon the Property.

g. Bank's rights under this Section 19 are subject to the provisions and limitations of Section 15 of the Loan Agreement.

h. Notwithstanding the foregoing rights of the Bank following a Matured Event of Default, to the extent that the Lease (as defined in the Loan Agreement) with respect to the Property is in full force and effect and the tenant pays all rent due under the Lease involved as and when due to the Bank, the Bank shall, prior to exercising any remedies hereunder or in the Loan Agreement, collect all rent due under the Lease involved for a period of thirty (30) days after a Matured Event of Default (the "Collection Period"), after which it can either (i) continue to collect rent from the tenant under the Lease involved (if the tenant under the Lease involved has agreed to make such payments to the Bank) or (ii) after 15 days further written notice to the Grantor, exercise any and all rights and remedies provided for herein, in the Loan Agreement or available to it under law, unless within said fifteen (15) day period, Grantor provides a third party purchaser of the Property who pays to Bank in good funds the outstanding amount of the unpaid balance of the Note, and accrued but unpaid interest thereunder (and other amounts due pursuant to this Mortgage with respect to the Property) within said 15 day period. If the tenant fails to pay rent to the Bank under the Lease involved as and when due, the Bank will not be required to wait for the expiration of the Collection Period prior to exercising any of its remedies.

20. **Costs of Legal Proceedings.** In the event that the Bank is made a party to any suit or proceedings by reason of the interest of Grantor in the Property, other than for the Bank's default, Grantor shall reimburse the Bank for all costs and expenses, including reasonable attorney fees, incurred by the Bank acting in a commercially reasonable manner in connection therewith, which costs and expenses shall be secured hereby and shall be payable forthwith at the highest rate applicable to the Secured Liabilities.

21. **Books and Records.** The Grantor covenants and agrees to furnish to the Bank such books and records as required pursuant to Loan Agreement.

22. **Payment Upon Acceleration Subject to Any Prepayment Penalty.** Upon the occurrence and during the continuance of a Matured Event of Default by Grantor hereunder and following the acceleration of maturity of the Secured Liabilities, a tender of payment of the amount necessary to satisfy the entire Secured Liabilities, made at any time prior to the foreclosure sale by Grantor, or by anyone on behalf of the Grantor, shall constitute an evasion of the payment terms of the Secured Liabilities and shall be deemed to be a voluntary prepayment thereunder, and any such payment, to the extent permitted by law, will therefore include the premium required under the prepayment privilege and Swap Transaction Documents, if any, applicable to the Secured Liabilities.

23. **Security Agreement and Financing Statements.** Grantor shall execute, acknowledge and deliver any and all financing statements required by the Bank to protect its interest under the provisions of the applicable Uniform Commercial Code, as amended, forthwith upon the written request of the Bank. Upon any failure of Grantor to do so, the Bank may execute, record, file, re-record and refile any and all such documents for and in the name of Grantor, and Grantor hereby irrevocably appoints the Bank as agent and attorney-in-fact of Grantor for the foregoing purposes. This instrument is intended by the parties to be, and shall be

construed as, a security agreement, as that term is defined and used in Article Nine of the applicable Uniform Commercial Code, as amended, and shall grant to the Bank a security interest in that portion of the Property with respect to which a security interest can be granted under Article Nine of the applicable Uniform Commercial Code, as amended, which security interest shall include a security interest in all personality owned by Grantor, whether now owned or subsequently acquired, which is or in the future may be physically located on or affixed to the Property described in Exhibit "A" hereto (but not otherwise), regardless of whether such personality consists of fixtures under Applicable Law, a security interest in the proceeds and products of the proceeds of all insurance policies now or hereafter covering all or any part of such collateral. For purposes of Article Nine of the applicable Uniform Commercial Code, (a) Grantor herein is the "debtor", (b) the Bank herein is the "secured party", (c) information concerning the security interest created hereby may be obtained from the Bank at its address set forth on page 1 hereof, and (d) Grantor's mailing address is that set forth on page 1 hereof.

24. **Non-Bank Liens, Insolvency Proceedings.** If any non-Bank mortgage foreclosure proceeding or any Federal, State or local tax lien, seizure, levy, forfeiture, or any other lien or proceeding shall be instituted, recorded, or filed against the Property which is not being defended by Grantor in good faith or if any insolvency or receivership proceedings, either voluntary or involuntary, are instituted by or against Grantor for the liquidation or rehabilitation of Grantor's assets and affairs, or if any criminal proceedings are initiated wherein forfeiture of the Property is a potential penalty, the Bank may, at its option and with written notice to Grantor, declare the entire Secured Liabilities to be immediately due and payable and may institute all such proceedings, including foreclosure of this Mortgage, as the Bank deems necessary to protect its interest in the Property.

25. **Prior Mortgage.** If Bank has consented and agreed, in writing specifically permitted that this Mortgage is to be second and subordinate to a prior recorded mortgage, Grantor expressly covenants and agrees that Grantor shall not borrow any additional sum, nor incur any additional indebtedness or other obligation secured by the prior mortgage.

26. **Suretyship Waivers.** This mortgage continuously secures an obligation of payment and not of collection, and the Grantor agrees that the Bank's enforcement of its rights and remedies under this Mortgage, except as otherwise specifically set forth, shall be immediate upon the occurrence and continuance of a Matured Event of Default. The Bank's rights under this Mortgage shall not be contingent upon the exercise or enforcement by the Bank of whatever other remedies it may have against the Grantor or the enforcement of any other lien or realization upon any other security or collateral the Bank may at any time possess. Any one or more successive and/or concurrent actions may be brought hereon against Grantor either in the same action, or in separate actions, as often as the Bank, in its sole discretion, may deem advisable. No election to proceed in one form of action or proceeding, or against any party, or on any obligation, shall constitute a waiver of the Bank's right to proceed in any other form of action or proceeding or against other parties unless the Bank has expressly waived such right in writing. Specifically, but without limiting the generality of the foregoing, no action or proceeding by the Bank against Borrower or Grantor under any document or instrument evidencing the Secured Liabilities shall serve to diminish the rights of the Bank under this Mortgage, except to the extent the Bank realizes payment by such action or proceeding, notwithstanding the effect of any such action or proceeding upon Grantor's right of subrogation against Borrower, if any.

27. **Binding Effect.** Until this Mortgage is discharged in full, all of the covenants and conditions hereof shall run with the land and shall be binding upon the successors and assigns of Grantor, and shall inure to the benefit of the successors and assigns of the Bank. Any reference herein to "Grantor" or the "Bank" shall include their respective successors and assigns.

28. **Notices.** All notices, demands and requests required or permitted to be given to Grantor hereunder or by law shall be deemed delivered when deposited in the United States mail, with full postage prepaid thereon, addressed to Grantor at the last address of Grantor on the records of the Bank.

29. **No Waiver.** No waiver by the Bank of any right or remedy granted hereunder shall affect or extend to any other right or remedy of the Bank hereunder, nor affect the subsequent exercise of the same right or remedy by the Bank for any further or subsequent Event of Default by Grantor hereunder, and all such rights and remedies of the Bank hereunder are cumulative. Time is of the essence.

30. **Severability.** If any provision(s) hereof are in conflict with any statute or rule of law of the State of Michigan or the state where the Property is located (as may be applicable pursuant to the Loan Agreement) or are otherwise unenforceable for any reason whatever, then such provision(s) shall be deemed null and void to the extent of such conflict or unenforceability, but shall be deemed separable from and shall not invalidate any other provisions of this Mortgage.

31. **Pronouns.** If more than one person joins in the execution hereof, or is of the feminine sex, or a corporation, the pronoun and relative words herein used shall be read as if in plural, feminine or neuter, respectively.

32. **Homestead Waiver.** Grantor hereby releases and waives all rights under virtue of the Homestead Exemption Laws of the State of Illinois.

33. **State Specific Provisions.**

a. **Principles of Construction.** In the event of any inconsistencies between the terms and conditions of this Section 33 and the other terms and conditions of this Mortgage, the terms and conditions of this Section 33 shall control and be binding.

b. **Waiver of Redemption and Reinstatement.** Grantor further agrees, to the full extent permitted by law, that in case of an Event of Default, neither Grantor nor anyone claiming through or under it will set up, claim or seek to take advantage of any appraisement, valuation, stay or extension laws now or hereafter in force, or take any other action that would prevent or hinder the enforcement or foreclosure of this Mortgage or the absolute sale of the Property, or the final and absolute delivery of possession thereof, immediately after such foreclosure sale, of the purchaser thereof. Grantor, for itself and all who may, at any time, claim through or under it, hereby waives, to the full extent that it may lawfully do, the benefit of all such laws, and any and all right to have the assets comprising the Property marshaled upon any foreclosure of the lien hereof, and agrees that Bank or any court having jurisdiction to foreclose such lien may sell the Property in part or as an entirety. Grantor acknowledges that the transaction of which this Mortgage is a part is a transaction that does not include either agricultural real estate (as defined

in Section 15-1201 of the Illinois Mortgage Foreclosure Law (735 ILCS 5/15-1101 et seq.; the "Act")) or residential real estate (as defined in Section 15-1219 of the Act). On behalf of Grantor, and each and every person acquiring any interest in, or title to, the Property subsequent to the date of this Mortgage, and on behalf of all other persons, to the maximum extent permitted by applicable law, Grantor hereby waives any and all rights: (x) of redemption from any foreclosure, or other disposition of any kind or nature, of the Property, or any part thereof, or interest therein, under or pursuant to rights herein granted to Bank; and (y) to reinstatement of the indebtedness secured hereby, including, without limitation, any right to reverse any acceleration of such indebtedness pursuant to 735 ILCS 5/15-1602. All waivers by Grantor in this Mortgage have been made voluntarily, intelligently and knowingly by Grantor, after Grantor has been afforded an opportunity to be informed by counsel of Grantor's choice as to possible alternative rights. Grantor's execution of this Mortgage shall be conclusive evidence of the making of such waivers and that such waivers have been voluntarily, intelligently and knowingly made.

c. Receiver. If an Event of Default shall have occurred and be continuing, Bank, upon application to a court of competent jurisdiction, shall be entitled, as a matter of strict right, without notice and without regard to the occupancy or value of any security for the Secured Liabilities, or the insolvency of any party bound for its payment, to the appointment of a receiver to take possession of, and to operate, the Property, and to collect and apply the Rents and other benefits thereof. The receiver shall have all rights and powers to the fullest extent permitted by law. Grantor shall pay to Bank, upon demand, all of Bank's costs and expenses, including, without limitation, receiver's fees and expenses and attorneys' fees and expenses, incurred pursuant to this Section, plus interest thereon at the lesser of the maximum rate permitted by law or the Default Rate, and all such amounts shall be added to the Secured Liabilities secured hereby.

d. Business Loan Recital/Statutory Exemption/Usury.

(i) Grantor acknowledges and agrees that (A) the proceeds of the Loan will be used in conformance with subparagraph (1) of Section 4 of "An Act in relation to the rate of interest and other charges in connection with sales on credit and the lending of money," approved May 24, 1879, as amended (815 ILCS 205/4.1); (B) the indebtedness secured hereby has been incurred by Grantor solely for business purposes of Grantor and for Grantor's investment or profit, as contemplated by said Section 4; (C) the Secured Liabilities secured hereby constitute a loan secured by real estate within the purview of and as contemplated by said Section 4; and (D) the Loan is an exempted transaction under the Truth-In-Lending Act, 15 U.S.C. Sec. 1601 et. seq. and has been entered into solely for business purposes of Grantor and for Grantor's investment or profit, as contemplated by said section.

(ii) Without limiting the generality of anything contained herein, Grantor acknowledges and agrees that the transaction of which this Mortgage is a part is a transaction which does not include either agricultural real estate (as defined in 735 ILCS 5/15-1201) or residential real estate (as defined in 735 5/15-1219).

e. Illinois Collateral Protection Act. Grantor is hereby notified pursuant to the Illinois Collateral Protection Act (815 ILCS 180/1 et. seq.) that unless Grantor provides Bank

with evidence of the insurance coverage required by this Mortgage or the Loan Agreement, if any, Bank may purchase insurance at Grantor's expense to protect Bank's interests in the Property. This insurance may, but need not, protect Grantor's interest. The coverage that Bank purchases may not pay any claim that Grantor may make or any claim that is made against Grantor in connection with the Property. Grantor may later cancel any insurance purchased by Bank, but only after providing Bank with evidence that Grantor has obtained insurance as required by this Mortgage. If Bank purchases insurance for the Property, Grantor will be responsible for the costs of such insurance, including interest and any other charges that may be imposed in connection with the placement of such insurance, until the effective date of the cancellation or expiration of such insurance. Without limitation of any other provision of this Mortgage or any other Loan Document, the cost of such insurance shall be added to the indebtedness secured hereby. The cost of the insurance may be more than the cost of insurance Grantor may be able to obtain on its own.

f. Purchase by Bank. Upon any foreclosure sale, Bank may bid for and purchase the Property and shall be entitled to apply all or any part of any obligation secured hereby as a credit to the purchase price.

g. Compliance with Illinois Mortgage Foreclosure Law. In the event that any provision in this Mortgage shall be inconsistent with any provision of the Act, the 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. Furthermore, if any provision of this Mortgage grants to Bank any rights or remedies, upon default of Grantor, that are more limited than the rights that would otherwise be vested in Bank under the Act, in the absence of said provision, Bank shall be vested with the rights granted in the Act, to the full extent permitted by law. Without limiting the generality of the foregoing, all expenses incurred by Bank, to the extent reimbursable under Sections 15-1510 and 15-1512 of the Act, whether incurred before or after any decree or judgment of foreclosure, and whether enumerated in this Mortgage, shall be added to the indebtedness secured hereby or by the judgment of foreclosure.

h. Future Advances. At all times, regardless of whether any loan proceeds have been disbursed, this Mortgage secures as part of the Secured Liabilities, the payment of all loan commissions, service charges, liquidated damages, reasonable attorneys' fees, expenses and advances due to or incurred by Bank in connection with the Secured Liabilities, all in accordance with the Note, this Mortgage and the Loan Agreement; provided, however, that in no event shall the total amount of the Secured Liabilities, including loan proceeds disbursed plus any additional charges, exceed two hundred percent (200%) of the face amount of the Note. Grantor acknowledges that Bank has bound itself to make advances pursuant to the Loan Agreement and that all such future advances shall be a lien from the time this Mortgage is recorded, as provided in the Act.

i. Protective Advances. Without limitation on anything contained in this Mortgage, all advances, disbursements and expenditures made by the Bank before and during a foreclosure, and before and after a judgment of foreclosure, and at any time prior to sale, and, where applicable, after sale and during the pendency of any related proceedings, for the following purposes, in addition to those otherwise authorized by this Mortgage or by the Act, shall have the

benefit of all applicable provisions of the Act, including those provisions of the Act referred to below (collectively, "Protective Advances"):

(i) all advances by the Bank in accordance with the terms of this Mortgage to: (A) preserve or maintain, repair, restore or rebuild any improvements upon the Property; (B) preserve the lien of this Mortgage or the priority thereof; or (C) enforce this Mortgage, as referred to in Subsection (b)(5) of Section 15-1302 of the Act;

(ii) payments by the Bank of: (A) when due installments of principal, interest or other obligations in accordance with the terms of any senior mortgage or other prior lien or encumbrance on the Property; (B) when due installments of real estate taxes and assessments, general and special and all other taxes and assessments of any kind or nature whatsoever which are assessed or imposed upon the Property or any part thereof; (C) other Secured Liabilities and authorized by this Mortgage; or (D) with court approval, any other amounts in connection with other liens, encumbrances or interests reasonably necessary to preserve the status of title, as referred to in Section 15-1505 of the Act;

(iii) advances by the Bank in settlement or compromise of any claims asserted by claimants under senior mortgages or any prior liens;

(iv) attorneys' fees and other expenses incurred: (A) in connection with the foreclosure of this Mortgage as referred to in Section 15-1504(d)(2) and 15-1510 of the Act; (B) in connection with any action, suit or proceeding brought by or against the Bank for the enforcement of this Mortgage or arising from the interest of the Bank hereunder; or (C) in the preparation for the commencement or defense of any such foreclosure or other action;

(v) Bank's fees and costs, including attorneys' fees, arising between the entry of judgment of foreclosure and confirmation hearing as referred to in Subsection (b)(1) of Section 15-1508 of the Act;

(vi) expenses deductible from proceeds of sale as referred to in subsections (a) and (b) of Section 15-1512 of the Act; and

(vii) expenses incurred and expenditures made by the Bank for any one or more of the following: (A) if all or any portion thereof constitutes one or more units under a condominium declaration, assessments imposed upon the unit owner thereof; (B) if any interest in the Property is a leasehold estate under a lease or sublease, rentals or other payments required to be made by the lessee under the terms of the lease or sublease; (C) premiums for casualty and liability insurance paid by the Bank whether or not the Bank or a receiver is in possession, if reasonably required, in reasonable amounts, and all renewals thereof, without regard to the limitation to maintaining existing insurance in effect at the time any receiver or mortgagee takes possession of the Property as imposed by subsection (c)(1) of Section 15-1704 of the Act; (D) repair or restoration of damage or destruction in excess of available insurance proceeds or condemnation awards; (E) payments required or deemed by the Bank to be for the benefit of the Property or required to be made by the owner of the Property under any grant or declaration of easement, easement agreement, agreement with any adjoining land owners or instruments creating covenants or restrictions for the benefit of or affecting the Property; (F) shared or

common expense assessments payable to any association or corporation in which the owner of the Property is a member if in any way affecting the Property; (G) costs incurred by the Bank for demolition, preparation for and completion of construction; and (H) pursuant to any lease or other agreement, for occupancy of the Property.

All Protective Advances shall be added to the Secured Liabilities secured hereby, and shall become immediately due and payable without notice and with interest thereon from the date of the advance until paid at the applicable rate set forth in the Loan Agreement. This Mortgage shall be a lien for all Protective Advances as to subsequent purchasers and judgment creditors from the time this Mortgage is recorded pursuant to subsection (b)(1) of Section 15-1302 of the Act. All Protective Advances shall, except to the extent, if any, that any of the same are clearly contrary to or inconsistent with the provisions of the Act, apply to and be included in: (A) determination of the amount of indebtedness secured hereby at any time; (B) the amount of the Secured Liabilities found due and owing to the Bank in a judgment of foreclosure and any subsequent, supplemental judgments, orders, adjudications or findings by any court of any additional indebtedness becoming due after such entry of judgment (it being agreed that in any foreclosure judgment, the court may reserve jurisdiction for such purpose); (C) if right of redemption is deemed not to be waived by this Mortgage, computation of any amounts required to redeem, pursuant to Subsections (d)(2) and (e) of Section 15-1603 of the Act; (D) determination of amounts deductible from sale proceeds pursuant to Section 15-1512 of the Act; (E) application of income in the hands of any receiver or the Bank in possession; and (F) computation of any deficiency judgment pursuant to subsections (b)(2) and (e) of sections 15-1508 and Section 15-1511 of the Act.

j. Maturity Date. The maturity date of the Secured Liabilities secured hereby is no later than February 1, 2028 as may be extended pursuant to the Loan Agreement.

k. Maximum Principal Amount. This Mortgage shall secure the payment of any amounts advanced from time to time under the Loan Documents, or under other documents stating that such advances are secured hereby. The maximum amount of unpaid principal of the Secured Liabilities arising under or in connection with this Mortgage, exclusive of interest thereon, which may be outstanding at any time and secured hereby shall be 200% of the face amount of the Note. This Mortgage also secures any and all Secured Liabilities arising under or in connection with this Mortgage, which future Secured Liabilities shall have the same priority as if all such Secured Liabilities were made on the date of execution hereof. Nothing in this Section or in any other provision of this Mortgage shall be deemed an obligation on the part of Bank to make any future advances of any sort. At all times, regardless of whether any loan proceeds have been disbursed, this Mortgage shall secure (in addition to any Loan proceeds disbursed from time to time) the payment of any and all expenses and advances due to or incurred by Bank in connection with the Secured Liabilities to be secured hereby and which are to be reimbursed by Grantor under the terms of this Mortgage and the Loan Agreement; provided, however, that in no event shall the total amount of Loan proceeds disbursed plus such additional amounts plus all the portions of the Secured Liabilities arising under or in connection with this Mortgage exceed two hundred percent (200%) of the aggregate, original principal amounts of the Note.

l. Mortgagee's Right to Possession. Upon an Event of Default, and subject to the requirements of 735 ILCS 5/15-1701(b)(2), Bank shall be entitled to be placed in possession of the Property and to exercise the rights and powers of a mortgagee in possession under the Act.

[Signature on the following page]

This Mortgage was executed and delivered by the undersigned on the date stated in the first paragraph above.

**Grantor:**

APA HOLDINGS, LLC,  
an Illinois limited liability company

By: /s/ Violeta Golematis  
Name: Violeta V. Golematis  
Its: Treasurer

STATE OF MICHIGAN )  
                        )ss  
COUNTY OF         MACOMB      )

The foregoing instrument was acknowledged before me on February 1, 2018, by Violeta V. Golematis, the Treasurer of APA HOLDINGS, LLC, an Illinois limited liability company, on behalf of the company.

/s/ Nicole Redmond  
Nicole Redmond  
Notary Public, Macomb County, Michigan  
My commission expires: May 13, 2023  
Acting in Macomb County

**EXHIBIT "A"**  
**Description of Real Estate**

Land situated in the City of Harvey, Cook County, Illinois more particularly described as follows:

**PARCEL 1A:**

LOTS 12 TO 37 IN BLOCK 1; LOTS 12 TO 37 IN BLOCK 2; LOTS 12 TO 37 IN BLOCK 3; LOTS 12 TO 37 IN BLOCK 4; LOTS 1 TO 48 IN BLOCK 6; LOTS 1 TO 29 AND LOTS 36 TO 48 IN BLOCK 7; LOTS 1 TO 48 IN BLOCK 8 ALL IN BROWN AND BINGHAM'S SUBDIVISION OF THE WEST 1/2 OF THE SOUTH 1/2 OF THE SOUTHEAST 1/4 OF SECTION 20, TOWNSHIP 36 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

**PARCEL 1B:**

LOTS 1 TO 48 IN BLOCK 5, EXCEPTING THEREFROM THAT PART OF BLOCK 5 IN BROWN & BINGHAM'S SUBDIVISION, BEING A SUBDIVISION OF THE WEST HALF OF THE SOUTHEAST QUARTER OF SECTION 20, TOWNSHIP 36 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN IN COOK COUNTY, ILLINOIS, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF BLOCK 5 IN SAID BROWN & BINGHAM'S SUBDIVISION; THENCE NORTH 00 DEGREES 30 MINUTES 24 SECONDS WEST ALONG THE WEST LINE OF SAID BLOCK 5, A DISTANCE OF 85.00 FEET TO A LINE 85.00 FEET NORTH OF AND PARALLEL WITH THE SOUTH LINE OF SAID BLOCK 5; THENCE NORTH 89 DEGREES 14 MINUTES 40 SECONDS EAST, ALONG SAID PARALLEL LINE, 10.00 FEET TO A LINE 10.00 FEET EAST OF AND PARALLEL TO THE WEST LINE OF SAID BLOCK 5; THENCE SOUTH 00 DEGREES 30 MINUTES 24 SECONDS EAST, ALONG SAID PARALLEL LINE 35.00 FEET; THENCE SOUTH 63 DEGREES 21 MINUTES 26 SECONDS EAST, A DISTANCE OF 21.35 FEET TO A LINE 40.00 FEET NORTH OF AND PARALLEL TO THE SOUTH LINE OF SAID BLOCK 5; THENCE NORTH 89 DEGREES 14 MINUTES 40 SECONDS EAST, ALONG SAID PARALLEL LINE, 40.00 FEET TO A LINE 69.00 FEET EAST OF AND PARALLEL TO THE WEST LINE OF SAID BLOCK 5; THENCE SOUTH 00 DEGREES 30 MINUTES 24 SECONDS EAST, ALONG SAID PARALLEL LINE, 40.00 FEET TO THE SOUTH LINE OF SAID BLOCK 5; THENCE SOUTH 89 DEGREES 14 MINUTES 40 SECONDS WEST, ALONG SAID SOUTH LINE OF SAID BLOCK 5, A DISTANCE OF 69.00 FEET TO THE POINT OF BEGINNING, IN COOK COUNTY, ILLINOIS.

**PARCEL 2:**

ALL OF THE NORTH/SOUTH 16-FOOT VACATED ALLEYS, LYING WEST OF AND ADJOINING LOTS 12 TO 24 AND LYING EAST OF AND ADJOINING LOTS 25 TO 37, ALL IN BLOCKS 1 AND 2 IN BROWN AND BINGHAM'S SUBDIVISION AFORESAID; ALSO, ALL OF THE NORTH/SOUTH 16-FOOT WIDE VACATED ALLEYS, LYING WEST OF AND ADJOINING LOTS 1 TO 24, LYING EAST OF AND ADJOINING LOTS 25 TO 48, ALL IN BLOCKS 5, 6, AND 8 IN BINGHAM'S SUBDIVISION AFORESAID; ALSO THAT PART OF THE NORTH/SOUTH 16-FOOT WIDE VACATED ALLEYS, LYING WEST OF AND ADJOINING LOTS 1 TO 13 AND LYING EAST OF AND ADJOINING LOTS 36 TO 48 IN BLOCK 7 IN BROWN AND BINGHAM'S SUBDIVISION AFORESAID; ALSO,

THAT PART OF VACATED WILLARD AVENUE (66.00 FEET WIDE), LYING WEST OF AND ADJOINING LOTS 25 TO 37 IN BLOCK 1 AND LOTS 25 TO 48 IN BLOCK 8 AND LYING EAST OF AND ADJOINING LOTS 12 TO 24 IN BLOCK 2 AND LOTS 1 TO 24 IN BLOCK 7 IN BROWN AND BINGHAM'S SUBDIVISION AFORESAID; ALSO, THAT PART OF VACATED FISK AVENUE (66.00 FEET WIDE), LYING WEST OF AND ADJOINING LOTS 25 TO 37 IN BLOCK 2 AND LOTS 36 TO 48 IN BLOCK 7 AND LYING EAST OF AND ADJOINING LOTS 12 TO 24 IN BLOCK 3 AND LOTS 1 TO 13 IN BLOCK 6 IN BROWN AND BINGHAM'S SUBDIVISION AFORESAID; ALSO, THAT PART OF VACATED WEST AVENUE (66.00 FEET WIDE), LYING WEST OF AND ADJOINING LOTS 25 TO 37 IN BLOCK 3 AND LOTS 25 TO 48 IN BLOCK 6 AND LYING EAST OF AND ADJOINING LOTS 12 TO 24 IN BLOCK 4 AND LOTS 1 TO 24 IN BLOCK 5 IN BROWN AND BINGHAM'S SUBDIVISION AFORESAID; ALSO, THAT PART OF VACATED 166TH STREET (60.00 FEET WIDE), AS HERETOFORE DEDICATED IN BROWN AND BINGHAM'S SUBDIVISION, A SUBDIVISION OF THE WEST 1/2 OF THE SOUTH 1/2 OF THE SOUTHEAST 1/4 OF SECTION 20, TOWNSHIP 36 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED AUGUST 5, 1891 AS DOCUMENT 1515492, LYING EAST OF THE SOUTHERLY PROLONGATION OF THE WEST LINE OF BLOCK 4 IN SAID SUBDIVISION AND LYING WEST OF THE SOUTHERLY PROLONGATION OF THE EAST LINE OF BLOCK 1 IN SAID SUBDIVISION, IN COOK COUNTY, ILLINOIS.

Commonly known as: 250 East 167th Street, Harvey, Illinois 60426

Tax ID Nos.: 29-20-416-058-0000 and 29-20-416-059-0000

**EXHIBIT "B"**  
Permitted Encumbrances

1. RIGHTS OF TENANTS IN POSSESSION, AS TENANTS ONLY, WITH NO OPTIONS TO PURCHASE OR RIGHTS OF FIRST REFUSAL, UNDER PRIOR UNRECORDED LEASES AS TO THOSE TENANTS LISTED ON THE RENT ROLL DATED \_\_\_, ATTACHED TO THE ALTA STATEMENT DATED \_\_\_.
2. RIGHTS OF THE MUNICIPALITY, THE STATE OF ILLINOIS, THE PUBLIC AND ADJOINING OWNERS IN AND TO VACATED STREETS AND ALLEYS.
3. RIGHTS OF THE PUBLIC AND QUASI-PUBLIC UTILITIES, IF ANY, IN SAID VACATED STREETS AND ALLEYS FOR MAINTENANCE THEREIN OF POLES, CONDUITS, SEWERS AND OTHER FACILITIES.
4. RIGHTS OF WAY FOR DRAINAGE TILES, DITCHES, FEEDERS, LATERALS AND UNDERGROUND PIPES, IF ANY.
5. EASEMENT IN FAVOR OF ILLINOIS BELL TELEPHONE COMPANY ALSO KNOWN AS AMERITECH ILLINOIS, AN ILLINOIS CORPORATION, AND ITS SUCCESSORS AND ASSIGNS, TO INSTALL, OPERATE AND MAINTAIN ALL EQUIPMENT NECESSARY FOR THE PURPOSE OF SERVING THE LAND AND OTHER PROPERTY, TOGETHER WITH THE RIGHT OF ACCESS TO SAID EQUIPMENT, AND THE PROVISIONS RELATING THERETO CONTAINED IN THE GRANT RECORDED OCTOBER 14, 1998 AS DOCUMENT 98917287, AFFECTING THE EAST 20.00 FEET OF THE SOUTH 25.00 FEET OF LOT 24 IN BLOCK 8 IN PARCEL 1.
6. SURVEYOR'S MONUMENT RECORD RECORDED FEBRUARY 13, 2001 AS DOCUMENT 0010115465.
7. ENCROACHMENT OF THE WALL LOCATED ON LOT 17 OF BLOCK 7 ONTO THE PROPERTY WEST AND ADJOINING BY AN UNKNOWN AMOUNT, AS SHOWN ON PLAT OF SURVEY NUMBER 1705459 PREPARED BY AMERICAN SURVEYING AND MAPPING INC. DATED DECEMBER 21, 2017.
8. ON OUR REVIEW OF THE SURVEY WE NOTE THE FOLLOWING:

THERE IS A CHAIN LINK FENCE RUNNING ALONG THE SOUTHERLY PROPERTY LINE THAT FENCES IN PROPERTY THAT IS NOT INCLUDED IN THE LEGAL DESCRIPTION.



## **Universal Logistics Holdings, Inc. Acquires Fore Transportation, Inc.**

Warren, MI – February 2, 2018 — Universal Logistics Holdings, Inc. (NASDAQ: ULH), a leading asset-light provider of customized transportation and logistics solutions, announced today its acquisition of Fore Transportation, Inc. (“Fore Transportation”). Based in the Chicagoland suburb of Harvey, Illinois, Fore Transportation offers a full suite of intermodal logistics solutions, including local and regional drayage services, yard services, chassis rental, and repair and maintenance. Fore Transportation operates over 150 trucks and reported total operating revenues of approximately \$32.3 million for the year-ended December 31, 2017. Universal expects the acquisition to be immediately accretive.

The Chicago-area operations of Fore Transportation include a 28-acre terminal strategically located just north of interstate I-80, and adjacent to the Canadian National Railroad. In addition to serving as the company’s corporate headquarters, the facility provides 24/7 secured trailer and container storage for 1,100 units, cross-docking capabilities, maintenance and repair, and refrigerated-unit fueling services.

The cash purchase price was \$34.9 million, subject to customary post-closing adjustments. To fund the acquisition, Universal used available cash and borrowed approximately \$31.3 million using its margin credit facility, revolving credit facility and secured real estate financing. Mesirow Financial, Inc. served as exclusive financial advisor to Fore Transportation.

“We are extremely excited to welcome Fore Transportation to the Universal family,” stated Jeff Rogers, Universal’s Chief Executive Officer. “Fore is a strategic acquisition of a well-established brand in the Chicagoland intermodal trucking market. We see a great deal of opportunities to gain market share in this region, as well as offer expanded services to Fore’s already existing blue-chip customer base. We’re off to a great start in 2018, and closing this deal represents a first step in our renewed ambitions to acquire and integrate best-in-class companies.”

### **About Universal**

Universal Logistics Holdings, Inc. is a leading asset-light provider of customized transportation and logistics solutions throughout the United States, and in Mexico, Canada and Colombia. We provide our customers with supply chain solutions that can be scaled to meet their changing demands and volumes. We offer our customers a broad array of services across their entire supply chain, including truckload, brokerage, dedicated, intermodal, and value-added services.

**Source:** Universal Logistics Holdings, Inc.

For Further Information:

Steven Fitzpatrick, Investor Relations  
[SFitzpatrick@UniversalLogistics.com](mailto:SFitzpatrick@UniversalLogistics.com)

## **Forward Looking Statements**

Some of the statements contained in this press release might be considered forward-looking statements. These statements identify prospective information. Forward-looking statements can be identified by words such as: "expect," "anticipate," "intend," "plan," "goal," "seek," "believe," "project," "estimate," "future," "likely," "may," "should" and similar references to future periods. Forward-looking statements are based on information available at the time and/or management's good faith belief with respect to future events, and are subject to risks and uncertainties that could cause actual performance or results to differ materially from those expressed in the statements. Examples of forward-looking statements include, among others, statements we make regarding guidance relating to income from operations, total operating revenues, and earnings per diluted share. These forward-looking statements are subject to a number of factors that may cause actual results to differ materially from the expectations described. Additional information about the factors that may adversely affect these forward-looking statements is contained in the Company's reports and filings with the Securities and Exchange Commission. The Company assumes no obligation to update forward-looking statements to reflect actual results, changes in assumptions or changes in other factors affecting forward-looking information except to the extent required by applicable securities laws.