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When recorded return to:

Fidelity National Title - NTS DIV  
Attn.: Kelli J. Vos  
40 N. Central Avenue  
Suite 2850  
Phoenix, AZ 85004

Doc#: 0535032056 Fee: \$74.50  
Eugene "Gene" Moore RHSP Fee: \$10.00  
Cook County Recorder of Deeds  
Date: 12/16/2005 01:43 PM Pg: 1 of 26

Escrow No. Z0500711KJV

OPEN-END LEASEHOLD MORTGAGE,  
SECURITY AGREEMENT,  
ASSIGNMENT OF LEASES AND RENTS, AND FIXTURE FILING

Property of Cook County Clerk's Office

Property Index No 28-18-300-016-0000  
Address: 15765 Harlem Ave.  
Oakland Park, IL 60462



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**Natron Corporation, a Delaware corporation**

**and**

**Many County Real Estate Management Company, L.L.C., a Michigan  
limited liability company**

(collectively, the Mortgagor)

to

**NFA FUNDING LLC, a Delaware limited liability company  
(Mortgagee)**

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**OPEN-END LEASEHOLD MORTGAGE, SECURITY AGREEMENT,  
ASSIGNMENT OF LEASES AND RENTS, AND FIXTURE FILING**

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Effective as of October ~~28~~ 2005

Property Location: 15765 Harlem Avenue, Orland Park, Illinois 60462

Store No. 5612 - Loan No. TBIL12001, TBIL12002, TBIL12003

THIS INSTRUMENT AFFECTS REAL AND PERSONAL PROPERTY SITUATED IN THE STATE OF ILLINOIS, COUNTY OF COOK, KNOWN AS ORLAND PARK, ILLINOIS.

THIS INSTRUMENT IS TO BE FILED AND INDEXED IN THE REAL ESTATE RECORDS AND IS ALSO TO BE INDEXED IN THE INDEX OF FINANCING STATEMENTS UNDER THE NAMES OF MORTGAGOR, AS "DEBTOR", AND MORTGAGEE, AS "SECURED PARTY".

DOCUMENT PREPARED BY AND WHEN RECORDED, RETURN TO:  
SONNENSCHN NATH & ROSENTHAL LLP  
4520 Main Street, Suite 1100  
Kansas City, MO 64111  
Attn: Donna Wilson Peters

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**THIS OPEN-END LEASEHOLD MORTGAGE, SECURITY AGREEMENT, ASSIGNMENT OF LEASES AND RENTS AND FIXTURE FILING** (this “**Mortgage**”), made effective as of October \_\_, 2005 by **Natron Corporation, a Delaware corporation** and **Many County Real Estate Management Company, L.L.C., a Michigan limited liability company**, having an office at 29375 W. 10 Mile Road, Farmington Hills, Michigan 48336 (collectively, the “**Mortgagor**”; each person/entity constituting Mortgagor hereunder shall have joint and several liability for the obligations of mortgagor hereunder), to **NFA FUNDING LLC, a Delaware limited liability company** (together with its successors and assigns, hereinafter referred to as “**Mortgagee**”), having an address c/o National Franchise Acceptance, LLC, 400 E. 22<sup>nd</sup> Street, Suite D, Lombard, IL 60148, Attention: Loan Servicing/Re: Natron Corporation.

Mortgagor and Mortgagee have entered into a Loan Agreement dated as of the date hereof (as amended, modified, restated, consolidated or supplemented from time to time, the “**Loan Agreement**”) pursuant to which Mortgagee is making a secured loan to Mortgagor in the original principal amount of up to \$4,000,000.00 (the “**Loan**”). Capitalized terms used herein without definition are used as defined in the Loan Agreement. The Loan is evidenced by three (3) Promissory Notes dated the date hereof, made by Borrower to Mortgagee in the original principal amount up to \$4,000,000.00 (as the same may be amended, modified, restated, severed, consolidated, renewed, replaced, or supplemented from time to time, the “**Note**”).

To secure the payment of the Note and all sums which may or shall become due thereunder or under any of the other documents evidencing, securing or executed in connection with the Loan (the Note, this Mortgage, certain other mortgages securing real property, the Loan Agreement and such other documents, as any of the same may, from time to time, be modified, amended or supplemented, being hereinafter collectively referred to as the “**Loan Documents**”), including (i) the payment of interest and other amounts which would accrue and become due but for the filing of a petition in bankruptcy (whether or not a claim is allowed against Mortgagor for such interest or other amounts in any such bankruptcy proceeding) or the operation of the automatic stay under Section 362(a) of Title 11 of the United States Code (the “**Bankruptcy Code**”), and (ii) the costs and expenses of enforcing any provision of any Loan Document (all such sums being hereinafter collectively referred to as the “**Debt**”), Mortgagor hereby irrevocably mortgages, grants, bargains, sells, conveys, transfers, pledges, sets over and assigns, and grants a security interest, to and in favor of Mortgagee, with the power of sale, all of Mortgagor’s right, title and interest in and to the land described in Exhibit A (the “**Premises**”), and the buildings, structures, fixtures and other improvements now or hereafter located thereon (the “**Improvements**”);

**TOGETHER WITH:** all right, title, interest and estate of Mortgagor now owned, or hereafter acquired, in and to the following property, rights, interests and estates (the Premises, the Improvements, and the property, rights, interests and estates hereinafter described are collectively referred to herein as the “**Mortgaged Property**”):

(a) all easements, rights-of-way, strips and gores of land, streets, ways, alleys, passages, sewer rights, water, water courses, water rights and powers, air rights and development rights, rights to oil, gas, minerals, coal and other substances of any kind or character, and all estates, rights, titles, interests, privileges, liberties, tenements, hereditaments and appurtenances of any nature whatsoever, in any way belonging, relating or pertaining to the Premises and the Improvements; and the reversion and reversions, remainder and remainders, and all land lying in

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the bed of any street, road, highway, alley or avenue, opened, vacated or proposed, in front of or adjoining the Premises, to the center line thereof; and all the estates, rights, titles, interests, dower and rights of dower, curtesy and rights of courtesy, property, possession, claim and demand whatsoever, both at law and in equity, of Mortgagor of, in and to the Premises and the Improvements and every part and parcel thereof, with the appurtenances thereto;

(b) all machinery, furniture, furnishings, equipment, computer software and hardware, fixtures (including all heating, air conditioning, plumbing, lighting, communications and elevator fixtures), inventory, materials, supplies and other articles of personal property and accessions thereof, renewals and replacements thereof and substitutions therefor, and other property of every kind and nature, tangible or intangible, owned by Mortgagor, or in which Mortgagor has or shall have an interest, now or hereafter located upon the Premises or the Improvements, or appurtenant thereto, and usable in connection with the present or future operation and occupancy of the Premises and the Improvements (hereinafter collectively referred to as the “**Equipment**”), including any leases of, deposits in connection with, and proceeds of any sale or transfer of any of the foregoing, and the right, title and interest of Mortgagor in and to any of the Equipment that may be subject to any “security interest” as defined in the Uniform Commercial Code, as in effect in the State where the Mortgaged Property is located (the “**UCC**”), superior in lien to the lien of this Mortgage;

(c) all awards or payments, including interest thereon, that may heretofore or hereafter be made with respect to the Premises or the Improvements, whether from the exercise of the right of eminent domain or condemnation (including any transfer made in lieu of or in anticipation of the exercise of such right), or for a change of grade, or for any other injury to or decrease in the value of the Premises or Improvements;

(d) all leases and other agreements or arrangements heretofore or hereafter entered into affecting the use, enjoyment or occupancy of, or the conduct of any activity upon or in, the Premises or the Improvements, including any extensions, renewals, modifications or amendments thereof (hereinafter collectively referred to as the “**Leases**”) and all rents, rent equivalents, moneys payable as damages (including payments by reason of the rejection of a Lease in a Bankruptcy Proceeding or in lieu of rent or rent equivalents), royalties (including all oil and gas or other mineral royalties and bonuses), income, fees, receivables, receipts, revenues, deposits (including security, utility and other deposits), accounts, cash, issues, profits, charges for services rendered, and other consideration of whatever form or nature received by or paid to or for the account of or benefit of Mortgagor or its agents or employees from any and all sources arising from or attributable to the Premises and the Improvements, including all receivables, customer obligations, installment payment obligations and other obligations now existing or hereafter arising or created out of the sale, lease, sublease, license, concession or other grant of the right of the use and occupancy of the Premises or Improvements, or rendering of services by Mortgagor or any of its agents or employees, and proceeds, if any, from business interruption or other loss of income insurance (hereinafter collectively referred to as the “**Rents**”), together with all proceeds from the sale or other disposition of the Leases and the right to receive and apply the Rents to the payment of the Debt;

(e) all proceeds of and any unearned premiums on any insurance policies covering the Mortgaged Property, including, without limitation, the right to receive and apply the proceeds

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of any insurance, judgments, or settlements made in lieu thereof, for damage to the Mortgaged Property;

(f) the right, in the name and on behalf of Mortgagor, to appear in and defend any action or proceeding brought with respect to the Mortgaged Property and to commence any action or proceeding to protect the interest of Mortgagee in the Mortgaged Property;

(g) all accounts (including reserve accounts), escrows, documents, instruments, chattel paper, claims, deposits and general intangibles, as the foregoing terms are defined in the UCC, and all franchises, trade names, trademarks, symbols, service marks, books, records, plans, specifications, designs, drawings, surveys, title insurance policies, permits, consents, licenses, management agreements, contract rights (including any contract with any architect or engineer or with any other provider of goods or services for or in connection with any construction, repair or other work upon the Mortgaged Property), approvals, actions, refunds of real estate taxes and assessments (and any other governmental impositions related to the Mortgaged Property) and causes of action that now or hereafter relate to, are derived from or are used in connection with the Mortgaged Property, or the use, operation, maintenance, occupancy or enjoyment thereof or the conduct of any business or activities thereon (hereinafter collectively referred to as the “**Intangibles**”); and

(h) all proceeds, products, offspring, rents and profits from any of the foregoing, including those from sale, exchange, transfer, collection, loss, damage, disposition, substitution or replacement of any of the foregoing.

Without limiting the generality of any of the foregoing, in the event that a case under the Bankruptcy Code is commenced by or against Mortgagor, pursuant to Section 552(b)(2) of the Bankruptcy Code, the security interest granted by this Mortgage shall automatically extend to all Rents acquired by the Mortgagor after the commencement of the case and shall constitute cash collateral under Section 363(a) of the Bankruptcy Code.

**TO HAVE AND TO HOLD** the Mortgaged Property unto Mortgagee and its successors and assigns, forever;

**PROVIDED, HOWEVER**, these presents are upon the express condition that, if Mortgagor shall well and truly pay to Mortgagee the Debt at the time and in the manner provided in the Loan Documents and shall well and truly abide by and comply with each and every covenant and condition set forth in the Loan Documents in a timely manner, these presents and the estate hereby granted shall cease, terminate and be void;

**AND** Mortgagor represents and warrants to and covenants and agrees with Mortgagee as follows:

## PART I - GENERAL PROVISIONS

1. **Payment of Debt and Incorporation of Covenants, Conditions and Agreements.** Mortgagor shall pay the Debt at the time and in the manner provided in the Loan Documents. All the covenants, conditions and agreements contained in the Loan Documents are hereby made a part of this Mortgage to the same extent and with the same force as if fully set

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forth herein. Without limiting the generality of the foregoing, Mortgagor (i) agrees to insure, repair, maintain and restore damage to the Mortgaged Property, pay Taxes and Other Charges, and comply with Legal Requirements, in accordance with the Loan Agreement, and (ii) agrees that the Proceeds of Insurance and Awards for Condemnation shall be settled, held and applied in accordance with the Loan Agreement.

## 2. Leases and Rents.

(a) Mortgagor does hereby absolutely and unconditionally assign to Mortgagee all of Mortgagor's right, title and interest in all current and future Leases and Rents, it being intended by Mortgagor that this assignment constitutes a present, absolute assignment, and not an assignment for additional security only. Such assignment shall not be construed to bind Mortgagee to the performance of any of the covenants or provisions contained in any Lease or otherwise impose any obligation upon Mortgagee. Nevertheless, subject to the terms of this paragraph, Mortgagee grants to Mortgagor a revocable license to operate and manage the Mortgaged Property and to collect the Rents subject to the requirements of the Loan Agreement. Upon an Event of Default, without the need for notice or demand, the license granted to Mortgagor herein shall automatically be revoked, and Mortgagee shall immediately be entitled to possession of all Rents collected thereafter (including Rents past due and unpaid), whether or not Mortgagee enters upon or takes control of the Mortgaged Property. Mortgagor hereby grants and assigns to Mortgagee the right, at its option, upon revocation of the license granted herein, to enter upon the Mortgaged Property in person, by agent or by court-appointed receiver to collect the Rents. Any Rents collected after the revocation of such license may be applied toward payment of the Debt in such priority and proportions as Mortgagee in its sole discretion shall deem proper.

(b) Mortgagor shall not, without Mortgagee's prior written consent enter into, cancel, terminate, renew or materially modify or amend any Lease.

3. Use of Mortgaged Property. Mortgagor shall not initiate, join in, acquiesce in or consent to any change in any private restrictive covenant, zoning law or other public or private restriction, limiting or defining the uses which may be made of the Mortgaged Property. If under applicable zoning provisions the use of the Mortgaged Property is or shall become a nonconforming use, Mortgagor shall not cause or permit such nonconforming use to be discontinued or abandoned without the consent of Mortgagee. Mortgagor shall not (i) change the use of the Mortgaged Property, or (ii) permit or suffer to occur any waste on or to the Mortgaged Property.

## 4. Transfer or Encumbrance of the Mortgaged Property.

(a) Mortgagor acknowledges that (i) Mortgagee has examined and relied on the creditworthiness and experience of the principals of Mortgagor in owning and operating properties such as the Mortgaged Property in agreeing to make the Loan, (ii) Mortgagee will continue to rely on Mortgagor's ownership of the Mortgaged Property as a means of maintaining the value of the Mortgaged Property as security for the Debt, and (iii) Mortgagee has a valid interest in maintaining the value of the Mortgaged Property so as to ensure that, should Mortgagor default in the repayment of the Debt, Mortgagee can recover the Debt by a sale of the Mortgaged Property. Except as expressly permitted in Section 9.3 of the Loan Agreement,

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Mortgagor shall not sell, convey, alienate, mortgage, encumber, pledge or otherwise transfer the Mortgaged Property or any part thereof, or suffer or permit any Transfer to occur, other than a Permitted Transfer.

(b) Mortgagee shall not be required to demonstrate any actual impairment of its security or any increased risk of default hereunder in order to declare the Debt immediately due and payable upon Transfer in violation of this Paragraph 4 and Section 9.3 of the Loan Agreement. This provision shall apply to every sale, conveyance, alienation, mortgage, encumbrance, pledge or transfer of the Mortgaged Property (and every other Transfer) regardless of whether voluntary or not. Any Transfer made in contravention of this Paragraph 4 and Section 9.3 of the Loan Agreement shall be null and void and of no force and effect.

**5. Changes in Laws Regarding Taxation.** If any law is enacted or adopted or amended after the date of this Mortgage which deducts the Debt from the value of the Mortgaged Property for the purpose of taxation or which imposes a tax, either directly or indirectly, on the Debt or Mortgagee's interest in the Mortgaged Property, Mortgagor will pay such tax, if any. If Mortgagee is advised by its counsel that the payment of such tax or interest and penalties by Mortgagor would be unlawful, taxable to Mortgagee or unenforceable, or would provide the basis for a defense of usury, then Mortgagee shall have the option, by notice of not less than 90 days, to declare the Debt immediately due and payable. Provided that no Event of Default is continuing, any such mandatory prepayment under this Paragraph 5 shall be without the payment of the Prepayment Premium.

**6. No Credits on Account of the Debt.** Mortgagor shall not claim or demand or be entitled to any credit on account of the Debt for any part of the Taxes or Other Charges assessed against the Mortgaged Property, and no deduction shall otherwise be made or claimed from the assessed value of the Mortgaged Property for real estate tax purposes by reason of this Mortgage or the Debt. If such claim, credit or deduction shall be required by law, Mortgagee shall have the option, by notice of not less than 90 days, to declare the Debt immediately due and payable.

**7. Further Acts, Etc.** Mortgagor shall, at its sole cost, perform, execute, acknowledge and deliver all and every such further acts, deeds, conveyances, mortgages, assignments, notices of assignment, transfers and assurances as Mortgagee shall, from time to time, require, for the better assuring, conveying, assigning, transferring, and confirming unto Mortgagee the property and rights hereby mortgaged, given, granted, bargained, sold, alienated, **enfeoffed**, conveyed, confirmed, pledged, assigned and hypothecated or intended now or hereafter so to be, or which Mortgagor may be or may hereafter become bound to convey or assign to Mortgagee, or for carrying out the intention or facilitating the performance of the terms of this Mortgage, or for filing, registering or recording this Mortgage or for facilitating the sale and transfer of the Loan and the Loan Documents in connection with a "**Secondary Market Transaction**" as described in the Loan Agreement. Upon foreclosure, the appointment of a receiver or any other relevant action, Mortgagor shall, at its sole cost, cooperate fully and completely to effect the assignment or transfer of any license, permit, agreement or any other right necessary or useful to the operation of the Mortgaged Property. Mortgagor grants to Mortgagee an irrevocable power of attorney coupled with an interest for the purpose of exercising and perfecting any and all rights and remedies available to Mortgagee at law and in equity, including such rights and remedies available to Mortgagee pursuant to this paragraph.

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Notwithstanding anything to the contrary in the immediately preceding sentence, Mortgagee shall not execute any document as attorney-in-fact of Mortgagor unless (x) Mortgagor shall have failed or refused to execute the same within five (5) Business Days after Mortgagee's request therefor, or (y) in Mortgagee's good faith determination it would be materially prejudiced by the delay involved in making such a request. Mortgagee shall give prompt notice to Mortgagor of any exercise of the power of attorney as provided for in this Paragraph 6, along with copies of all documents executed in connection therewith.

**8. Recording of Mortgage, Etc.** Mortgagor forthwith upon the execution and delivery of this Mortgage and thereafter, from time to time, shall cause this Mortgage, and any security instrument creating a lien or security interest or evidencing the lien hereof upon the Mortgaged Property and each instrument of further assurance to be filed, registered or recorded in such manner and in such places as may be required by any present or future law in order to publish notice of and fully to protect the lien or security interest hereof upon, and the interest of Mortgagee in, the Mortgaged Property. Mortgagor shall pay all filing, registration or recording fees, all expenses incident to the preparation, execution and acknowledgment of and all federal, state, county and municipal, taxes, duties, imposts, documentary stamps, assessments and charges arising out of or in connection with the execution and delivery of, this Mortgage, any Mortgage supplemental hereto, any security instrument with respect to the Mortgaged Property or any instrument of further assurance except where prohibited by law so to do. Mortgagor shall hold harmless and indemnify Mortgagee, its successors and assigns, against any liability incurred by reason of the imposition of any tax on the making or recording of this Mortgage.

**9. Right to Cure Defaults.** During the occurrence of any Event of Default, Mortgagee may, but without any obligation to do so and without notice to or demand on Mortgagor and without releasing Mortgagor from any obligation hereunder, perform the obligations in Default in such manner and to such extent as Mortgagee may deem necessary to protect the security hereof. Mortgagee is authorized to enter upon the Mortgaged Property for such purposes or appear in, defend or bring any action or proceeding to protect its interest in the Mortgaged Property or to foreclose this Mortgage or collect the Debt, and the cost and expense thereof (including reasonable attorneys' fees and disbursements to the extent permitted by law), with interest thereon at the Default Rate for the period after notice from Mortgagee that such cost or expense was incurred to the date of payment to Mortgagee, shall constitute a portion of the Debt, shall be secured by this Mortgage and the other Loan Documents and shall be due and payable to Mortgagee upon demand.

**10. Remedies.**

(a) Upon the occurrence of any Event of Default, Mortgagee may take such action, without notice or demand, as it deems advisable to protect and enforce its rights against Mortgagor and in and to the Mortgaged Property, by Mortgagee itself or otherwise, including the following actions, each of which may be pursued concurrently or otherwise, at such time and in such order as Mortgagee may determine, in its sole discretion, without impairing or otherwise affecting the other rights and remedies of Mortgagee:

- (i) declare the entire Debt to be immediately due and payable;



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(ii) institute a proceeding or proceedings, judicial or nonjudicial, to the extent permitted by law, by advertisement or otherwise, for the complete foreclosure of this Mortgage, in which case the Mortgaged Property may be sold for cash or upon credit in one or more parcels or in several interests or portions and in any order or manner;

(iii) with or without entry, to the extent permitted and pursuant to the procedures provided by applicable law, institute proceedings for the partial foreclosure of this Mortgage for the portion of the Debt then due and payable, subject to the continuing lien of this Mortgage for the balance of the Debt not then due;

(iv) to the maximum extent permitted by law, sell for cash or upon credit the Mortgaged Property and all estate, claim, demand, right, title and interest of Mortgagor therein and rights of redemption thereof, pursuant to the power of sale, to the extent permitted by law, or otherwise, at one or more sales, as an entirety or in parcels, at such time and place, upon such terms and after such notice thereof as may be required or permitted by law;

(v) institute an action, suit or proceeding in equity for the specific performance of any covenant, condition or agreement contained herein or in any other Loan Document;

(vi) recover judgment on the Note either before, during or after any proceeding for the enforcement of this Mortgage as required by applicable law;

(vii) apply for the appointment of a trustee, receiver, liquidator or conservator of the Mortgaged Property, without notice and without regard for the adequacy of the security for the Debt and without regard for the solvency of the Mortgagor or of any person, firm or other entity liable for the payment of the Debt;

(viii) enforce Mortgagee's interest in the Leases and Rents and enter into or upon the Mortgaged Property, either personally or by its agents, nominees or attorneys and dispossess Mortgagor and its agents and employees therefrom, and thereupon Mortgagee may (A) use, operate, manage, control, insure, maintain, repair, restore and otherwise deal with the Mortgaged Property and conduct the business thereat; (B) complete any construction on the Mortgaged Property in such manner and form as Mortgagee deems advisable; (C) make alterations, additions, renewals, replacements and improvements to or on the Mortgaged Property; (D) exercise all rights and powers of Mortgagor with respect to the Mortgaged Property, whether in the name of Mortgagor or otherwise, including the right to make, cancel, enforce or modify Leases, obtain and evict tenants, and demand, sue for, collect and receive Rents; and (E) apply the receipts from the Mortgaged Property to the payment of the Debt, after deducting therefrom all expenses (including reasonable attorneys' fees and disbursements) incurred in connection with the aforesaid operations and all amounts necessary to pay the Taxes, insurance and other charges in connection with the Mortgaged Property, as well as just and reasonable compensation for the services of Mortgagee, and its counsel, agents and employees;

(ix) require Mortgagor to pay monthly in advance to Mortgagee, or any receiver appointed to collect the Rents, the fair and reasonable rental value for the use

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and occupation of any portion of the Mortgaged Property occupied by Mortgagor, and require Mortgagor to vacate and surrender possession of the Mortgaged Property to Mortgagee or to such receiver, and, in default thereof, evict Mortgagor by summary proceedings or otherwise; or

(x) pursue such other rights and remedies as may be available at law or in equity or under the UCC, including the right to receive and/or establish a lock box for all Rents and proceeds from the Intangibles and any other receivables or rights to payments of Mortgagor relating to the Mortgaged Property.

In the event of a sale, by foreclosure or otherwise, of less than all of the Mortgaged Property, this Mortgage shall continue as a lien on the remaining portion of the Mortgaged Property.

(b) The proceeds of any sale made under or by virtue of this Paragraph 10, together with any other sums which then may be held by Mortgagee under this Mortgage, whether under the provisions of this paragraph or otherwise, shall be applied by Mortgagee to the payment of the Debt in such priority and proportion as Mortgagee in its sole discretion shall deem proper.

(c) Mortgagee may adjourn from time to time any sale by it to be made under or by virtue of this Mortgage by announcement at the time and place appointed for such sale or for such adjourned sale or sales; and, except as otherwise provided by any applicable law, Mortgagee, without further notice or publication, may make such sale at the time and place to which the same shall be so adjourned.

(d) Upon the completion of any sale or sales pursuant hereto, Mortgagee, or an officer of any court empowered to do so, shall execute and deliver to the accepted purchaser or purchasers a good and sufficient instrument, or good and sufficient instruments, conveying, assigning and transferring all estate, right, title and interest in and to the property and rights sold. Mortgagee is hereby irrevocably appointed the true and lawful attorney of Mortgagor, in its name and stead, to make all necessary conveyances, assignments, transfers and deliveries of the Mortgaged Property and rights so sold and for that purpose Mortgagee may execute all necessary instruments of conveyance, assignment and transfer, and may substitute one or more persons with like power, Mortgagor hereby ratifying and confirming all that its said attorney or such substitute or substitutes shall lawfully do by virtue hereof. Any sale or sales made under or by virtue of this Paragraph 10, whether made under the power of sale herein granted or under or by virtue of judicial proceedings or of a judgment or decree of foreclosure and sale, shall operate to divest all the estate, right, title, interest, claim and demand whatsoever, whether at law or in equity, of Mortgagor in and to the properties and rights so sold, and shall be a perpetual bar both at law and in equity against Mortgagor and against any and all persons claiming or who may claim the same, or any part thereof, from, through or under Mortgagor.

(e) Upon any sale made under or by virtue of this Paragraph 10, whether made under a power of sale or under or by virtue of judicial proceedings or of a judgment or decree of foreclosure and sale, Mortgagee may bid for and acquire the Mortgaged Property or any part thereof and in lieu of paying cash therefor may make settlement for the purchase price by crediting upon the Debt the net sales price after deducting therefrom the expenses of the sale

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and costs of the action and any other sums which Mortgagee is authorized to deduct under this Mortgage or any other Loan Document.

(f) No recovery of any judgment by Mortgagee and no levy of an execution under any judgment upon the Mortgaged Property or upon any other property of Mortgagor shall affect in any manner or to any extent the lien of this Mortgage upon the Mortgaged Property or any part thereof, or any liens, rights, powers or remedies of Mortgagee hereunder, but such liens, rights, powers and remedies of Mortgagee shall continue unimpaired as before.

(g) Mortgagee may terminate or rescind any proceeding or other action brought in connection with its exercise of the remedies provided in this Paragraph 10 at any time before the conclusion thereof, as determined in Mortgagee's sole discretion and without prejudice to Mortgagee.

(h) Mortgagee may resort to any remedies and the security given by this Mortgage or in any other Loan Document in whole or in part, and in such portions and in such order as determined by Mortgagee's sole discretion. No such action shall in any way be considered a waiver of any rights, benefits or remedies evidenced or provided by any Loan Document. The failure of Mortgagee to exercise any right, remedy or option provided in any Loan Document shall not be deemed a waiver of such right, remedy or option or of any covenant or obligation secured by any Loan Document. No acceptance by Mortgagee of any payment after the occurrence of any Event of Default and no payment by Mortgagee of any obligation for which Mortgagor is liable hereunder shall be deemed to waive or cure any Event of Default, or Mortgagor's liability to pay such obligation. No sale of all or any portion of the Mortgaged Property, no forbearance on the part of Mortgagee, and no extension of time for the payment of the whole or any portion of the Debt or any other indulgence given by Mortgagee to Mortgagor, shall operate to release or in any manner affect the interest of Mortgagee in the remaining Mortgaged Property or the liability of Mortgagor to pay the Debt. No waiver by Mortgagee shall be effective unless it is in writing and then only to the extent specifically stated. All costs and expenses of Mortgagee in exercising its rights and remedies under this Paragraph 10 (including reasonable attorneys' fees and disbursements to the extent permitted by law), shall be paid by Mortgagor immediately upon notice from Mortgagee, with interest at the Default Rate for the period after notice from Mortgagee, and such costs and expenses shall constitute a portion of the Debt and shall be secured by this Mortgage.

(i) The interests and rights of Mortgagee under the Loan Documents shall not be impaired by any indulgence, including (i) any renewal, extension or modification which Mortgagee may grant with respect to any of the Debt, (ii) any surrender, compromise, release, renewal, extension, exchange or substitution which Mortgagee may grant with respect to the Mortgaged Property or any portion thereof or (iii) any release or indulgence granted to any maker, endorser, guarantor or surety of any of the Debt.

**11. Right of Entry.** In addition to any other rights or remedies granted under this Mortgage, Mortgagee and its agents shall have the right to enter and inspect the Mortgaged Property with reasonable notice to Mortgagor and at reasonable times during the term of this Mortgage. The cost of such inspections or audits shall be borne by Mortgagor should Mortgagee determine that an Event of Default exists, including the cost of all follow up or additional

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investigations or inquiries deemed reasonably necessary by Mortgagee. The cost of such inspections, if not paid for by Mortgagor following demand, may be added to the principal balance of the sums due under the Note and this Mortgage and shall bear interest thereafter until paid at the Default Rate.

**12. Security Agreement.** This Mortgage is both a real property mortgage and a “security agreement” within the meaning of the UCC. The Mortgaged Property includes both real and personal property and all other rights and interests, whether tangible or intangible in nature, of Mortgagor in the Mortgaged Property. Mortgagor by executing and delivering this Mortgage has granted and hereby grants to Mortgagee, as security for the Debt, a security interest in the Mortgaged Property to the full extent that the Mortgaged Property may be subject to the UCC (such portion of the Mortgaged Property so subject to the UCC being called in this paragraph the “Collateral”). This Mortgage shall also constitute a “fixture filing” for the purposes of the UCC. As such, this Mortgage covers all items of the Collateral that are or are to become fixtures. Information concerning the security interest herein granted may be obtained from the parties at the addresses of the parties set forth in the first paragraph of this Mortgage. If an Event of Default shall occur, Mortgagee, in addition to any other rights and remedies which it may have, shall have and may exercise immediately and without demand, any and all rights and remedies granted to a secured party upon default under the UCC, including, without limiting the generality of the foregoing, the right to take possession of the Collateral or any part thereof, and to take such other measures as Mortgagee may deem necessary for the care, protection and preservation of the Collateral. Upon request or demand of Mortgagee, Mortgagor shall at its expense assemble the Collateral and make it available to Mortgagee at a convenient place acceptable to Mortgagee. Mortgagor shall pay to Mortgagee on demand any and all expenses, including reasonable attorneys’ fees and disbursements, incurred or paid by Mortgagee in protecting the interest in the Collateral and in enforcing the rights hereunder with respect to the Collateral. Any notice of sale, disposition or other intended action by Mortgagee with respect to the Collateral, sent to Mortgagor in accordance with the provisions hereof at least ten days prior to such action, shall constitute commercially reasonable notice to Mortgagor. The proceeds of any disposition of the Collateral, or any part thereof, may be applied by Mortgagee to the payment of the Debt in such priority and proportions as Mortgagee in its sole discretion shall deem proper. In the event of any change in name, identity or structure of Mortgagor, Mortgagor shall notify Mortgagee thereof and promptly after request shall execute, file and record such UCC forms as are necessary to maintain the priority of Mortgagee’s lien upon and security interest in the Collateral, and shall pay all expenses and fees in connection with the filing and recording thereof. If Mortgagee shall require the filing or recording of additional UCC forms or continuation statements, Mortgagor shall, promptly after request, execute, file and record such UCC forms or continuation statements as Mortgagee shall deem necessary, and shall pay all expenses and fees in connection with the filing and recording thereof, it being understood and agreed, however, that no such additional documents shall increase Mortgagor’s obligations under the Loan Documents. Mortgagor hereby irrevocably appoints Mortgagee as its attorney-in-fact, coupled with an interest, to file with the appropriate public office on its behalf any financing or other statements signed only by Mortgagee, as secured party, in connection with the Collateral covered by this Mortgage.

**13. Actions and Proceedings.** Mortgagee has the right to appear in and defend any action or proceeding brought with respect to the Mortgaged Property and to bring any action or

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proceeding, in the name and on behalf of Mortgagor, which Mortgagee, in its sole discretion, decides should be brought to protect its or their interest in the Mortgaged Property. Mortgagee shall, at its option, be subrogated to the lien of any mortgage or other security instrument discharged in whole or in part by the Debt, and any such subrogation rights shall constitute additional security for the payment of the Debt.

**14. Marshalling and Other Matters.** Mortgagor hereby waives, to the extent permitted by law, the benefit of all appraisal, valuation, stay, extension, reinstatement and redemption laws now or hereafter in force and all rights of marshalling in the event of any sale hereunder of the Mortgaged Property or any part thereof or any interest therein. Further, to the maximum extent permitted by law, Mortgagor hereby expressly waives any and all rights of redemption from sale under any order or decree of foreclosure of this Mortgage on behalf of Mortgagor, and on behalf of each and every person acquiring any interest in or title to the Mortgaged Property subsequent to the date of this Mortgage and on behalf of all persons to the extent permitted by applicable law. The lien of this Mortgage shall be absolute and unconditional and shall not in any manner be affected or impaired by any acts or omissions whatsoever of Mortgagee and, without limiting the generality of the foregoing, the lien hereof shall not be impaired by (i) any acceptance by Mortgagee of any other security for any portion of the Debt, (ii) any failure, neglect or omission on the part of Mortgagee to realize upon or protect any portion of the Debt or any collateral security therefor or (iii) any release (except as to the property released), sale, pledge, surrender, compromise, settlement, renewal, extension, indulgence, alteration, changing, modification or disposition of any portion of the Debt or of any of the collateral security therefor; and Mortgagee may foreclose, or exercise any other remedy available to Mortgagee under other Loan Documents without first exercising or enforcing any of its remedies under this Mortgage, and any exercise of the rights and remedies of Mortgagee hereunder shall not in any manner impair the Debt or the liens of any other Loan Document or any of Mortgagee's rights and remedies thereunder.

**15. Fixture Filing.** This Mortgage constitutes a financing statement filed as a fixture filing under Sections 9-313 and 9-402 of the UCC covering any of the Mortgaged Property which now is or later may become fixtures attached to the Premises or the Improvements. The following addresses are the mailing address of Mortgagor, as debtor under the UCC, and Mortgagee, as secured party under the UCC, respectively:

**MORTGAGOR/DEBTOR:** Natron Corporation,

Many County Real Estate Management Company, L.L.C.  
29375 W. 10 Mile Road  
Farmington, MI 48336

Taxpayer Identification No. 38-2887038 and 38-3272466  
Organization Id No. 641387 and B00717

**MORTGAGEE/SECURED PARTY:**

NFA FUNDING LLC, A DELAWARE LIMITED  
LIABILITY COMPANY  
C/O NATIONAL FRANCHISE ACCEPTANCE,  
LLC

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400 EAST 22<sup>ND</sup> STREET, SUITE D  
LOMBARD, ILLINOIS 60148  
ATTENTION: LOAN SERVICING  
REFERENCE: NATRON CORPORATION

16. **Notices.** All notices, consents, approvals and requests required or permitted hereunder shall be in writing, and shall be sent, and shall be deemed effective, as provided in the Loan Agreement.

17. **Inapplicable Provisions.** If any term, covenant or condition of this Mortgage is held to be invalid, illegal or unenforceable in any respect, this Mortgage shall be construed without such provision.

18. **Headings.** The paragraph headings in this Mortgage are for convenience of reference only and are not to be construed as defining or limiting, in any way, the scope or intent of the provisions hereof.

19. **Duplicate Originals.** This Mortgage may be executed in any number of duplicate originals and each such duplicate original shall be deemed to be an original.

20. **Definitions.** Unless the context clearly indicates a contrary intent or unless otherwise specifically provided herein, words used in this Mortgage may be used interchangeably in singular or plural form; and the word "Mortgagor" shall mean "each Mortgagor and any subsequent owner or owners of the Mortgaged Property or any part thereof or any interest therein," the word "Mortgagee" shall mean "Mortgagee and any subsequent holder of the Note," the words "Mortgaged Property" shall include any portion of the Mortgaged Property and any interest therein, the word "including" means "including but not limited to" and the words "attorneys' fees" shall include any and all attorneys' fees, paralegal and law clerk fees, including fees at the pre-trial, trial and appellate levels incurred or paid by Mortgagee in protecting its interest in the Mortgaged Property and Collateral and enforcing its rights hereunder.

21. **Homestead.** Mortgagor hereby waives and renounces all homestead and exemption rights provided by the Constitution and the laws of the United States and of any state, in and to the Mortgaged Property as against the collection of the Debt, or any part thereof.

22. **Assignments.** Mortgagee shall have the right to assign or transfer its rights under this Mortgage without limitation. Any assignee or transferee shall be entitled to all the benefits afforded Mortgagee under this Mortgage.

23. **Waiver of Jury Trial.** MORTGAGOR HEREBY AGREES NOT TO ELECT A TRIAL BY JURY OF ANY ISSUE TRIABLE OF RIGHT BY JURY, AND WAIVES ANY RIGHT TO TRIAL BY JURY FULLY TO THE EXTENT THAT ANY SUCH RIGHT SHALL NOW OR HEREAFTER EXIST WITH REGARD TO THIS MORTGAGE OR ANY OTHER LOAN DOCUMENT, OR ANY CLAIM, COUNTERCLAIM OR OTHER ACTION ARISING IN CONNECTION THEREWITH. THIS WAIVER OF RIGHT TO TRIAL BY JURY IS GIVEN KNOWINGLY AND VOLUNTARILY BY MORTGAGOR, AND IS INTENDED TO ENCOMPASS INDIVIDUALLY EACH INSTANCE AND EACH ISSUE AS TO WHICH

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THE RIGHT TO A TRIAL BY JURY WOULD OTHERWISE ACCRUE. MORTGAGEE IS HEREBY AUTHORIZED TO FILE A COPY OF THIS PARAGRAPH IN ANY PROCEEDING AS CONCLUSIVE EVIDENCE OF THIS WAIVER BY MORTGAGOR.

**24. Consents.** Any consent or approval by Mortgagee in any single instance shall not be deemed or construed to be Mortgagee's consent or approval in any like matter arising at a subsequent date, and the failure of Mortgagee to promptly exercise any right, power, remedy, consent or approval provided herein or at law or in equity shall not constitute or be construed as a waiver of the same nor shall Mortgagee be estopped from exercising such right, power, remedy, consent or approval at a later date. Any consent or approval requested of and granted by Mortgagee pursuant hereto shall be narrowly construed to be applicable only to Mortgagor and the matter identified in such consent or approval and no third party shall claim any benefit by reason thereof, and any such consent or approval shall not be deemed to constitute Mortgagee a venturer or partner with Mortgagor nor shall privity of contract be presumed to have been established with any such third party. If Mortgagee deems it to be in its best interest to retain assistance of persons, firms or corporations (including attorneys, title insurance companies, appraisers, engineers and surveyors) with respect to a request for consent or approval, Mortgagor shall reimburse Mortgagee for all costs reasonably incurred in connection with the employment of such persons, firms or corporations.

**25. Employee Benefit Plan.** During the term of this Mortgage, unless Mortgagee shall have previously consented in writing, (i) Mortgagor shall take no action that would cause it to become an "employee benefit plan" as defined in 29 C.F.R. Section 2510.3-101, or "assets of a governmental plan" subject to regulation under the state statutes, and (ii) Mortgagor shall not sell, assign or transfer the Mortgaged Property, or any portion thereof or interest therein, to any transferee that does not execute and deliver to Mortgagee its written assumption of the obligations of this covenant. Mortgagor shall protect, defend, indemnify and hold Mortgagee harmless from and against all loss, cost, damage and expense (including all attorneys' fees, excise taxes and costs of correcting any prohibited transaction or obtaining an appropriate exemption) that Mortgagee may incur as a result of Mortgagor's breach of this covenant. This covenant and indemnity shall survive the extinguishment of the lien of this Mortgage by foreclosure or action in lieu thereof; furthermore, the foregoing indemnity shall supersede any limitations on Mortgagor's liability under any of the Loan Documents.

**26. Other Mortgages; No Election of Remedies.**

(a) The Debt is now or may hereafter be secured by one or more other mortgages, deeds of trust and other security agreements (collectively, as the same may be amended and in effect from time to time, are herein collectively called the "**Other Mortgages**"), which cover or will hereafter cover other properties that are or may be located in various states (the "**Other Collateral**"). The Other Mortgages will secure the Debt and the performance of the other covenants and agreements of Mortgagor set forth in the Loan Documents. Upon the occurrence of an Event of Default, Mortgagee may proceed under this Mortgage and/or any or all the Other Mortgages against either the Mortgaged Property and/or any or all the Other Collateral in one or more parcels and in such manner and order as Mortgagee shall elect. Mortgagor hereby irrevocably waives and releases, to the extent permitted by law, and whether now or hereafter in

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force, any right to have the Mortgaged Property and/or the Other Collateral marshaled upon any foreclosure of this Mortgage or any Other Mortgage.

(b) Without limiting the generality of the foregoing, and without limitation as to any other right or remedy provided to Mortgagee in this Mortgage or the other Loan Documents, in the case of an Event of Default, to the extent permitted by law, (i) Mortgagee shall have the right to pursue all of its rights and remedies under this Mortgage and the Loan Documents, at law and/or in equity, in one proceeding, or separately and independently in separate proceedings from time to time, as Mortgagee, in its sole and absolute discretion, shall determine from time to time, (ii) Mortgagee shall not be required to either marshal assets, sell the Mortgaged Property and/or any Other Collateral in any particular order of alienation (and may sell the same simultaneously and together or separately), or be subject to any "one action" or "election of remedies" law or rule with respect to the Mortgaged Property and/or any Other Collateral, (iii) the exercise by Mortgagee of any remedies against any one item of Mortgaged Property and/or any Other Collateral will not impede Mortgagee from subsequently or simultaneously exercising remedies against any other item of Mortgaged Property and/or Other Collateral, (iv) all liens and other rights, remedies or privileges provided to Mortgagee herein shall remain in full force and effect until Mortgagee has exhausted all of its remedies against the Mortgaged Property and all Mortgaged Property has been foreclosed, sold and/or otherwise realized upon in satisfaction of the Debt, and (v) Mortgagee may resort for the payment of the Debt to any security held by Mortgagee in such order and manner as Mortgagee, in its discretion, may elect and Mortgagee may take action to recover the Debt, or any portion thereof, or to enforce any covenant hereof without prejudice to the right of Mortgagee thereafter to foreclose this Mortgage.

(c) Without notice to or consent of Mortgagor and without impairment of the lien and rights created by this Mortgage, Mortgagee may, at any time (in its sole and absolute discretion, but Mortgagee shall have no obligation to), execute and deliver to Mortgagor a written instrument releasing all or a portion of the lien of this Mortgage as security for any or all of the obligations of Mortgagor now existing or hereafter arising under or in respect of the Note, the Loan Agreement and each of the other Loan Documents, whereupon following the execution and delivery by Mortgagee to Mortgagor of any such written instrument of release, this Mortgage shall no longer secure such obligations of Mortgagor so released.

27. **Governing Law.** This Mortgage shall be governed by, and be construed in accordance with, the laws of the state in which the Mortgaged Property is located without regard to conflict of law provisions thereof.

28. **Variable Interest Rate.** The Loan secured by this Mortgage is a variable interest rate loan, as more particularly set forth in the Loan Agreement.

## PART II - STATE SPECIFIC PROVISIONS

1. **Inconsistencies.** In the event of any inconsistencies between the terms and conditions of this Part II and the other provisions of this Mortgage, the terms and conditions of this Part II shall control and be binding.

2. **Illinois Mortgage Foreclosure Law.**



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(a) In the event that any provision in this Security Instrument shall be inconsistent with any provision of the Illinois Mortgage Foreclosure Law (735 ILCS 5/15-1501 et seq. herein called the “Act”), the provisions of the Act shall take precedence over the provisions of this Security Instrument, but shall not invalidate or render unenforceable any other provision of this Security Instrument that can be construed in a manner consistent with the Act.

(b) If any provision of this Security Instrument shall grant to Lender any rights or remedies upon the occurrence and during the continuation of an Event of Default of Borrower which are more limited than the rights that would otherwise be vested in Lender under the Act in the absence of said provision, Lender shall be vested with the rights granted in the Act to the full extent permitted by law.

(c) Without limiting the generality of the foregoing, all expenses incurred by Lender 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 or not enumerated in this Security Instrument, shall be added to the Debt.

(d) Borrower acknowledges that the transaction of which this Security Instrument is a part is a transaction which does not include either agricultural real estate (as defined in Section 15-1201 of the Act) or residential real estate (as defined in Section 15-1219 of the Act), and to the full extent permitted by law, hereby voluntarily and knowingly waives its rights to reinstatement and redemption to the extent allowed under Section 15-1610(b) of the Act, and to the full extent permitted by law, the benefits of all present and future valuation, appraisal, homestead, exemption, stay, redemption and moratorium laws under any state or federal law.

(e) Borrower and Lender shall have the benefit of all of the provisions of the Act, including all amendments thereto which may become effective from time to time after the date hereof. In the event any provision of the Act which is specifically referred to herein may be repealed, Lender shall have the benefit of such provision as most recently existing prior to such repeal, as though the same were incorporated herein by express reference.

### 3. Borrower Waivers.

(a) Borrower agrees, to the fullest extent that Borrower may lawfully so agree, that Borrower will not at any time insist upon or plead or in any manner whatsoever claim the benefit of any valuation, stay, extension, or exemption law now or hereafter in force, in order to prevent or hinder the enforcement or foreclosure of this Security Instrument or the absolute sale of the Property or the possession thereof by any purchaser at any sale made pursuant to any provision hereof, or pursuant to the decree of any court of competent jurisdiction; but Borrower, for Borrower and all who may claim through or under Borrower, so far as Borrower or those claiming through or under Borrower now or hereafter lawfully may, hereby waives the benefit of all such laws. Borrower, to the extent Borrower may lawfully do so, hereby waives any and all right to have the Property marshaled upon any foreclosure of this Security Instrument, or sold in inverse order of alienation, and agrees that Lender or any court having jurisdiction to foreclose this Security Instrument may sell the Property as an entirety. If any law now or hereafter in force referred to in this Paragraph of which Borrower or Borrower’s successor or successors might take advantage despite the provisions hereof, shall hereafter be repealed or cease to be in force,

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such law shall not thereafter be deemed to constitute any part of the contract herein contained or to preclude the operation or application of the provisions of this Paragraph.

(b) In the event of the commencement of judicial proceedings to foreclose this Security Instrument, Borrower, on behalf of Borrower, its successors and assigns, and each and every person or entity they may legally bind acquiring any interest in or title to the Property subsequent to the date of this Security Instrument: (a) expressly waives any and all rights of appraisal, valuation, stay, extension and (to the extent permitted by law) reinstatement and redemption from sale under any order or decree of foreclosure of this Security Instrument; and (b), to the extent permitted by applicable law, agrees that when sale is had under any decree of foreclosure of this Security Instrument, upon confirmation of such sale, the officer making such sale, or his successor in office, shall be and is authorized immediately to execute and deliver to any purchaser at such sale a deed conveying the Property, showing the amount paid therefor, or if purchased by the person in whose favor the order or decree is entered, the amount of his bid therefor.

4. **Maximum Amount Secured.** The maximum principal indebtedness secured by this Security Instrument shall not exceed two hundred percent (200%) of the face amount of the Note.

5. **No Lien Management Agreements.** Borrower shall include a "no lien" provision in any property management agreement hereafter entered into by Borrower with a property manager for the Property, whereby the property manager waives and releases any and all mechanics' lien rights that the property manager, or anyone claiming through or under the property manager, may have pursuant to 770 ILCS 60/1. Such property management agreement containing such "no lien" provision or a short form thereof shall, at Lender's request, be recorded with the Recorder of Deeds of Cook County, Illinois, as appropriate.

6. **Collateral Protection Act.** Unless Borrower provides Lender with evidence of the insurance required by this Security Instrument or any other Loan Document, Lender may purchase insurance at Borrower's expense to protect Lender's interest in the Property or any other collateral for the indebtedness secured hereby. This insurance may, but need not, protect Borrower's interests. The coverage Lender purchases may not pay any claim that Borrower makes or any claim that is made against Borrower in connection with the Property or any other collateral for the indebtedness secured hereby. Borrower may later cancel any insurance purchased by Lender, but only after providing Lender with evidence that Borrower has obtained insurance as required under by this Security Instrument or any other Loan Document. If Lender purchases insurance for the Property or any other collateral for the indebtedness secured hereby, Borrower shall be responsible for the costs of that insurance, including interest in any other charges that Lender may lawfully impose in connection with the placement of the insurance, until the effective date of the cancellation or expiration of the insurance. The costs of the insurance may be added to the indebtedness secured hereby. The costs of the insurance may be more than the cost of insurance that Borrower may be able to obtain on its own.

7. **Fixture Filing.** This Security Instrument shall also constitute a "fixture filing" for the purposes of the UCC against all of the Property which is or is to become fixtures. Information concerning the security interest herein granted may be obtained at the addresses of

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Debtor (Borrower) and Secured Party (Lender) as set forth in the first paragraph of this Security Instrument.

**8. Future Advances.** This Security Instrument secures not only present indebtedness but also future advances, whether such future advances are obligatory or are to be made at the option of Lender, or otherwise. The amount of indebtedness secured hereby may increase or decrease from time to time, and the rate or rates of interest payable may vary from time to time.

**9. Maturity Date.** The Loan shall be due and payable in full on or before November 1, 2012 as provided in the Note.

**10. Loan Made for Business Purposes.** Borrower acknowledges and agrees that (A) the Loan is secured by a mortgage on real estate and is thus an exempted transaction in accordance with subparagraph (1)(l) of Section 4 of the Interest Act, as amended, 815 ILCS 205/4(1)(l); (B) the Debt secured hereby has been incurred by Borrower solely for business purposes of Borrower and for Borrower's investment or profit, as contemplated by said Section 4; (C) the Debt secured hereby constitutes a loan secured by real estate within the purview of and as contemplated by said Section 4; and (D) the secured Debt is an exempted transaction under the Truth-In-Lending Act, 15 U.S.C. Sec. 1601 *et. seq.* has been entered into solely for business purposes of Borrower and for Borrower's investment or profit, as contemplated by said section.

## PART III - LEASEHOLD PROVISIONS

**1. Definitions.** As used herein, the term "**Store Lease**" shall mean that certain lease in which, as of the date hereof, Mortgagor is a tenant/lessee of the Premises and/or the Improvements thereon, and any modifications, amendments, extensions, renewals and restatements of such lease that hereafter may be executed and approved in writing in advance by Mortgagee.

**2. Representations and Warranties Regarding Store Lease.** Mortgagor represents and warrants in favor of Mortgagee that, except as set forth in Lessor's estoppel and recognition agreement to be delivered in connection with the closing of the Loan:

(a) The Store Lease contains the entire agreement of Lessor and Mortgagor pertaining to the Mortgaged Property. Mortgagor has no estate, right, or interest in or to the Mortgaged Property except under and pursuant to the Store Lease. No modifications or amendments have occurred to the Store Lease, and to Mortgagor's knowledge no such modifications or amendments are contemplated.

(b) The Store Lease is in full force and effect. Except as expressly set forth in the Store Lease, there are no rights to terminate the Store Lease other than Lessor's right to terminate by reason of default or condemnation. Except as expressly set forth in the Store Lease, Mortgagor has no right to purchase any interest in the Mortgaged Property.

(c) No breach or default or event that with the giving of notice or passage of time would constitute a breach or default of or under the Store Lease (a "**Store Lease Default**") exists or has occurred (1) to Mortgagor's knowledge, as to Mortgagor's obligations under the

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Store Lease, nor (2) to Mortgagor's knowledge, as to Lessor's obligations under the Store Lease. Mortgagor has not received any written notice, communication, or information that a Store Lease Default has occurred or exists, or that Lessor or any third party alleges the same to have occurred or exist.

(d) Mortgagor is the exclusive owner of the lessee's interest under and pursuant to the Store Lease. Mortgagor has not assigned, transferred, or encumbered its interest in, to, or under the Store Lease, except in favor of Mortgagee pursuant to this Mortgage and the other Loan Documents, and also except for subleases as to which Mortgagor is the sublessor.

**3. Grant of After-Acquired Interest.** As security for all obligations secured by this Mortgage, Mortgagor hereby irrevocably grants, conveys, transfers and assigns to Mortgagee, with power of sale and right of entry and possession, all right, title, and interest in and to the Mortgaged Property that may hereafter be acquired by Mortgagor. Without limitation of the foregoing, if Mortgagor should acquire the fee estate in the Mortgaged Property or in any land or improvements comprising the same, or should acquire any interest or estate in the Mortgaged Property or any component thereof that Mortgagor does not presently hold, then this Mortgage shall encumber and constitute a lien upon any and all of such interest or estate, without further act or instrument by Mortgagor or any third party. Mortgagor immediately shall notify Mortgagee of any such acquisition. Upon request of Mortgagee and without cost or expense to Mortgagee, Mortgagor will execute, acknowledge and deliver all such further instruments and assurances as Mortgagee shall reasonably require to ratify, confirm, or perfect Mortgagee's lien on any right, title, interest or estate in or to the Mortgaged Property acquired at any time hereafter.

**4. Non-Merger.** No merger shall occur by reason of any acquisition by Mortgagor of any additional right, title, interest or estate in or to the Mortgaged Property or any component thereof. Without limitation of the foregoing, unless Mortgagee shall otherwise expressly consent in writing, which consent may be withheld by Mortgagee in its sole and absolute discretion, the leasehold estate under the Store Lease and any other interest or estate in the Mortgaged Property shall not merge but shall always remain separate and distinct, notwithstanding any common ownership of the leasehold estate and any other interest or estate.

**5. No Modification.** Mortgagor shall not cause, join in, or suffer to occur any actual or purported material modification, amendment, surrender, or termination of the Store Lease, and Mortgagor shall have no right or power to modify, amend, terminate, or surrender the Store Lease, in each case without the prior written consent of Mortgagee, which consent with respect to any amendment or modification of the Store Lease may not be unreasonably withheld by Mortgagee. Any attempted or purported modification, amendment, surrender or termination of the Store Lease without Mortgagee's prior written consent shall be null and void and of no force or effect.

**6. Performance of Store Lease.** Mortgagor shall fully perform as and when due, each and all of its obligations under the Store Lease in accordance with the terms of the Store Lease, and shall not cause or suffer to occur any breach or default in any of such obligations. Mortgagor shall keep and maintain the Store Lease in full force and effect.

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Mortgagor shall exercise any option to renew or extend the Store Lease and give written confirmation thereof to Lender within thirty (30) days after such option becomes exercisable.

(a) Notwithstanding that certain of Mortgagor's obligations under this Mortgage may be similar or identical to certain of Mortgagor's obligations under the Store Lease, all of Mortgagor's obligations under this Mortgage are and shall be separate from and in addition to its obligations under the Store Lease.

(b) If Mortgagor shall have or receive notice or information that compliance with any of Mortgagor's obligations under either this Mortgage or the Store Lease may constitute or give rise to a breach or default under either one of them, then Mortgagor immediately shall notify Mortgagee in writing of the same. If Mortgagee shall have or receive any such notice or information, then Mortgagee may (but shall not be obligated to) give written instructions to Mortgagor, in which case Mortgagor shall comply with such instructions.

7. **Notice of Default.** If Mortgagor shall have or receive any notice or information that any Store Lease Default has occurred, then Mortgagor promptly shall notify Mortgagee in writing of the same and promptly shall deliver to Mortgagee a true and complete copy of each such notice. Further, Mortgagor immediately shall provide such documents and information as Mortgagee shall request concerning the Store Lease Default.

8. **Mortgagee's Right to Cure.** If any Store Lease Default shall occur, or if Mortgagee reasonably believes that a Store Lease Default has occurred, or if Lessor asserts that a Store Lease Default has occurred (whether or not Mortgagor questions or denies such assertion), and has remained uncured beyond all notice and cure periods under the Store Lease, then Mortgagee may (but shall not be obligated to) take any action that Mortgagee deems necessary or desirable, including, without limitation, (i) performance or attempted performance of any of Mortgagor's obligations under the Store Lease, (ii) curing or attempting to cure any actual or purported Store Lease Default, (iii) mitigating or attempting to mitigate any damages or consequences of the same, and (iv) entry upon the Mortgaged Property for any or all of such purposes. Upon Mortgagee's request, Mortgagor shall submit satisfactory evidence of payment or performance of any of its obligations under the Store Lease. Mortgagee may pay and expend such reasonable sums of money as Mortgagee in its sole discretion deems necessary or desirable for any such purpose, and Mortgagor shall pay to Mortgagee immediately upon demand all such sums so paid or expended by Mortgagee, together with interest thereon from the date of expenditure at the Default Rate.

9. **Acquisition of New Interests.** If the Store Lease shall be rejected, canceled, or terminated, and if Mortgagee or its nominee thereafter or in connection therewith shall acquire any right, title, interest or estate in or to the Mortgaged Property (which may include without limitation any new lease of the Mortgaged Property) then Mortgagor shall have no right, title, interest or estate in or to such new lease, or the leasehold estate created by such new lease, or any other interest of Mortgagee or its nominee in the Mortgaged Property.

10. **Legal Action.** Mortgagor shall not commence any action or proceeding against Lessor or affecting or potentially affecting the Store Lease or Mortgagor's or Mortgagee's interest therein without the prior written consent of Mortgagee, which Mortgagee may withhold in its sole and absolute discretion. Mortgagor shall notify Mortgagee promptly

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upon Mortgagor's actual knowledge thereof, if any action or proceeding shall be commenced between Lessor and Mortgagor, or affecting or reasonably anticipated to affect the Store Lease or Mortgagor's or Mortgagee's interest therein (including, without limitation, any case commenced by or against Lessor under the Bankruptcy Code). Mortgagee shall have the option, exercisable upon prior written notice from Mortgagee to Mortgagor, to conduct and control any such action or proceeding with counsel of Mortgagee's choice. Mortgagee may proceed in its own name, and if required under applicable law in connection with such action or proceeding, in the name of Mortgagor, in such action or proceeding, and Mortgagor shall cooperate with Mortgagee, comply with the instructions of Mortgagee (which may include withdrawal or exclusion of Mortgagor from such action or proceeding), and execute any and all powers, authorizations, consents or other documents reasonably required by Mortgagee in connection therewith. Neither Mortgagor nor Mortgagee shall settle any such action or proceeding without the prior written consent of the other party, which consent shall not be unreasonably withheld, conditioned or delayed.

**11. Estoppel Certificate.** Mortgagor shall obtain and deliver to Mortgagee (i) an estoppel certificate in such form and within such time periods as required under the Store Lease, or (ii) if no form of estoppel certificate or time period for delivery thereof is specified in a Store Lease, within twenty (20) days after written request by Mortgagee, an estoppel certificate from Lessor setting forth (A) the identities of the original lessor and lessee under the Store Lease and each of their respective successors, (B) that the Store Lease has not been modified or, if it has been modified, the date of each modification (together with copies of each such modification), (C) the rent payable under the Store Lease, (D) the dates to which all rent and other charges have been paid, (E) whether there are any alleged Store Lease Defaults and, if so, setting forth the nature thereof in reasonable detail, and (F) such other matters as Mortgagee may reasonably request.

**12. No Assignment.** Notwithstanding anything to the contrary contained herein, this Mortgage shall not constitute an assignment of the Store Lease, and Mortgagee shall have no liability or obligation thereunder by reason of its acceptance of this Mortgage.

**13. Bankruptcy.**

(a) If Lessor shall reject the Store Lease under or pursuant to Section 365 of the Bankruptcy Code, Mortgagor shall not elect to treat the Store Lease as terminated but shall elect to remain in possession of the Mortgaged Property and the leasehold estate under the Store Lease. The lien of this Mortgage does and shall encumber and attach to all of Mortgagor's rights and remedies at any time arising under or pursuant to Section 365 of the Bankruptcy Code, including without limitation, all of Mortgagor's rights to remain in possession of the Mortgaged Property and the leasehold estate. If Lessor (in the event of a bankruptcy proceeding filed by or against any Lessor) shall seek permission of the Bankruptcy Court to sell or transfer the ground-leased property free and clear of the Store Lease under Section 363(f) of the Bankruptcy Code, Mortgagor shall (unless otherwise directed in writing by Mortgagee) not consent to (and shall object to) such attempted sale or transfer and shall promptly assert and pursue its right to adequate protection of its leasehold estate under the Store Lease, in a manner acceptable to Mortgagee, under Section 363(e) of the Bankruptcy Code.

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(b) Mortgagor acknowledges and agrees that in any case commenced by or against Mortgagor (or Lessor) under the Bankruptcy Code, Mortgagee by reason of the liens and rights granted under this Mortgage and the Loan Documents shall have a substantial and material interest in the treatment and preservation of Mortgagor's rights and obligations under the Store Lease, and that Mortgagor shall, in any such bankruptcy case, provide to Mortgagee immediate and continuous adequate protection of such interests, to the extent it may do so under applicable law. Mortgagor and Mortgagee agree that such adequate protection shall include but shall not necessarily be limited to the following, to the extent permissible under applicable law:

(c) Mortgagee shall be deemed a party to the Store Lease (but shall not have any obligations thereunder) for purposes of Sections 363 and 365 of the Bankruptcy Code, and shall have standing to appear and act as a party in interest in relation to any matter arising out of or related to the Store Lease or the Mortgaged Property.

(d) Mortgagor shall serve Mortgagee with copies of all notices, pleadings and other documents received by Mortgagor relating to or affecting the Store Lease or the Mortgaged Property. Any notice, pleading or document served by Mortgagor on any other party in the bankruptcy case shall be contemporaneously served by Mortgagor on Mortgagee, and any notice, pleading or document served upon or received by Mortgagor from any other party in the bankruptcy case shall be served by Mortgagor on Mortgagee promptly upon receipt by Mortgagor.

(e) Upon written request of Mortgagee, Mortgagor shall assume the Store Lease, and shall take such steps as are necessary to preserve Mortgagor's right to assume the Store Lease, including without limitation obtaining extensions of time to assume or reject the Store Lease under Subsection 365(d) of the Bankruptcy Code to the extent it is applicable, and objecting to any attempt by any Lessor (in the event of a bankruptcy proceeding filed by or against any Lessor) to sell or transfer the ground-leased property free and clear of the Store Lease under Section 363 of the Bankruptcy Code and timely asserting and pursuing its right to adequate protection under Section 363(e) of the Bankruptcy Code in such event.

(f) If Mortgagor or Lessor seeks to terminate or reject the Store Lease or have the Store Lease deemed terminated or rejected, then prior to the hearing on such termination or rejection Mortgagee shall be given no less than twenty (20) days' notice and opportunity to elect in lieu of such termination or rejection to have the Store Lease assumed and assigned to a nominee of Mortgagee. If Mortgagee shall so elect to assume and assign the Store Lease, then Mortgagor shall continue any request to terminate or reject the Store Lease until after the motion to assume and assign has been heard. If Mortgagee shall not elect to assume and assign the Store Lease, then Mortgagee may obtain in connection with the termination or rejection of the Store Lease a determination that Lessor, at Mortgagee's option, shall (1) agree to terminate the Store Lease and enter into a new lease with Mortgagee on the same terms and conditions as the Store Lease, for the remaining term of the Store Lease, or (2) treat the Store Lease as breached and provide Mortgagee with the rights to cure defaults under the Store Lease and to assume the rights and benefits of the Store Lease.

(g) Mortgagor shall join with and support any request by Mortgagee to grant and approve the foregoing as necessary for adequate protection of Mortgagee's interests.

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Notwithstanding the foregoing, Mortgagee may seek additional terms and conditions, including such economic and monetary protections as it reasonably deems appropriate to adequately protect its interests, and any request for such additional terms or conditions shall not delay or limit Mortgagee's right to receive the specific elements of adequate protection set forth herein.

(h) Mortgagor hereby appoints Mortgagee as its attorney in fact to act on behalf of Mortgagor in connection with all matters relating to or arising out of the assumption, termination, or rejection of the Store Lease, in a case under the Bankruptcy Code. This grant of power of attorney is present, unconditional, irrevocable, durable and coupled with an interest.

(i) Where reference is made to any code section or other law, the same shall include any successor statute or provisions of law to the same or substantially the same effect.

**14. Predecessors, Successors.** Where reference herein is made to the rights or obligations of Mortgagor or Lessor under the Store Lease, the same shall include the rights and obligations of their successors and assigns.

**15. Lease Renewal.** So long as the Note is outstanding, Mortgagor hereby covenants and agrees that it will timely exercise each applicable renewal/extension option necessary under the terms of the Store Lease to keep the Store Lease in effect during the term of the Note. Furthermore, in the event Mortgagor fails to exercise any such renewal/extension option during the term of the Note, Mortgagor hereby appoints Mortgagee as its attorney in fact to act on behalf of Mortgagor in connection with exercising the option to extend or renew the term of the Store Lease. This grant of power of attorney is present, unconditional, irrevocable, durable and coupled with an interest; provided, however, such grant of power of attorney shall expire at such time when there is no Event of Default in occurrence and the Note has been paid in full.

**16. Inconsistencies.** Except as to any inconsistencies between the terms and provisions of this Part II and the terms and Provisions of Part II above, in the event of any inconsistencies between the terms and conditions of this Part III and the other provisions of this Mortgage or the Loan Agreement, the terms and conditions of this Part III shall control and be binding.

*[The remainder of this page intentionally left blank]*





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THE SOUTH 150.00 FEET OF THE NORTH 541.00 FEET OF LOT 106 IN CATALINA'S COMMERCIAL SUBDIVISION OF LOTS 3 AND 6 IN SILVER LAKES GARDEN UNIT NUMBER 7, A SUBDIVISION OF PART OF THE WEST 1/2 OF THE NORTHWEST 1/4 AND WEST 1/2 OF THE SOUTHWEST 1/4 OF SECTION 18, TOWNSHIP 36 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED MARCH 22, 1976 AS DOCUMENT 23423778, IN COCK COUNTY, ILLINOIS.

BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A POINT WHERE THE LAST LINE OF HARLEM AVENUE INTERSECTS THE NORTH LINE OF 158TH STREET AS DEDICATED PER DOCUMENT 26117900; THENCE NORTH 00 DEGREES, 00 MINUTES, 00 SECONDS, EAST ALONG THE EAST LINE OF HARLEM AVENUE SAID LINE BEING THE WEST LINE OF LOT 106 IN SAID CATALINA'S COMMERCIAL SUBDIVISION 150.00 FEET TO A POINT; THENCE NORTH 89 DEGREES, 47 MINUTES, 30 SECONDS, EAST 193.50 FEET TO THE EAST LINE OF LOT 106 AND BEING THE WEST LINE OF 71ST COURT AS DEDICATED PER DOCUMENT NUMBER 23423778; THENCE SOUTH 90 DEGREES, 00 MINUTES, 00 SECONDS, WEST ALONG SAID WEST LINE OF 71ST COURT AND THE EAST LINE OF LOT 106 89.73 FEET TO A POINT; THENCE ALONG A TANGENT CURVE TO THE SOUTHEAST HAVING A RADIUS OF 263.57 FEET, AN ARC DISTANCE OF 60.79 FEET (CHORD BEARS SOUTH 06 DEGREES, 36 MINUTES, 32 SECONDS EAST 60.65 FEET) TO THE NORTH LINE OF 158TH STREET THENCE SOUTH 89 DEGREES, 47 MINUTES, 30 SECONDS WEST ALONG SAID NORTH LINE 200.48 FEET TO THE POINT OF COMMENCEMENT CONTAINING 0.6635 ACRES, IN COOK COUNTY, ILLINOIS.