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27000493

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Cook County Recorder of Deeds
Date: 02/08/2007 01:24 PM Pg: 1 of 26

**MORTGAGE, ASSIGNMENT OF RENTS,
SECURITY AGREEMENT AND FIXTURE FILING**

THIS MORTGAGE, ASSIGNMENT OF RENTS, SECURITY AGREEMENT AND FIXTURE FILING (this "Mortgage"), dated as of January 17, 2007, is by COUNTRYSIDE HOLDINGS, LLC, an Illinois limited liability company ("Mortgagor"), whose address is 5315 Dansher Road, Countryside, Illinois 60525 in favor of NATIONAL CITY BANK, its successors and assigns ("Mortgagee"), whose address is 2021 Spring Road, Suite 400, Oak Brook, Illinois 60523. 26 D

1. Grant and Secured Obligations.

1.1 Grant. For the purpose of securing payment and performance of the Secured Obligations defined and described in Section 1.2 below, Mortgagor hereby irrevocably and unconditionally grants, remises, releases, bargains, sells, conveys, assigns, mortgages and warrants to Mortgagee, all estate, right, title and interest which Mortgagor now has or may later acquire in and to the following property (all or any part of such property, or any interest in all or any part of it, as the context may require, the "Property"): 16 D

(a) The real property located in the County of Cook, State of Illinois, as described in Exhibit A, together with all existing and future easements and rights affording access to it (the "Premises"); together with

(b) All buildings, structures and improvements now located or later to be constructed on the Premises (the "Improvements"); together with

(c) All existing and future appurtenances, privileges, easements, franchises and tenements of the Premises, including all minerals, oil, gas, other hydrocarbons and associated substances, sulphur, nitrogen, carbon dioxide, helium and other commercially valuable substances which may be in, under or produced from any part of the Premises, all development rights and credits, air rights, water, water rights (whether riparian, appropriative or otherwise, and whether or not appurtenant) and water stock, and any Premises lying in the streets, roads or avenues, open or proposed, in front of or adjoining the Premises and Improvements; together with

(d) All existing and future leases, subleases, subtenancies, licenses, occupancy agreements and concessions ("leases") relating to the use and enjoyment of all or any part of the Premises and Improvements, and any and all guaranties and other agreements relating to or made in connection with any of such leases; together with

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(e) All real property and improvements on it, and all appurtenances and other property and interests of any kind or character, whether described in Exhibit A or not, which may be reasonably necessary or desirable to promote the present and any reasonable future beneficial use and enjoyment of the Premises and Improvements; together with

(f) All goods, materials, supplies, chattels, furniture, fixtures, equipment and machinery now or later to be attached to, placed in or on, or used in connection with the use, enjoyment, occupancy or operation of all or any part of the Premises and Improvements, whether stored on the Premises or elsewhere, including all pumping plants, engines, pipes, ditches and flumes, and also all gas, electric, cooking, heating, cooling, air conditioning, lighting, refrigeration and plumbing fixtures and equipment, all of which shall be considered to the fullest extent of the law to be real property for purposes of this Mortgage, and any manufacturer's warranties with respect thereto; together with

(g) All building materials, equipment, work in process or other personal property of any kind, whether stored on the Premises or elsewhere, which have been or later will be acquired for the purpose of being delivered to, incorporated into or installed in or about the Premises or Improvements; together with

(h) All of Mortgagor's interest in and to all operating accounts, the Loan funds, whether disbursed or not, all interest reserves, and any other bank accounts of Mortgagor; together with

(i) All rights to the payment of money, accounts, accounts receivable, reserves, deferred payments, refunds, cost savings, payments and deposits, whether now or later to be received from third parties (including all earnest money sales deposits) or deposited by Mortgagor with third parties (including all utility deposits), contract rights, development and use rights, governmental permits and licenses, applications, architectural and engineering plans, specifications and drawings, as-built drawings, chattel paper, instruments, documents, notes, drafts and letters of credit (other than letters of credit in favor of Mortgagee), which arise from or relate to construction on the Premises or to any business now or later to be conducted on it during the period prior to Mortgagee's release of the lien of this Mortgage, or to the Premises and Improvements generally, and any builder's or manufacturer's warranties with respect thereto; together with

(j) All insurance policies pertaining to the Premises and all proceeds, including all claims to and demands for them, of the voluntary or involuntary conversion of any of the Premises, Improvements or the other property described above into cash or liquidated claims, including proceeds of all present and future fire, hazard or casualty insurance policies and all condemnation awards or payments now or later to be made by any public body or decree by any court of competent jurisdiction for any taking or in connection with any condemnation or eminent domain proceeding, and all causes of action and their proceeds for any damage or injury to the Premises, Improvements or the other property described above or any part of them, or breach of warranty in connection with the construction of the Improvements (if any), including causes of action arising in tort, contract, fraud or concealment of a material fact; together with

(k) Any interest rate agreements; together with

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(l) All books and records pertaining to any and all of the property described above, including computer-readable memory and any computer hardware or software necessary to access and process such memory ("Books and Records"); together with

(m) All purchase and sale agreements for the Premises and any Improvements thereon, or any portion thereof and all earnest money deposits and such other deposits deposited in accordance with the terms of such purchase and sale agreements; together with

(n) All proceeds of, additions and accretions to, substitutions and replacements for, and changes in any of the property described above.

Capitalized terms used above and elsewhere in this Mortgage without definition have the meanings given them in the Note referred to in Subsection 1.2(a)(i) below.

1.2 Secured Obligations.

(a) Mortgagor makes the grant, conveyance, and mortgage set forth in Section 1.1 above, and grants the security interest and lien set forth in Section 3 below for the purpose of securing the following obligations (the "Secured Obligations") in any order of priority that Mortgagee may choose:

(i) Payment and performance of all obligations at any time owing under that certain Secured Promissory Note bearing even date herewith, payable by Mortgagor as maker in the stated principal amount of Two Million Nine Hundred Twenty-Two Thousand Nine Hundred and 00/100 Dollars (\$2,922,900) to the order of Mortgagee (such Secured Promissory Note, as the same may be amended, restated, modified, extended or renewed, being referred to herein as the "Acquisition Note"). The Acquisition Note has the maturity date set forth in the Acquisition Note and the Acquisition Note bears interest at a variable interest rate calculated in accordance with the terms of the Acquisition Note; and

(ii) Payment and performance of all obligations of Mortgagor under this Mortgage; and

(iii) Payment and performance of any obligations of Mortgagor under any instrument, document or agreement which is executed by Mortgagor, in favor of Mortgagee; and

(iv) Payment of all sums advanced or expended by Mortgagor pursuant to Section 5.9 hereof, Section 5.10 hereof and Subsection 6.3(d) hereof; and

(v) Payment and performance of all future advances and other obligations that Mortgagor or any successor in ownership of all or part of the Property may agree to pay and/or perform (whether as principal, surety or guarantor) for the benefit of Mortgagee, when a writing evidences the parties' agreement that the advance or obligation be secured by this Mortgage; and

(vi) Payment and performance of all obligations of Mortgagor arising from any interest rate agreements; and

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(vii) Payment and performance of all modifications, amendments, extensions, and renewals, however evidenced, of any of the Secured Obligations; and

(viii) Payment and performance of all obligations of Sokol and Company (or its successors or assigns) under any document, instrument, or agreement creating, evidencing or securing any obligation (including, without limitation, all payment obligations) by Sokol and Company (or its successors or assigns) to and in favor of Mortgagee; and

(ix) Interest on all of the foregoing, including, without limitation, interest accruing after an Event of Default, acceleration and/or judgment at the Default Rate (as defined in the Acquisition Note) and all interest, fees and other costs that, but for the commencement of any insolvency proceeding, would have accrued; and

(x) All costs (including without limitation, protective advances) incurred to perform any obligation of Mortgagor under any Loan Document, or collect any amount owing to Mortgagee.

(b) All persons who may have or acquire an interest in all or any part of the Property will be considered to have notice of, and will be bound by, the terms of the Secured Obligations and each other agreement or instrument made or entered into in connection with each of the Secured Obligations. Such terms include any provisions in the Acquisition Note, which permit borrowing, repayment and reborrowing or which provide that the interest rate on one or more of the Secured Obligations may vary from time to time. All sums payable by Mortgagor hereunder shall be paid without demand, counterclaim, offset, deduction, reduction or defense. Mortgagor waives all rights now or hereafter conferred by statute or otherwise to any such demand, counterclaim, offset, deduction, reduction or defense.

2. Assignment of Rents.

2.1 Assignment. Mortgagor hereby irrevocably, absolutely, presently and unconditionally assigns to Mortgagee: (i) all rents, royalties, issues, profits, revenue, income, accounts, proceeds and other benefits of the Property, whether now due, past due or to become due, including all prepaid rents and security deposits (some or all collectively, as the context may require, "Rents"); (ii) all leases and subleases (collectively, "Leases"), now or hereafter existing, of all or any part of the Property, together with all guaranties of any of the Leases, and all security deposits delivered by tenants, whether in cash or by letter of credit; (iii) all rights and claims for damage against tenants arising out of defaults under the Leases, including rights to termination fees and compensation with respect to rejected Leases pursuant to Section 365(a) of the Federal Bankruptcy Code or any replacement Section thereof; and (iv) all tenant improvements and fixtures located on the Property. This is an absolute assignment, not an assignment for security only.

2.2 Grant of License. Mortgagee hereby confers upon Mortgagor a license ("License") to collect and retain the Rents as they become due and payable, so long as no Event of Default, as defined in Section 6.2 hereof, shall exist and be continuing. If an Event of Default has occurred and is continuing, Mortgagee shall have the right, which it may choose to exercise in its sole discretion, to terminate this License without notice to or demand upon Mortgagor, and without regard to the adequacy of Mortgagee's security under this Mortgage.

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2.3 Collection and Application of Rents. Subject to the License granted to Mortgagor under Section 2.2 hereof, Mortgagee has the right, power and authority to collect any and all Rents and Mortgagor hereby appoints Mortgagee its attorney-in-fact to perform any and all of the following acts, if and at the times when Mortgagee in its sole discretion may so choose:

- (a) Demand, receive and enforce payment of any and all Rents; or
- (b) Give receipts, releases and satisfactions for any and all Rents; or
- (c) Sue either in the name of Mortgagor or in the name of Mortgagee for any and all rents.

Mortgagee and Mortgagor agree that the mere recordation of the assignment granted herein entitles Mortgagee immediately to collect and receive rents upon the occurrence of an Event of Default, as defined in Section 6.2 hereof, without first taking any acts of enforcement under applicable law, such as, but not limited to, providing notice to Mortgagor, filing foreclosure proceedings, or seeking and/or obtaining the appointment of a receiver. Further, Mortgagee's right to the Rents does not depend on whether or not Mortgagee takes possession of the Property as permitted under Subsection 6.3(c) hereof. In Mortgagee's sole discretion, Mortgagee may choose to collect Rents either with or without taking possession of the Property. Mortgagee shall apply all Rents collected by it in the manner provided under Section 6.6 hereof. If an Event of Default occurs while Mortgagee is in possession of all or part of the Property and is collecting and applying Rents as permitted under this Mortgage, Mortgagee and any receiver shall nevertheless be entitled to exercise and invoke every right and remedy afforded any of them under this Mortgage and at law or in equity.

2.4 Mortgagee Not Responsible. Under no circumstances shall Mortgagee have any duty to produce Rents from the Property. Regardless of whether or not Mortgagee, in person or by agent, takes actual possession of the Premises and Improvements, unless Mortgagee agrees in writing to the contrary, Mortgagee is not and shall not be deemed to be:

- (a) A "mortgagee in possession" for any purpose; or
- (b) Responsible for performing any of the obligations of the lessor under any lease; or
- (c) Responsible for any waste committed by lessees or any other parties, any dangerous or defective condition of the Property, or any negligence in the management, upkeep, repair or control of the Property; or
- (d) Liable in any manner for the Property or the use, occupancy, enjoyment or operation of all or any part of it.

2.5 Leasing. Mortgagor covenants and agrees that so long as this Mortgage shall be in effect:

- (a) Mortgagor shall observe and perform all of the covenants, terms, conditions and agreements contained in the Leases to be observed or performed by the lessor thereunder, and Mortgagor shall not do or suffer to be done anything to impair the security thereof. Mortgagor shall not (i) release the liability of any tenant under any Lease, (ii) consent to any tenant's withholding of rent or making monetary advances and off-setting the same against future rentals, (iii) consent to

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any tenant's claim of a total or partial eviction, (iv) consent to a tenant termination or cancellation of any Lease, or (v) enter into any oral leases with respect to all or any portion of the Property;

- (b) Mortgagor shall not lease any portion of the Property unless Mortgagor obtains Mortgagee's prior written consent to all aspects of such lease;
- (c) Mortgagor shall not collect any of the rents, issues, income or profits assigned hereunder more than thirty (30) days in advance of the time when the same shall become due, except for security or similar deposits;
- (d) Mortgagor shall not make any other assignment of its entire or any part of its interest in or to any or all Leases, or any or all rents, issues, income or profits assigned hereunder, except as specifically permitted by the Subordination Agreement, dated of even date herewith, by and among Mortgagee and 5315 Dansher, LLC;
- (e) Mortgagor shall not modify the terms and provisions of any Lease, nor shall Mortgagor give any consent (including, but not limited to, any consent to any assignment or, or subletting under, any Lease, except as expressly permitted thereby) or approval, required or permitted by such terms and provisions or cancel or terminate any Lease, without Mortgagee's prior written consent, which shall not be unreasonably withheld, conditioned or delayed;
- (f) Mortgagor shall not accept a surrender of any lease or convey or transfer, or suffer or permit a conveyance or transfer, of the premises demised under any Lease or of any interest in any Lease so as to effect, directly or indirectly, proximately or remotely, a merger of the estates and rights of, or a termination or diminution of the obligations of, any tenant thereunder, any termination fees payable under a Lease for the early termination or surrender thereof shall be paid jointly to Mortgagor and Mortgagee;
- (g) Mortgagor shall not alter, modify or change the terms of any guaranty of any Lease, or cancel or terminate any such guaranty or do or permit to be done anything which would terminate any such guaranty as a matter of law;
- (h) Mortgagor shall not waive or excuse the obligation to pay rent under any Lease;
- (i) Mortgagor shall, at its sole cost and expense, appear in and defend any and all actions and proceedings arising under, relating to or in any manner connected with any Lease or the obligations, duties or liabilities of the lessor or any tenant or guarantor thereunder, and shall pay all costs and expenses of Mortgagee, including court costs and reasonable attorneys' fees, in any such action or proceeding in which Mortgagee may appear;
- (j) Mortgagor shall give prompt notice to Mortgagee of any notice of any default by the lessor under any Lease received from any tenant or guarantor thereunder;
- (k) Mortgagor shall enforce the observance and performance of each covenant, term, condition and agreement contained in each lease to be observed and performed

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by the tenants and guarantors thereunder and shall immediately notify Mortgagee of any material breach by the tenant or guarantor under any such Lease;

- (l) Mortgagor shall not permit any of the Leases to become subordinate to any lien or liens other than liens securing the indebtedness secured hereby or liens for general real estate taxes not delinquent;
- (m) Mortgagor shall not execute hereafter any Lease unless there shall be included therein a provision providing that the tenant thereunder acknowledges that such Lease has been assigned pursuant to this Assignment and agrees not to look to Mortgagee as mortgagee, mortgagee in possession or successor in title to the Property for accountability for any security deposit required by lessor under such Lease unless such sums have actually been received in cash by Mortgagee as security for tenant's performance under such Lease; and
- (n) If any tenant under any Lease is or becomes the subject of any proceeding under the Federal Bankruptcy Code, as amended from time to time, or any other federal, state or local statute which provides for the possible termination or rejection of the Leases assigned hereby; Mortgagor covenants and agrees that if any such Lease is so terminated or rejected, no settlement for damages shall be made without the prior written consent of Mortgagee, and any check in payment of damages for termination or rejection of any such Lease will be made payable both to Mortgagor and Mortgagee. Mortgagor hereby assigns any such payment to Mortgagee and further covenants and agrees that upon the request of Mortgagee, it will duly endorse to the order of Mortgagee any such check, the proceeds of which shall be applied in accordance with the provisions of this Mortgage.

3. Grant of Security Interest.

3.1 Security Agreement. Mortgagor hereby grants and assigns to Mortgagee a security interest, to secure payment and performance of all of the Secured Obligations, in all of the following described personal property in which Mortgagor now or at any time hereafter has any interest (collectively, the "Collateral"):

All goods, building and other materials, supplies, work in process, equipment, machinery, fixtures, furniture, furnishings, signs and other personal property and embedded software therein, wherever situated, which are or are to be incorporated into, used in connection with, or appropriated for use on the Premises; together with all Rents (to the extent, if any, they are not real property); all inventory, accounts, cash receipts, deposit accounts, accounts receivable, contract rights, licenses, agreements, general intangibles, chattel paper (whether electronic or tangible), instruments, documents, promissory notes, drafts, letters of credit, letter of credit rights, supporting obligations, insurance policies, insurance and condemnation awards and proceeds, any other rights to the payment of money, trade names, trademarks and service marks arising from or related to the ownership, management, leasing or operation of the Premises or any business now or hereafter conducted thereon by Mortgagor, including, without limitation, all of Mortgagor's rights under any and all contracts for sale of any portion of the Property to be entered into by Mortgagor; all other contract rights of Mortgagor; all permits, consents, approvals, licenses, authorizations and other rights granted by, given by or obtained from, any governmental entity with respect to the Premises; all water and water rights, wells and well rights, canals and canal

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rights, ditches and ditch rights, springs and spring rights, and reservoirs and reservoir rights appurtenant to or associated with the Property, whether decreed or undecreed, tributary, non-tributary or not non-tributary, surface or underground or appropriated or unappropriated, and all shares of stock in water, ditch, lateral and canal companies, well permits and all other evidences of any of such rights; all deposits or other security now or hereafter made with or given to utility companies by Mortgagor with respect to the Premises; all advance payments of insurance premiums made by Mortgagor with respect to the Premises; all plans, drawings and specifications relating to the Premises; all loan funds held by Mortgagee and/or any of its affiliate banks, whether or not disbursed; all funds deposited with Mortgagee and/or any of its affiliate banks pursuant to any loan agreement; all reserves, deferred payments, deposits, accounts, refunds, cost savings and payments of any kind related to the Premises or any portion thereof; together with all replacements and proceeds of, and additions and accessions to, any of the foregoing; together with all books, records and files relating to any of the foregoing. This Mortgage constitutes a security agreement under the Uniform Commercial Code of the State in which the Property is located, covering all of the Collateral.

3.2 Financing Statements. Mortgagor hereby authorizes Mortgagee to file one or more financing statements and such other documents as Mortgagee may from time to time require to perfect or continue the perfection of Mortgagee's security interest in any Property, Leases or Rents. As provided in Section 5.9 hereof and Section 5.10 hereof, Mortgagor shall pay all fees and costs that Mortgagee may incur in filing such documents in public offices and in obtaining such record searches as Mortgagee may reasonably require. In case Mortgagor fails to execute any financing statements or other documents for the perfection or continuation of any security interest, Mortgagor hereby appoints Mortgagee as its true and lawful attorney-in-fact to execute any such documents on its behalf. If any financing statement or other document is filed in the records normally pertaining to personal property, that filing shall never be construed as in any way derogating from or impairing this Mortgage or the rights or obligations of the parties under it.

4. Fixture Filing.

This Mortgage constitutes a financing statement filed as a fixture filing under Article 9 of the Uniform Commercial Code in the State in which the Property is located, as amended or recodified from time to time, covering any Property which now is or later may become fixtures attached to the Premises or Improvements. For this purpose, the respective addresses of Mortgagor, as debtor, and Mortgagee, as secured party, are as set forth in the preambles of this Mortgage.

5. Rights and Duties of the Parties.

5.1 Representations and Warranties. Mortgagor represents and warrants that:

(a) Mortgagor lawfully possesses and holds fee simple title to all of the Premises and Improvements, subject to the encumbrances set forth on Exhibit B attached hereto (the "Permitted Encumbrances");

(b) Mortgagor has or will have good title to all Property other than the Premises and Improvements, subject to the Permitted Encumbrances;

(c) Mortgagor has the full and unlimited power, right and authority to encumber the Property and assign the Leases and Rents;

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(d) This Mortgage creates a first and prior lien on the Property;

(e) The Property includes all property and rights which may be reasonably necessary or desirable to promote the present and any reasonable future beneficial use and enjoyment of the Premises and Improvements;

(f) Mortgagor owns any Property which is personal property free and clear of any security agreements, reservations of title or conditional sales contracts, and there is no financing statement affecting such personal property on file in any public office other than as may be created hereby; and

(g) Mortgagor's place of business, or its chief executive office if it has more than one place of business, is located at the address specified below.

5.2 Taxes and Assessments. Mortgagor shall pay prior to delinquency all taxes, levies, charges and assessments.

5.3 Performance of Secured Obligations. Mortgagor shall promptly pay and perform each Secured Obligation in accordance with its terms.

5.4 Liens, Charges and Encumbrances. Mortgagor shall immediately discharge any lien on the Property which Mortgagee has not consented to in writing.

5.5 Damages and Insurance and Condemnation Proceeds.

(a) Subject to the provisions of Section 5.5(b) below, Mortgagee may elect to collect, retain and apply upon the Secured Obligations all proceeds of insurance or condemnation (individually and collectively referred to as "Proceeds") after deduction of all expenses of collection and settlement, including reasonable attorneys' and adjusters' fees and charges. Any proceeds remaining after repayment of the Secured Obligations shall be paid by Mortgagee to Mortgagor.

(b) Notwithstanding anything in Section 5.5(a) to the contrary, in the event of any casualty to the Improvements (if any) or any condemnation of part of the Property, Mortgagor shall have the option of applying the Proceeds to restoration of the Improvements (if any) if (i) no Event of Default exists, (ii) all Proceeds are deposited with Mortgagee, (iii) in Mortgagee's reasonable judgment, the amount of Proceeds available for restoration of the Improvements and any sums or other security acceptable to Mortgagee deposited with Mortgagee by Mortgagor for such purpose) is sufficient to pay the full and complete costs of such restoration, (iv) in Mortgagee's reasonable determination, the Property can be restored to an architecturally and economically viable project in compliance with applicable Laws, and (v) in Mortgagee's reasonable determination, such restoration is likely to be completed not later than three months prior to the Maturity Date.

(c) In case Mortgagee does not elect to apply or does not have the right to apply the Proceeds to the Secured Obligations, as provided in Section 5.5 above, Mortgagor shall:

(i) Proceed with diligence to make settlement with insurers or the appropriate governmental authorities and cause the Proceeds to be deposited with Mortgagee;

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(ii) In the event the Proceeds and the available proceeds of the Loan are insufficient to assure Mortgagee that the Loan will be in balance (if applicable), promptly deposit with Mortgagee any amount necessary to place the Loan in balance; and

(iii) Promptly proceed with the assumption of construction of the Improvements (if any), including the repair of all damage resulting from such fire, condemnation or other cause and restoration to its former condition.

5.6 Maintenance and Preservation of Property.

(a) Mortgagor shall insure the Property as required by Exhibit C and keep the Property in good condition and repair.

(b) Mortgagor shall not remove or demolish the Property or any part of it, or alter, restore or add to the Property, or initiate or allow any change or variance in any zoning or other Premises use classification which affects the Property or any part of it, except with Mortgagee's express prior written consent in each instance.

(c) If all or part of the Property becomes damaged or destroyed, Mortgagor shall promptly and completely repair and/or restore the Property in a good and workmanlike manner in accordance with sound building practices, regardless of whether or not Mortgagee agrees to disburse proceeds or other sums to pay costs of the work of repair or reconstruction.

(d) Mortgagor shall not commit or allow any act upon or use of the Property which would violate: (i) any applicable laws or order of any governmental authority, whether now existing or later to be enacted and whether foreseen or unforeseen; or (ii) any public or private covenant, condition, restriction or equitable servitude affecting the Property. Mortgagor shall not bring or keep any article on the Property or cause or allow any condition to exist on it, if that could invalidate or would be prohibited by any insurance coverage required to be maintained by Mortgagor on the Property or any part of it.

(e) Mortgagor shall not commit or allow waste of the Property.

(f) Mortgagor shall perform all other acts which from the character or use of the Property may be reasonably necessary to maintain and preserve its value.

5.7 Releases, Extensions, Modifications and Additional Security. From time to time, Mortgagee may perform any of the following acts without incurring any liability or giving notice to any person:

(a) Release any person liable for payment of any Secured Obligation;

(b) Extend the time for payment, or otherwise alter the terms of payment, of any Secured Obligation;

(c) Accept additional real or personal property of any kind as security for any Secured Obligation, whether evidenced by deeds of trust, mortgages, security agreements or any other instruments of security;

(d) Alter, substitute or release any property securing the Secured Obligations;

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- (e) Consent to the making of any plat or map of the Property or any part of it;
- (f) Join in granting any easement or creating any restriction affecting the Property;
- (g) Join in any subordination or other agreement affecting this Mortgage or the lien of it; or
- (h) Release the Property or any part of it.

5.8 Release. When all of the Secured Obligations have been paid in full and all fees and other sums owed by Mortgagor under Section 5.9 hereof and Section 5.10 hereof have been received, Mortgagee shall release this Mortgage, the lien created thereby, and all notes and instruments evidencing the Secured Obligations. Mortgagor shall pay any costs of preparation and recordation of such release.

5.9 Compensation, Exculpation, Indemnification.

(a) Mortgagor agrees to pay fees in the maximum amounts legally permitted, or reasonable fees as may be charged by Mortgagee when the law provides no maximum limit, for any services that Mortgagee may render in connection with this Mortgage, including Mortgagee's providing a statement of the Secured Obligations or providing the release pursuant to Section 5.8 hereof. Mortgagor shall also pay or reimburse all of Mortgagee's costs and expenses which may be incurred in rendering any such services. Mortgagor further agrees to pay or reimburse Mortgagee for all costs, expenses and other advances which may be incurred or made by Mortgagee in any efforts to enforce any terms of this Mortgage, including any rights or remedies afforded to Mortgagee under Section 6.3 hereof, whether any lawsuit is filed or not, or in defending any action or proceeding arising under or relating to this Mortgage, including reasonable attorneys' fees and other legal costs, costs of any Foreclosure Sale (as defined in Subsection 6.3(i) hereof) and any cost of evidence of title. Such costs and expenses shall be paid by Mortgagor even if incurred after the entry of one or more judgments. If Mortgagee chooses to dispose of Property through more than one Foreclosure Sale, Mortgagor shall pay all costs, expenses or other advances that may be incurred or made by Mortgagee in each of such Foreclosure Sales. In any suit to foreclose the lien hereof or enforce any other remedy of Mortgagee under this Mortgage or the Acquisition Note there shall be allowed and included as additional indebtedness in the decree for sale or other judgment or decree all expenditures and expenses which may be paid or incurred by or on behalf of Mortgagee for reasonable attorneys' costs and fees (including the costs and fees of paralegals), survey charges, appraiser's fees, inspecting engineer's and/or architect's fees, fees for environmental studies and assessments and all additional expenses incurred by Mortgagee with respect to environmental matters, outlays for documentary and expert evidence, stenographers' charges, publication costs, and costs (which may be estimated as to items to be expended after entry of the decree) of procuring all such abstracts of title, title searches and examinations, title insurance policies, and similar data and assurances with respect to title as Mortgagee may deem reasonably necessary in connection with such foreclosure or enforcement of such other remedies or to evidence to bidders at any foreclosure sale the true condition of the title to, the value of or the environmental condition of the Property. All expenditures and expenses of the nature in this Subsection mentioned, and such expenses and fees as may be incurred in the protection of the Property and the maintenance of the lien of this Mortgage, including the reasonable fees of any attorney (including the costs and fees of paralegals) employed by Mortgagee in any litigation or proceeding affecting this Mortgage, the Acquisition Note, or the Property, including probate and bankruptcy proceedings, or in

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preparation for the commencement or defense of any proceeding or threatened suit or proceeding, shall be immediately due and payable by Mortgagor, with interest thereon at the Default Rate and shall be secured by this Mortgage.

(b) Mortgagee shall not be directly or indirectly liable to Mortgagor or any other person as a consequence of any of the following:

(i) Mortgagee's exercise of or failure to exercise any rights, remedies or powers granted to Mortgagee in this Mortgage;

(ii) Mortgagee's failure or refusal to perform or discharge any obligation or liability of Mortgagor under any agreement related to the Property or under this Mortgage; or

(iii) Any loss sustained by Mortgagor or any third party resulting from Mortgagee's failure to lease the Property, or from any other act or omission of Mortgagee in managing the Property, after an Event of Default, unless the loss is caused by the willful misconduct and bad faith of Mortgagee.

Mortgagor hereby expressly waives and releases all liability of the types described above, and agrees that no such liability shall be asserted against or imposed upon Mortgagee.

(c) Mortgagor agrees to indemnify Mortgagee against and hold it harmless from all losses, damages, liabilities, claims, causes of action, judgments, court costs, reasonable attorneys' fees and other legal expenses, cost of evidence of title, cost of evidence of value, and other costs and expenses which it may suffer or incur:

(i) In performing any act required or permitted by this Mortgage or any of the other Loan Documents or by law;

(ii) Because of any failure of Mortgagor to perform any of its obligations under this Mortgage; or

(iii) Because of any alleged obligation of or undertaking by Mortgagee to perform or discharge any of the representations, warranties, conditions, covenants or other obligations in any document relating to the Property other than the Loan Documents.

This agreement by Mortgagor to indemnify Mortgagee shall survive the release and cancellation of any or all of the Secured Obligations and the full or partial release of this Mortgage.

(d) Mortgagor shall pay all obligations to pay money arising under this Section 5.9 immediately upon demand by Mortgagee. Each such obligation shall be added to, and considered to be part of, the Secured Obligations, and shall bear interest from the date the obligation arises at the Default Rate.

5.10 Defense and Notice of Claims and Actions. At Mortgagor's sole expense, Mortgagor shall protect, preserve and defend the Property and title to and right of possession of the Property, and the security of this Mortgage and the rights and powers of Mortgagee created under it, against all adverse claims. Mortgagor shall give Mortgagee prompt notice in writing if any claim is asserted which does or

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could affect any such matters, or if any action or proceeding is commenced which alleges or relates to any such claim.

5.11 Subrogation. Mortgagee shall be subrogated to the liens of all encumbrances, whether released of record or not, which are discharged in whole or in part by Mortgagee in accordance with this Mortgage or with the proceeds of any loan secured by this Mortgage.

5.12 Site Visits, Observation and Testing. Mortgagee and its agents and representatives shall have the right (upon prior notice) at any reasonable time to enter and visit the Property for the purpose of performing appraisals, observing the Property, taking and removing soil or groundwater samples, and conducting tests on any part of the Property, including so called Phase I environmental site assessments. Prior to any inspection of the improvements on the Property, the Mortgagee and its agents and representatives shall comply with the site visit rules and procedures of Mortgagor and/or Sokol and Company then in effect, including entering into the form of confidentiality agreement utilized by Mortgagor and/or Sokol and Company for such purposes. Mortgagee has no duty, however, to visit or observe the Property or to conduct tests, and no site visit, observation or testing by Mortgagee, its agents or representatives shall impose any liability on any of Mortgagee, its agents or representatives. In no event shall any site visit, observation or testing by Mortgagee, its agents or representatives be a representation that Hazardous Material are or are not present in, on or under the Property, or that there has been or shall be compliance with any law, regulation or ordinance pertaining to Hazardous Material or any other applicable governmental law. Neither Mortgagor nor any other party is entitled to rely on any site visit, observation or testing by any of Mortgagee, its agents or representatives. Neither Mortgagee, its agents nor representatives owe any duty of care to protect Mortgagor or any other party against, or to inform Mortgagor or any other party of, any Hazardous Material or any other adverse condition affecting the Property. Mortgagee shall give Mortgagor reasonable notice before entering the Property. Mortgagee shall make reasonable efforts to avoid interfering with Mortgagor's use of the Property in exercising any rights provided in this Section 5.12. For purposes of this Section 5.12, "Hazardous Substances" shall mean, but is not limited to, any substance, chemical, material or waste (A) the presence of which causes a nuisance or trespass of any kind; (B) which is regulated by any federal, state or local governmental authority because of its toxic, flammable, corrosive, reactive, carcinogenic, mutagenic, infectious, radioactive, or other hazardous property or because of its effect on the environment, natural resources or human health and safety, including, but not limited to, petroleum and petroleum products, asbestos-containing materials, polychlorinated biphenyls, lead and lead-based paint, radon, radioactive materials, flammables and explosives; or (C) which is designated, classified, or regulated as being a hazardous or toxic substance, material, pollutant, waste (or a similar such designation), including, but not limited, to mold, under any federal, state or local law, regulation or ordinance, including under any Environmental Law such as the Comprehensive Environmental Response Compensation and Liability Act (42 U.S.C. §9601 et seq.), the Emergency Planning and Community Right-to-Know Act (42 U.S.C. §11001 et seq.), the Hazardous Substances Transportation Act (49 U.S.C. §1801 et seq.), or the Clean Air Act (42 U.S.C. §7401 et seq.).

5.13 Notice of Change. Mortgagor shall give Mortgagee prior written notice of any change in: (a) the location of its place of business or its chief executive office if it has more than one place of business, or its state of organization or formation; (b) the location of any of the Property, including the Books and Records; and (c) Mortgagor's name or business structure. Unless otherwise approved by Mortgagee in writing, all Property that consists of personal property (other than the Books and Records) will be located on the Premises and all Books and Records will be located at Mortgagor's place of business or chief executive office if Mortgagor has more than one place of business.

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6. Accelerating Transfers, Default and Remedies.

6.1 Accelerating Transfers.

(a) “Accelerating Transfer” means any transfer of the Property, any interest in Mortgagor or such other transfers prohibited by any of the Loan Documents.

(b) Mortgagor acknowledges that Mortgagee is making one or more advances under the Acquisition Note in reliance on the expertise, skill and experience of Mortgagor; thus, the Secured Obligations include material elements similar in nature to a personal service contract. In consideration of Mortgagee’s reliance, Mortgagor agrees that Mortgagor shall not make any Accelerating Transfer, unless the transfer is preceded by Mortgagee’s express written consent to the particular transaction and transferee. Mortgagee may withhold such consent in its sole discretion. If any Accelerating Transfer occurs, Mortgagee in its sole discretion may declare all of the Secured Obligations to be immediately due and payable without notice or demand to Mortgagor, and Mortgagee may invoke any rights and remedies provided by Section 6.3 of this Mortgage.

6.2 Events of Default. Mortgagor will be in default under this Mortgage upon the occurrence of any one or more of the following events (some or all collectively, “Events of Default,” any one singly, an “Event of Default”).

(a) Failure of Mortgagor (i) to observe or perform any of the other covenants or conditions by Mortgagor to be performed under the terms of this Mortgage concerning the payment of money within ten (10) days after the date the same is due and payable; or (ii) to promptly perform or cause to be performed any non-monetary obligation or observe any non-monetary condition, covenant, term, agreement or provision required to be performed or observed by Mortgagor or any other obligor under this Mortgage or any of the other Loan Documents; provided, however, that if such failure by its nature can be cured, then so long as the continued operation and safety of the Property, and the priority, validity and enforceability of the lien created by this Mortgage or any of the other Loan Documents and the value of the Property are not imminently impaired, threatened or jeopardized, then Mortgagor shall have a period (the “Cure Period”) of thirty (30) days after written notice from Mortgagee of any such failure of performance or observance to cure or cause the cure of the same, and an Event of Default shall not be deemed to exist during the Cure Period, provided that Mortgagor commences to cure such failure during the Cure Period and is diligently and in good faith attempting to effect such cure. The foregoing Cure Period is intended only to apply in circumstances where a different notice or grace period is not specified under the Acquisition Note or elsewhere in this Mortgage (such other notice or grace period shall control); or

(b) An Accelerating Transfer occurs without the prior written consent of Mortgagee;

(c) Any default occurs and is continuing (after all applicable notice and/or cure periods have expired) under the Acquisition Note or any other Loan Document (as defined in the Acquisition Note); or

(d) Any default occurs and is continuing (after all applicable notice and/or cure periods have expired) under any document, instrument or agreement creating, evidencing or securing any loan from Mortgagee to Sokol and Company.

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6.3 Remedies. At any time after an Event of Default, Mortgagee shall be entitled to invoke any and all of the rights and remedies described below, in addition to all other rights and remedies available to Mortgagee at law or in equity. All of such rights and remedies shall be cumulative, and the exercise of any one or more of them shall not constitute an election of remedies.

(a) Acceleration. Mortgagee may declare any or all of the Secured Obligations to be due and payable immediately.

(b) Receiver. Mortgagee shall, as a matter of right, without notice and without giving bond to Mortgagor or anyone claiming by, under or through Mortgagor, and without regard for the solvency or insolvency of Mortgagor or the then value of the Property, to the extent permitted by applicable law, be entitled to have a receiver appointed for all or any part of the Property and the Rents, and the proceeds, issues and profits thereof, with the rights and powers referenced below and such other rights and powers as the court making such appointment shall confer, and Mortgagor hereby consents to the appointment of such receiver and shall not oppose any such appointment. Such receiver shall have all powers and duties prescribed by applicable law, all other powers which are necessary or usual in such cases for the protection, possession, control, management and operation of the Property, and such rights and powers as Mortgagee would have, upon entering and taking possession of the Property under subsection (c) below.

(c) Entry. Mortgagee, in person, by agent or by court-appointed receiver, may enter, take possession of, manage and operate all or any part of the Property, and may also do any and all other things in connection with those actions that Mortgagee may in its sole discretion consider necessary and appropriate to protect the security of this Mortgage. Such other things may include: taking and possessing all of Mortgagor's or the then owner's Books and Records; entering into, enforcing, modifying or canceling leases on such terms and conditions as Mortgagee may consider proper; obtaining and evicting tenants; fixing or modifying Rents; collecting and receiving any payment of money owing to Mortgagee; completing any unfinished construction; and/or contracting for and making repairs and alterations. If Mortgagee so requests, Mortgagor shall assemble all of the Property that has been removed from the Premises and make all of it available to Mortgagee at the site of the Premises. Mortgagor hereby irrevocably constitutes and appoints Mortgagee as Mortgagor's attorney-in-fact, to the extent not prohibited by law, to perform such acts and execute such documents as Mortgagee in its sole discretion may consider to be appropriate in connection with taking these measures, including endorsement of Mortgagor's name on any instruments, only if Mortgagee has exercised its rights under Section 6.3(a).

(d) Cure; Protection of Security. Mortgagee may cure any breach or default of Mortgagor, and if it chooses to do so in connection with any such cure, Mortgagee may also enter the Property and/or do any and all other things which it may in its sole discretion consider necessary and appropriate to protect the security of this Mortgage. Such other things may include: appearing in and/or defending any action or proceeding which purports to affect the security of, or the rights or powers of Mortgagee under, this Mortgage; paying, purchasing, contesting or compromising any encumbrance, charge, lien or claim of lien which in Mortgagee's sole judgment is or may be senior in priority to this Mortgage, such judgment of Mortgagee or to be conclusive as among the parties to this Mortgage; obtaining insurance and/or paying any premiums or charges for insurance required to be carried by Mortgagee; otherwise caring for and protecting any and all of the Property; and/or employing counsel, accountants, contractors and other appropriate persons to assist Mortgagee. Mortgagee may take any of the actions permitted

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under this Subsection 6.3(d) either with or without giving notice to any person, except Mortgagee shall give notice to Mortgagor if Mortgagee is curing a default. Any amounts expended by Mortgagee under this Subsection 6.3(d) shall be secured by this Mortgage.

(e) Uniform Commercial Code Remedies. Mortgagee may exercise any or all of the remedies granted to a secured party under the Uniform Commercial Code in the State in which the Property is located.

(f) Foreclosure; Lawsuits. Mortgagee shall have the right, in one or several concurrent or consecutive proceedings, to foreclose the lien hereof upon the Property or any part thereof, for the Secured Obligations, or any part thereof, by any proceedings appropriate under applicable law. Mortgagee or its nominee may bid and become the purchaser of all or any part of the Property at any foreclosure or other sale hereunder, and the amount of Mortgagee's successful bid shall be credited on the Secured Obligations. Without limiting the foregoing, Mortgagee may proceed by a suit or suits in law or equity, whether for specific performance of any covenant or agreement herein contained or in aid of the execution of any power herein granted, or for any foreclosure under the judgment or decree of any court of competent jurisdiction. In addition to the right provided in Subsection 6.3(a) hereof, upon, or at any time after the filing of a complaint to foreclose this Mortgage, Mortgagee shall be entitled to the appointment of a receiver of the Property by the court in which such complaint is filed, and Mortgagor hereby consents to such appointment.

(g) Other Remedies. Mortgagee may exercise all rights and remedies contained in any other instrument, document, agreement or other writing heretofore, concurrently or in the future executed by Mortgagor or any other person or entity in favor of Mortgagee in connection with the Secured Obligations or any part thereof, without prejudice to the right of Mortgagee thereafter to enforce any appropriate remedy against Mortgagee hereunder or under any other Loan Document. Mortgagee shall have the right to pursue all remedies afforded to a mortgagee under applicable law, and shall have the benefit of all of the provisions of such applicable law, including all amendments thereto which may become effective from time to time after the date hereof.

(h) Sale of Personal Property. Mortgagee shall have the discretionary right to cause some or all of the Property, which constitutes personal property, to be sold or otherwise disposed of in any combination and in any manner permitted by applicable law.

(i) For purposes of this power of sale, Mortgagee may elect to treat as personal property any Property which is intangible or which can be severed from the Premises or Improvements without causing structural damage. If it chooses to do so, Mortgagee may dispose of any personal property, in any manner permitted by Article 9 of the Uniform Commercial Code of the State in which the Property is located, including any public or private sale, or in any manner permitted by any other applicable law.

(ii) In connection with any sale or other disposition of such Property, Mortgagor agrees that the following procedures constitute a commercially reasonable sale: Mortgagee shall mail written notice of the sale to Mortgagor not later than ten (10) days prior to such sale. Mortgagee will publish notice of the sale in a local daily newspaper of general circulation. Upon receipt of any written request, Mortgagee will make the Property available to any bona fide prospective purchaser for inspection during reasonable business hours. Notwithstanding, Mortgagee shall be under no obligation to consummate a sale if, in its judgment, none of the offers received by it equals the fair

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value of the Property offered for sale. The foregoing procedures do not constitute the only procedures that may be commercially reasonable.

(i) Single or Multiple Foreclosure Sales. If the Property consists of more than one lot, parcel or item of property, Mortgagee may:

(i) Designate the order in which the lots, parcels and/or items shall be sold or disposed of or offered for sale or disposition; and

(ii) Elect to dispose of the lots, parcels and/or items through a single consolidated sale or disposition to be held or made under or in connection with judicial proceedings, or by virtue of a judgment and decree of foreclosure and sale; or through two or more such sales or dispositions; or in any other manner Mortgagee may deem to be in its best interests (any such sale or disposition, a "Foreclosure Sale," and any two or more, "Foreclosure Sales").

If Mortgagee chooses to have more than one Foreclosure Sale, Mortgagee at its option may cause the Foreclosure Sales to be held simultaneously or successively, on the same day, or on such different days and at such different times and in such order as Mortgagee may deem to be in its best interests. No Foreclosure Sale shall terminate or affect the liens of this Mortgage on any part of the Property which has not been sold, until all of the Secured Obligations have been paid in full.

6.4 Credit Bids. At any Foreclosure Sale, any person, including Mortgagor or Mortgagee, may bid for and acquire the Property or any part of it to the extent permitted by then applicable law. Instead of paying cash for such property, Mortgagee may settle for the purchase price by crediting the sales price of the property against the following obligations:

(a) First, the portion of the Secured Obligations attributable to the expenses of sale, costs of any action and any other sums for which Mortgagor is obligated to pay or reimburse Mortgagee under Section 5.9 hereof or Section 5.10 hereof; and

(b) Second, all other Secured Obligations in any order and proportions as Mortgagee in its sole discretion may choose.

Upon the completion of any such sale or sales, Mortgagee shall transfer and deliver, or cause to be transferred and delivered, to the purchaser or purchasers of the property so sold, in the manner and form as provided by applicable law, any and all instruments of assignment and transfer. To effectuate such transfer or transfers, Mortgagor hereby irrevocably appoints Mortgagee as its true and lawful attorney-in-fact, in Mortgagor's name and stead, to make all necessary transfers of property sold, and for that purpose Mortgagee may execute and deliver, for and in the name of Mortgagor, all necessary instruments of assignment and transfer, Mortgagor hereby ratifying and confirming all that said attorney-in-fact shall lawfully do by virtue hereof.

6.5 Application of Foreclosure Sale Proceeds. Mortgagee shall apply the proceeds of any Foreclosure Sale in the following manner:

(a) First, to pay the portion of the Secured Obligations attributable to the expenses of sale, costs of any action and any other sums for which Mortgagor is obligated to reimburse Mortgagee under Section 5.10 hereof;

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(b) Second, to pay the portion of the Secured Obligations attributable to any sums expended or advanced by Mortgagee under the terms of this Mortgage which then remain unpaid;

(c) Third, to pay all other Secured Obligations in any order and proportions as Mortgagee in its sole discretion may choose; and

(d) Fourth, to remit the remainder, if any, to the person or persons entitled to it.

6.6 Application of Rents and Other Sums. Mortgagee shall apply any and all Rents collected by it, and any and all sums other than proceeds of a Foreclosure Sale which Mortgagee may receive or collect under Section 6.3 hereof, in the following manner:

(a) First, to pay the portion of the Secured Obligations attributable to the costs and expenses of operation and collection that may be incurred by Mortgagee or any receiver;

(b) Second, to pay all other Secured Obligations in any order and proportions as Mortgagee in its sole discretion may choose; and

(c) Third, to remit the remainder, if any, to the person or persons entitled to it.

Mortgagee shall have no liability for any funds which it does not actually receive.

7. Miscellaneous Provisions.

7.1 Additional Provisions. The Loan Documents fully state all of the terms and conditions of the parties' agreement regarding the matters mentioned in or incidental to this Mortgage. The Loan Documents also grant further rights to Mortgagee and contain further agreements and affirmative and negative covenants by Mortgagor which apply to this Mortgage and to the Property.

7.2 No Waiver or Cure.

(a) Each waiver by Mortgagee must be in writing, and no waiver shall be construed as a continuing waiver. No waiver shall be implied from any delay or failure by Mortgagee to take action on account of any default of Mortgagor. Consent by Mortgagee to any act or omission by Mortgagor shall not be construed as a consent to any other or subsequent act or omission or to waive the requirement for Mortgagee's consent to be obtained in any future or other instance.

(b) If any of the events described below occurs, that event alone shall not: cure or waive any breach, Event of Default or notice of default under this Mortgage or invalidate any act performed pursuant to any such default or notice; or nullify the effect of any notice of default or sale (unless all Secured Obligations then due have been paid and performed); or impair the security of this Mortgage; or prejudice Mortgagee or any receiver in the exercise of any right or remedy afforded any of them under this Mortgage; or be construed as an affirmation by Mortgagee of any tenancy, lease or option, or a subordination of the lien of this Mortgage.

(i) Mortgagee, its agent or a receiver takes possession of all or any part of the Property in the manner provided in Subsection 6.3(b), (c) and (f) hereof.

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(ii) Mortgagee collects and applies Rents as permitted under Sections 2.3 and 6.6 hereof, either with or without taking possession of all or any part of the Property.

(iii) Mortgagee receives and applies to any Secured Obligation any proceeds of any Property, including any proceeds of insurance policies, condemnation awards, or other claims, property or rights assigned to Mortgagee under Section 5.5 hereof.

(iv) Mortgagee makes a site visit, observes the Property and/or conducts tests as permitted under Section 5.12 hereof.

(v) Mortgagee receives any sums under this Mortgage or any proceeds of any collateral held for any of the Secured Obligations, and applies them to one or more Secured Obligations.

(vi) Mortgagee or any receiver invokes any right or remedy provided under this Mortgage.

7.3 Powers of Mortgagee.

(a) If Mortgagee performs any act which it is empowered or authorized to perform under this Mortgage, including any act permitted by Section 5.7 or Subsection 6.3(d) hereof, that act alone shall not release or change the personal liability of any person for the payment and performance of the Secured Obligations then outstanding, or the lien of this Mortgage on all or the remainder of the Property for full payment and performance of all outstanding Secured Obligations. The liability of the original Mortgagor shall not be released or changed if Mortgagee grants any successor in interest to Mortgagor any extension of time for payment, or modification of the terms of payment, of any Secured Obligation. Mortgagee shall not be required to comply with any demand by the original Mortgagor that Mortgagee refuse to grant such an extension or modification to, or commence proceedings against, any such successor in interest.

(b) Mortgagee may take any of the actions permitted under Subsections 6.3(b) and/or 6.3(c) hereof regardless of the adequacy of the security for the Secured Obligations, or whether any or all of the Secured Obligations have been declared to be immediately due and payable, or whether notice of default and election to sell has been given under this Mortgage.

(c) From time to time, Mortgagee may apply to any court of competent jurisdiction for aid and direction in executing and enforcing the rights and remedies created under this Mortgage. Mortgagee may from time to time obtain orders or decrees directing, confirming or approving acts in executing and enforcing these rights and remedies.

7.4 Merger. No merger shall occur as a result of Mortgagee's acquiring any other estate in or any other lien on the Property unless Mortgagee consents to a merger in writing.

7.5 Joint and Several Liability. If Mortgagor consists of more than one person, each shall be jointly and severally liable for the faithful performance of all of Mortgagor's obligations under this Mortgage.

7.6 Applicable Law. This Mortgage shall be governed by the law of the State in which the Property is located.

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7.7 Successors in Interest. The terms, covenants and conditions of this Mortgage shall be binding upon and inure to the benefit of the heirs, successors and assigns of the parties. However, this Section 7.7 does not waive the provisions of Section 6.1 hereof.

7.8 Interpretation.

(a) Whenever the context requires, all words used in the singular will be construed to have been used in the plural, and vice versa, and each gender will include any other gender. The captions of the sections of this Mortgage are for convenience only and do not define or limit any terms or provisions. The word "include(s)" means "include(s), without limitation," and the word "including" means "including, but not limited to."

(b) The word "obligations" is used in its broadest and most comprehensive sense, and includes all primary, secondary, direct, indirect, fixed and contingent obligations. It further includes all principal, interest, prepayment charges, late charges, loan fees and any other fees and charges accruing or assessed at any time, as well as all obligations to perform acts or satisfy conditions.

(c) No listing of specific instances, items or matters in any way limits the scope or generality of any language of this Mortgage. The Exhibits to this Mortgage are hereby incorporated in this Mortgage.

7.9 In-House Counsel Fees. Whenever Mortgagor is obligated to pay or reimburse Mortgagee for any attorneys' fees, those fees shall include the reasonable allocated costs for services of in-house counsel.

7.10 Waiver of Statutory Rights. To the extent permitted by law, Mortgagor hereby agrees that it shall not and will not apply for or avail itself of any appraisement, valuation, stay, extension or exemption laws, or any so-called "Moratorium Laws," now existing or hereafter enacted, in order to prevent or hinder the enforcement or foreclosure of this Mortgage, but hereby waives the benefit of such laws. Mortgagor for itself and all who may claim through or under it waives any and all right to have the property and estates comprising the Property marshalled upon any foreclosure of the lien hereof and agrees that any court having jurisdiction to foreclose such lien may order the Property sold as an entirety. Mortgagor hereby waives any and all rights of redemption from sale under any judgment 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 Property of any nature whatsoever, subsequent to the date of this Mortgage. The foregoing waiver of right of redemption is made pursuant to 735 ILCS 5/15 - 1601(b) and the provisions of all other applicable law.

7.11 Severability. If any provision of this Mortgage should be held unenforceable or void, that provision shall be deemed severable from the remaining provisions and shall in no way affect the validity of this Mortgage except that if such provision relates to the payment of any monetary sum, then Mortgagee may, at its option, declare all Secured Obligations immediately due and payable.

7.12 Notices. Any notice, demand, request or other communication which any party hereto may be required to give hereunder, or may desire to give hereunder, shall be in writing and shall be deemed to have been properly given (a) if hand delivered, when delivered; (b) if mailed by United States Certified Mail (postage prepaid, return receipt requested), three Business Days after mailing (c) if by Federal Express or other reliable overnight courier service for delivery on the next Business Day, on the

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next Business Day after delivered to such courier service, or (d) if by telecopier on the day of transmission so long as copy is sent on the same day by overnight courier as set forth below:

To Mortgagee: National City Bank
2021 Spring Road, Suite 400
Oak Brook, Illinois 60523
Attention: Douglas Alwin, Senior Vice President

With copy to: Barnes & Thornburg LLP
One North Wacker Drive, Suite 4400
Chicago, Illinois 60606
Attention: John W. Morse, Esq.

To Mortgagor: Countryside Holdings, LLC
5315 Dansher Road
Countryside, Illinois 60523
Attention: John S. Novak, Jr.

With copy to: Goldstine Skrodzki Russian Nemec and Hoff Ltd.
The Prairie Building
835 McClintock Drive, Second Floor
Burr Ridge, Illinois 60527
Attention: Kenneth J. Nemec, Jr., Esq.

or at such other address as the party to be served with notice may have furnished in writing to the party seeking or desiring to serve notice as a place for the service of notice. Failure of Mortgagee to furnish Mortgagor's attorney with a copy of any notice provided to Mortgagor hereunder shall not be deemed a failure of Mortgagee to provide Mortgagor with such notice and shall not affect or in any way prevent or estop Mortgagee from exercising any right or remedy of Mortgagee hereunder.

7.13 Future Advances. This Mortgage shall secure, in addition to the Secured Obligations, future advances and obligations of Mortgagor to Mortgagee and advances by Mortgagee to Mortgagor up to Five Million Eight Hundred Forty-Five Thousand Eight Hundred and 00/100 Dollars (\$5,845,800) to the same extent as if the future advances and obligations were made on the date of this Mortgage. For the purposes hereof, all obligations of Mortgagor to Mortgagee under all interest rate agreements and any indebtedness or obligation contained therein or evidenced thereby shall be considered a future obligation of Mortgagor secured hereby. In any and all events, the maximum amount of indebtedness and obligations of Mortgagor secured hereby shall not exceed Five Million Eight Hundred Forty-Five Thousand Eight Hundred and 00/100 Dollars (\$5,845,800.00). Nothing in this Section 7.13 or in any other provision of this Mortgage shall be deemed either (a) an obligation on the part of Mortgagee to make any future advances, or (b) an agreement on the part of Mortgagee to increase the amount of the loan evidenced by the Acquisition Note.

7.14 Mortgagee's Lien for Service Charge and Expenses. At all times, regardless of whether any proceeds of the Loan has been disbursed, this Mortgage secures (in addition to any proceeds of the Loan disbursed from time to time) the payment of any and all loan commissions, service charges, liquidated damages, expenses and advances due to or incurred by Mortgagee.

7.15 WAIVER OF TRIAL BY JURY. MORTGAGOR HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES ANY RIGHT THAT IT MAY HAVE TO A TRIAL BY JURY IN ANY LITIGATION ARISING IN ANY WAY IN CONNECTION WITH THIS

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MORTGAGE, THE ACQUISITION NOTE, OR ANY OF THE OTHER LOAN DOCUMENTS, THE LOAN OR ANY OTHER STATEMENTS OR ACTIONS OF MORTGAGOR OR MORTGAGEE. MORTGAGOR ACKNOWLEDGES THAT IT HAS BEEN REPRESENTED IN THE SIGNING OF THIS MORTGAGE AND IN THE MAKING OF THIS WAIVER BY INDEPENDENT LEGAL COUNSEL SELECTED OF ITS OWN FREE WILL, AND THAT IT HAS DISCUSSED THIS WAIVER WITH SUCH LEGAL COUNSEL. MORTGAGOR FURTHER ACKNOWLEDGES THAT (i) IT HAS READ AND UNDERSTANDS THE MEANING AND RAMIFICATIONS OF THIS WAIVER, (ii) THIS WAIVER IS A MATERIAL INDUCEMENT FOR MORTGAGEE TO MAKE THE LOAN, ENTER INTO THIS MORTGAGE AND EACH OF THE OTHER LOAN DOCUMENTS, AND (iii) THIS WAIVER SHALL BE EFFECTIVE AS TO EACH OF SUCH OTHER LOAN DOCUMENTS AS IF FULLY INCORPORATED THEREIN.

7.16 Inconsistencies. In the event of any inconsistency between this Mortgage and the Acquisition Note, the terms hereof shall be controlling as necessary to create, preserve and/or maintain a valid security interest upon the Property, otherwise the provisions of the Acquisition Note shall be controlling.

7.17. Business Loan. Mortgagor acknowledges and agrees that (a) the proceeds of the loan evidenced by the Acquisition Note will be used in conformance with subparagraph (1)(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, 1979, as amended, 815 ILCS 205/4(1)(1); (b) the indebtedness secured hereby constitutes a business loan which comes within the purview of subparagraph (1)(c) of said Section 4; (c) the loan evidenced by the Acquisition Note is an exempt transaction under the Truth-in-Lending Act, 15 U.S.C. Sec 1601 *et seq.*; and (d) 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 ILCS 5/15-1219).

7.18 The Foreclosure Act. Mortgagor and Mortgagee shall have the benefit of all of the provisions of the Illinois Foreclosure Act (735 ILCS 5/15, *et seq.*) (the "Foreclosure Act"), including all amendments thereto which may become effective from time to time after the date hereof. If any provision of the Foreclosure Act which is specifically referred to herein is repealed, Mortgagee shall have the benefit of such provision as most recently existed prior to such repeal, as though the same were incorporated herein by express reference.

7.19 The Credit Agreements Act. This Mortgage shall not be amended, modified or supplemented without the written agreement of Mortgagor and Mortgagee at the time of such amendment, modification or supplement. Mortgagor expressly agrees that for purposes of this Mortgage and each and every other Loan Document: (a) this Mortgage and each and every other Loan Document shall be a "credit agreement" under the Illinois Credit Agreements Act, 815 ILCS 160/1, *et seq.* (the "Credit Agreements Act"); (b) the Credit Agreements Act applies to this transaction, including, but not limited to, the execution of the Mortgage and each and every other Loan Document; and (c) any action on or in any way related to this Mortgage and each and every other Loan Document shall be governed by the Credit Agreements Act.

7.20 Representation. Mortgagor hereby represents that it has been represented by competent counsel of its choice in the negotiation and execution of this Mortgage and other Loan Documents, that it has read and fully understood the terms hereof, that Mortgagor and its counsel have been afforded an opportunity to review, negotiate and modify the terms of this Mortgage and that Mortgagor intends to be bound hereby. In accordance with the foregoing, the general rule of construction to the effect that any

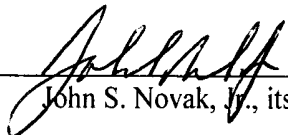
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ambiguities in a contract are to be resolved against the party drafting the contract shall not be employed in the construction and interpretation of this Mortgage.

IN WITNESS WHEREOF, Mortgagor has executed this Mortgage as of the date first above written.

"MORTGAGOR"

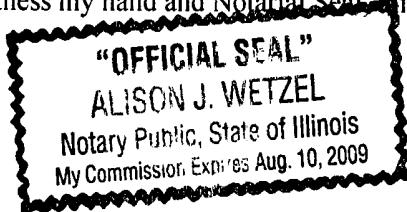
Countryside Holdings, LLC, an Illinois limited liability company

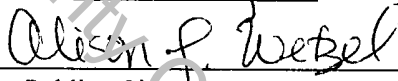
By: 
John S. Novak, Jr., its sole manager

STATE OF Illinois)
) ss:
COUNTY OF Cook)

Before me, a Notary Public in and for said County and State, personally appeared John S. Novak, Jr., known to be the sole manager of Countryside Holdings, LLC, an Illinois limited liability company, and acknowledged the execution of the foregoing for and on behalf of said company in his capacity as the sole manager of Countryside Holdings, LLC.

Witness my hand and Notarial Seal this 16th day of January, ~~2006~~ ²⁰⁰⁷.




Notary Public - Signature

Alison J. Wetzel
Notary Public - Printed

My Commission Expires:

Aug. 10, 2009

My County of Residence:

Cook

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EXHIBIT A

Description of Premises

LOT "C" IN THE RESUBDIVISION OF LOT 4 IN TRACT 2 OF DANSHER INDUSTRIAL PARK, BEING A SUBDIVISION IN THE EAST ½ OF THE SOUTHEAST ¼ OF SECTION 9, TOWNSHIP 38 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN, COOK COUNTY, ILLINOIS

Common Address: 5315 Dansher Road
Countryside, Illinois 60525

PIN: 18-09-416-049-0000
18-09-416-050-0000

Property of Cook County Clerk's Office

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EXHIBIT B

Permitted Encumbrances

TAXES FOR 2006 AND ALL SUBSEQUENT YEARS.

UTILITY EASEMENT OVER THE NORTH AND EAST 10 FEET OF THE PROPERTY

EASEMENT FOR PUBLIC UTILITIES OVER AND ACROSS THE EAST 10 FEET OF LOT 4 AND THE NORTH 20 FEET OF THE SOUTH 840.32 FEET OF LOT 4 OF THE SUBDIVISION, RECORDED NOVEMBER 4, 1966, AS DOCUMENT 19986775

LIEN FOR DRAINAGE ASSESSMENTS AND DRAINAGE TAXES NOT SHOWN OF RECORD

LIEN PURSUANT TO JUNIOR MORTGAGE DATED JANUARY 17, 2007 BETWEEN COUNTRYSIDE HOLDINGS, LLC AND 5315 DANSHER, LLC

Property of Cook County Clerk's Office

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EXHIBIT C

Insurance Requirements

Evidence that the following insurance coverages are in effect with respect to the Property and in a form satisfactory to Mortgagee:

- (01) Comprehensive general public liability insurance in such an amount as may be required by Mortgagee;
- (02) Workers' compensation insurance and employer's liability insurance for all contractors and subcontractors in such amounts as may be required by Mortgagee;
- (03) Flood Insurance if the Land is located in an area designated as a special flood hazard area by any governmental authority having jurisdiction over the Land; and
- (04) Such other insurance coverages as Mortgagee may reasonably require.

All policies of insurance required to be maintained by Mortgagor shall be issued by companies satisfactory to Mortgagee and shall have coverages and endorsements and be written for such amounts as Mortgagee may reasonably require. All policies of insurance shall (x) name Mortgagee as mortgagee or additional named insured, as the case may require, and (y) provide that the policies may not be canceled or modified without thirty (30) days prior written notice to Mortgagee.