

# UNOFFICIAL COPY



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PREPARED BY:  
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AFTER RECORDING RETURN  
TO:  
Office of the General Counsel  
Illinois Agricultural Association  
1701 Towanda Avenue  
Bloomington, Illinois 61701  
Attn: Brian Cahill

Doc#: 1426035026 Fee: \$56.00  
RHSP Fee: \$9.00 RPRF Fee: \$1.00  
Karen A. Yarbrough  
Cook County Recorder of Deeds  
Date: 09/17/2014 10:37 AM Pg: 1 of 10

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## SPECIFIC ASSIGNMENT OF LEASES AND RENTS

THIS SPECIFIC ASSIGNMENT OF LEASES AND RENTS ("Assignment") is made as of the 28<sup>th</sup> day of August, 2014 by and between DESIGN PROPERTY GROUP, L.L.C., an Illinois limited liability company (the "Assignor") and COUNTRY LIFE INSURANCE COMPANY, an Illinois corporation (the "Assignee").

### WITNESSETH

A. The Assignor has, simultaneously with the execution of this Specific Assignment of Leases and Rents, executed and delivered to the Assignee, its Promissory Note ("Note") of even date herewith, payable to the order of Assignee, in the principal sum of THREE MILLION THREE HUNDRED THOUSAND DOLLARS (\$ 3,300,000.00) (the "Loan") and, as security therefor, executed and delivered to the Assignee its Mortgage (the "Mortgage"), of even date herewith, conveying the land legally described on Exhibit "A" attached hereto and made a part hereof (the "Mortgaged Premises").

B. The Assignor is the landlord under the lease agreement (the "Lease") with the tenant (the "Tenant") of the Mortgaged Premises as set forth on Exhibit "B" attached hereto.

C. The Assignee, as a condition precedent to making the Loan to the Assignor has requested the Assignor to assign all of its right, title and interest in and to the Lease as additional security for the payment of the Loan, and the interest and all other sums due and owing to Assignee pursuant to the Note and the Mortgage (collectively the "Indebtedness").

NOW, THEREFORE, in consideration of the disbursement of the proceeds of the Loan by the Assignee and for other good and valuable consideration, the sufficiency of which is hereby acknowledged, the Assignor:

1. Hereby grants a security interest in and sells, assigns, transfers and sets over unto Assignee one hundred percent (100%) of the Assignor's right, title and interest in and to the Lease, together with all rents, income or other sums payable by the provisions thereof (the "Rents") and, at the option of the Assignee, all future lease agreements which may be executed by Assignor, as Landlord, with an occupancy tenant or tenants of Land and Improvements (individually and collectively the "Future Tenant") at any time hereafter (individually and collectively the "Future Lease") and all rents, income or other sums

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payable by the provisions thereof (the "Future Rents"). For purposes of this Assignment "Major Lease" shall mean the Lease, or any Future Lease with a Future Tenant that is not affiliated with the Assignor and demises space greater than three thousand (3,000) square feet, and "Future Major Lease" shall mean a Future Lease with a Future Tenant that is not affiliated with the Assignor and demises space greater than three thousand (3,000) square feet.

2. Agrees that this Assignment is made for the purpose of securing the payment of Indebtedness and the performance and discharge of each and every obligation, covenant and agreement required of the Assignor pursuant to the Note, the Mortgage and the Other Loan Documents (as that term is defined in the Note) executed and delivered to secure the Indebtedness (collectively the "Loan Documents").

3. Represents that as of the date hereof:

- a). the Assignor is the sole owner of one hundred percent (100%) of the landlord's right, title and interest in and to the Lease;
- b). to the Assignor's knowledge, the Lease is valid and enforceable and have not been altered, modified or amended, since the date the Lease was delivered to the Assignee;
- c). to the best of its knowledge, the Tenant is not in default in the performance of any of the terms, covenants, conditions or agreements required of it pursuant to the Lease;
- d). no part of the Rents reserved in the Lease has been previously assigned, and no part of the Rents, for any period subsequent to the date hereof, except for the current month, has been collected in advance of the due date thereof.

4. Shall observe and perform all of the obligations imposed upon the Assignor, as landlord, pursuant to the Lease and the Future Lease and shall:

- a). not do or knowingly permit any act or occurrence which would impair the security thereof;
- b). not collect any part of the Rents or the Future Rents in advance of the time when the same shall become due excluding security deposits;
- c). not execute any other assignment of the Assignor's interest, as landlord, in the Lease, the Future Lease, the Rents or the Future Rents, without the Assignee's prior written consent;

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- d). not alter, modify or change the terms and conditions of the Major Lease or the Future Major Lease, cancel or terminate the same or accept a surrender thereof, other than in the normal course of business, without the prior written consent of the Assignee;
- e). at the Assignee's request, execute and deliver all such further assurances and assignments as the Assignee shall, from time to time, require concerning the Lease and the Future Lease; and
- f). shall not enter into the Future Major Lease without the prior written consent of the Assignee.

5. Shall have the right, so long as no Default (as defined in the Mortgage) has occurred which remains uncured, to collect the Rents and the Future Rents, when due but not prior thereto, and retain, use and enjoy the same.

6. Agrees that, any time following occurrence of a Default, the Assignee may, at its option, either in person or through its agent or a receiver appointed by a court of competent jurisdiction, without notice, without, in any way, waiving such Default, and without regard to the adequacy of the security for Indebtedness and with or without instituting any action or proceeding:

- a). subject to the rights of the Tenant under the Lease and a Future Tenant under a Future Lease, take possession of the Mortgaged Premises and hold, manage, lease and operate the same on such terms and for such periods of time as the Assignee may deem proper;
- b). with or without taking possession of the Mortgaged Premises, in its own name, institute suit or otherwise collect and receive the Rents and the Future Rents, including the Rents and the Future Rents past due and unpaid, with full power to make, from time to time, all alterations, renovations, repairs or replacements thereto or thereof as the Assignee may deem proper;
- c). apply the Rents and the Future Rents to the payment of:
  - i). all reasonable and customary costs and expenses incurred in managing the Mortgaged Premises (including, but not limited to, the salaries, fees and wages of the managing agent thereof and other employees of the Assignor);
  - ii). all expenses of operating and maintaining the Mortgaged Premises (including, but not limited to, all taxes, charges, claims, assessments, water rents, sewer rents and other liens and

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premiums for all insurance coverages which the Assignee may deem necessary);

- iii). all costs of alteration, renovation, repair or replacement of the Mortgaged Premises;
- iv). all expenses incident to the taking and retaining of possession thereof; and
- v). Indebtedness and all reasonable costs, expenses and attorneys' fees incurred by Assignee by reason hereof;

and apply the same in such order of priority as Assignee, in its sole discretion, may determine, any statute, law, custom or use to the contrary notwithstanding.

7. Agrees that the Assignee shall not be:
- a). liable for any loss sustained by the Assignor resulting from the Assignee's failure to let the Mortgaged Premises following the occurrence of a Default by reason of any other act or omission of the Assignee in managing the Mortgaged Premises after occurrence of a Default, other than any loss or damage which may be incurred by the Assignor by reason of the Assignee's gross negligence or wilful misconduct following the exercise of the Assignee's rights pursuant hereto or pursuant to the Lease and the Future Lease.
  - b). obligated to perform or discharge, nor does the Assignee hereby undertake to perform or discharge, any obligation, duty or liability of the Assignor pursuant hereto or pursuant to the Lease and the Future Lease and the Assignor shall, and does hereby agree to indemnify the Assignee for, and hold the Assignee harmless from, any and all liability, loss or damage which may or might be incurred by reason thereof and from any and all claims and demands whatsoever which may be asserted against Assignee by reason of any alleged obligation or undertaking on its part to perform or discharge any of the terms, covenants, conditions and agreements required of Assignor pursuant hereto or pursuant to the Lease and the Future Lease; PROVIDED, HOWEVER, that such indemnification shall not include any liability, loss or damage which may be incurred by the Assignee by reason of its gross negligence, or wilful misconduct, or following the exercise of the Assignee's rights pursuant hereto or pursuant to the Lease and the Future Lease.

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If the Assignee incurs any liability pursuant hereto or pursuant to the Lease and the Future Lease or in defense of any such claim or demand, unless due to the gross negligence or wilful misconduct of the Assignee or following the exercise of the Assignee's rights pursuant hereto or pursuant to the Lease and the Future Lease, the amount thereof, including costs, expenses and reasonable attorneys' fees (exclusive of any costs, expenses and attorneys' fees incurred by the Assignee by reason of its acts and deeds following the exercise of the Assignee's rights pursuant hereto or pursuant to the Lease and the Future Lease), shall be secured by the Mortgage and the Assignor shall reimburse the Assignee therefor, immediately upon demand. In the event of the failure of the Assignor so to do the Assignee may, at its option, declare the Indebtedness immediately due and payable.

8. Agrees that this Assignment shall not operate to place upon the Assignee any responsibility prior to the exercise of the Assignee's rights pursuant hereto, for the control, care, management or repair of the Mortgaged Premises or for the performance of any of the terms, covenants, conditions and agreements required of the Assignor, as landlord, pursuant to the Lease and the Future Lease nor is the same intended to make the Assignee responsible or liable for any:

- a). waste committed on the Mortgaged Premises by the Tenant, the Future Tenant or any other party;
- b). dangerous or defective condition of the Mortgaged Premises; or
- c). negligence in the management, upkeep, repair or control of the Mortgaged Premises resulting in loss, injury or death to any Tenant, Future Tenant, licensee, employee or stranger, unless due to the gross negligence or wilful misconduct of the Assignee.

9. Agrees that any affidavit, certificate, letter or statement of any officer, agent or attorney of the Assignee, setting forth that any part of Indebtedness remains unpaid, shall be and constitute presumptive evidence of the validity, effectiveness and continuing force and effect of this Assignment (all persons being hereby authorized to rely thereon). The Assignor hereby authorizes and directs the Tenant, the Future Tenant or other occupants of the Mortgaged Premises, upon receipt from the Assignee of written notice to the effect that the Assignee is then the holder of the Loan Documents and that a Default exists pursuant thereunder or pursuant thereto, to pay the Rents and the Future Rents to the Assignee until otherwise notified by the Assignee, in writing, to the contrary.

10. Agrees that the Assignee may take or release any other security given for the payment of Indebtedness, release any party primarily or secondarily liable therefor and apply any other security, in its possession, to the satisfaction of the Indebtedness, without prejudice to any of its rights pursuant hereto.

11. Agrees that the terms "Lease" and "Future Lease" shall include any sublease thereof and all extensions or renewals of the Lease, the Future Lease and sublease thereof.

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12. Agrees that nothing contained herein and no act done or omitted to be done by the Assignee pursuant to the powers and rights granted to it hereunder shall be deemed to be a waiver by the Assignee of its rights and remedies pursuant to the Loan Documents and this Assignment is made without prejudice to any of the rights and remedies possessed by the Assignee thereunder. The right of the Assignee to collect the Indebtedness and to enforce any security therefor in its possession may be exercised by Assignee either prior to, concurrently with or subsequent to any action taken by it pursuant hereto.

13. All notices given under this Assignment shall be in writing to the other party at its address set forth below or at such other address as such party may designate by notice to the other party and shall be deemed given (a) three (3) Business Days (as defined below) after mailing by certified or registered U.S. mail, return receipt requested, postage prepaid; (b) one (1) Business Day after delivery, fee prepaid, to a national overnight delivery service (such as Federal Express, Purolator Courier, U.P.S. Next Day Air); or (c) when received, if delivered by hand, as evidenced by a signed receipt:

If to the Assignee:                   c/o Berkadia Commercial Mortgage, LLC  
950 W. Elliot Road - Suite 120  
Tempe, Arizona 85284  
Attn: Loan Servicing

If to the Assignor:                   Design Property Group, L.L.C.  
200 W. Madison Street - Suite 4200  
Chicago, Illinois 60606  
Attn: George D. Hanus

With a copy to:                       Barack Ferrazzano Kirschaum & Nagelberg LLP  
200 W. Madison Street - Suite 3900  
Chicago, Illinois 60606  
Attn: Thomas H. Page

A "Business Day" is any day that Assignee is open for business.

14. Agrees that in the event of any conflict between the terms hereof and the terms of the Mortgage, the terms of the Mortgage shall prevail.

15. THE ASSIGNOR AND THE ASSIGNEE (BY ACCEPTANCE HEREOF), HAVING BEEN REPRESENTED BY COUNSEL, EACH KNOWINGLY AND VOLUNTARILY WAIVES ANY RIGHT TO A TRIAL BY JURY IN ANY ACTION OR PROCEEDING TO ENFORCE OR DEFEND ANY RIGHTS UNDER THIS ASSIGNMENT OR UNDER ANY AMENDMENT, INSTRUMENT, DOCUMENT OR AGREEMENT DELIVERED OR WHICH MAY IN THE FUTURE BE DELIVERED IN CONNECTION HERewith AND AGREES THAT ANY SUCH ACTION OR PROCEEDING WILL BE TRIED BEFORE A COURT AND NOT BEFORE A JURY.

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16. Agrees that this Assignment and all covenants and warranties herein contained shall inure to the benefit of the Assignee, its successors, assigns, grantees and legal representatives and shall be binding upon the Assignor, its successors, assigns, grantees and legal representatives.

17. By acceptance of this Specific Assignment of Leases and Rents, the Assignee for itself and its successors and assigns, expressly agrees that except as specifically set forth in (a) through and including (f) below, nothing contained herein or contained in the Mortgage, or the Other Loan Documents, shall be construed as establishing any personal liability upon the Assignor to pay the Indebtedness or to perform any of the terms, covenants, conditions and agreements herein contained or contained in the Note, the Mortgage or the Other Loan Documents (except for the Environmental Indemnity Agreement and the Limited Guaranty Agreement), all such personal liability being hereby expressly waived by the Assignee; the Assignee's only recourse against the Assignor being against the Mortgaged Premises and other property given as security for the payment of Indebtedness (the "Other Security"), in the manner herein set forth, or set forth in the Mortgage or the Other Loan Documents or provided by law, and in the event a Default shall occur, or upon maturity of the Indebtedness, whether by acceleration, passage of time or otherwise, the recourse of the Assignee shall be limited to judicial foreclosure of the Mortgaged Premises or the exercise of other remedies set forth herein, in the Mortgage or in the Other Loan Documents and, subject to the limitations expressly set forth in (a) through and including (f) below, the Assignee shall look solely to the Mortgaged Premises and the Other Security upon foreclosure of the lien of the Mortgage and no deficiency judgment for the Indebtedness shall be instituted, sought, taken or obtained against the Assignor, PROVIDED THAT NOTHING CONTAINED HEREIN shall be deemed to prejudice the rights of the Assignee, its successors or assigns, to recover from the Assignor or the other parties (the "Guarantors") to the terms of the Environmental Indemnity Agreement and/or the Limited Guaranty Agreement:

- a). all funds, damages or costs (including, without limitation, attorney's fees) incurred by Assignee as a result of fraud or material misrepresentation by or on behalf of the Assignor or the Guarantors; or
- b). all condemnation awards or insurance proceeds which are not utilized in accordance with the terms and conditions of the Mortgage; or
- c). all rents, revenues, income, issues, proceeds or profits of the Mortgaged Premises held or collected by or on behalf of the Assignor following the occurrence of a Default and not applied to the Indebtedness and/or the maintenance, repair or other normal operating expenses of the Mortgaged Premises (exclusive of real estate taxes); or
- d). all security deposits collected from tenants of the Mortgaged Premises which are not turned over to the Assignee following the occurrence of a Default;

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- e). all funds, damages or costs incurred by the Assignee as a result of any unpaid real estate taxes assessed against the Mortgaged Premises during the period the Assignor is the owner of the Mortgaged Premises, or if earlier, the date the Assignor tenders to the Assignee a deed in lieu of foreclosure; or
- f). any and all costs, expenses, damages or liabilities arising out of the Environmental Indemnity Agreement of even date herewith.

Nothing contained herein or in Mortgage and the Other Loan Documents to the contrary notwithstanding shall be deemed to release, affect or impair Indebtedness or the rights of Assignee to enforce its remedies pursuant hereto and to the Mortgage and the Other Loan Documents, including without limitation, the right to pursue any remedy for injunctive or other equitable relief.

IN WITNESS WHEREOF, the Assignor has caused this Assignment to be signed by its duly authorized officer on the day and year first above written.

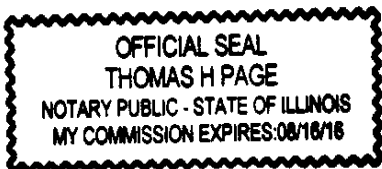
DESIGN PROPERTY GROUP, L.L.C., an Illinois limited liability company

By: \_\_\_\_\_  
Title: President

STATE OF ILLINOIS     )  
  )     SS:  
COUNTY OF COOK     )

I, Thomas H Page, a Notary Public in and for and residing in said County, in the state aforesaid, DO HEREBY CERTIFY that GEORGE D. HANUS, the President of DESIGN PROPERTY GROUP, L.L.C., an Illinois limited liability company, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument as such President, appeared before me this day in person and acknowledged that he signed and delivered the said instrument as his own free and voluntary act and as the free and voluntary act of said limited liability company, for the uses and purposes therein set forth.

Given under my hand and Notarial Seal this 6<sup>th</sup> day of August, 2014.



\_\_\_\_\_  
Notary Public



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## EXHIBIT "A"

### LEGAL DESCRIPTION

THE WEST 423.12 FEET OF THE EAST 586.12 FEET OF THAT PART OF THE NORTHEAST 1/4 OF SECTION 31, TOWNSHIP 40 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN LYING NORTH OF GRAND AVENUE IN COOK COUNTY, ILLINOIS, EXCEPT THE NORTH 50 FEET THEREOF.

Address of Property: 6431 W. Fullerton, Chicago, Illinois 60707  
Permanent Index No.: 13-31-206-007

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EXHIBIT "B"  
LEASE

1. Lease dated January 10, 2014, as amended by Amendment dated July 14, 2014, with GFS Marketplace Realty Five LLC, a Michigan limited liability company

**COOK COUNTY**  
**RECORDER OF DEEDS**  
**SCANNED BY \_\_\_\_\_**

Property of Cook County Clerk's Office