

2002

68-32-718 P1

FIFTH AMENDMENT OF MORTGAGE,  
ASSIGNMENT OF LEASES AND RENTS  
AND SECURITY AGREEMENT

23.00

This FIFTH AMENDMENT OF MORTGAGE, ASSIGNMENT OF LEASES AND RENTS AND SECURITY AGREEMENT (herein referred to as "this Amendment") is entered into as of April 30, 1990 by and between TEMPEL STEEL COMPANY, an Illinois corporation having its chief executive office at 5990 West Touhy Avenue, Niles, Illinois 60648 (herein, together with its successors and assigns, referred to as the "Mortgagor") and CONTINENTAL BANK N.A. (formerly known as CONTINENTAL ILLINOIS NATIONAL BANK AND TRUST COMPANY OF CHICAGO), a national banking association having its principal place of business at 201 South LaSalle Street, Chicago, Illinois 60697 (herein, together with its successors and assigns, referred to as the "Mortgagee").

R E C I T A L S:

A. Prior Restated Loan Agreement.

The Mortgagor and the Mortgagee entered into a Credit Agreement dated as of July 7, 1981 (herein referred to as the "Credit Agreement") pursuant to which the Mortgagee was to make and has made loans to the Mortgagor on a revolving basis.

The Mortgagor and the Mortgagee have heretofore entered into that certain Amendment and Restatement of Credit Agreement dated as of May 4, 1984, amending and restating the Credit Agreement and certain further amendments thereto dated as of December 19, 1985, September 19, 1986, April 9, 1987, December 14, 1987, April 28, 1988, October 7, 1988, April 7, 1989, May 30, 1989, July 1, 1989, September 15, 1989, January 31, 1990, February 1, 1990 and February 21, 1990 (the Credit Agreement as so restated and amended is referred to herein as the "Prior Restated Loan Agreement").

Pursuant to the Credit Agreement, the Mortgagor executed and delivered to the Mortgagee a certain Mortgage, Assignment of Leases and Rents and Security Agreement dated as of July 7, 1981 (herein referred to as the "Original Mortgage") encumbering the estates described therein and recorded on July 10, 1981 in the Recorder's Office of Cook County, Illinois as Document No. 25933432.

Property Address: *Balmoral Ave and Ravenswood Ave*

4/27/90/35W/KCM/TS-wma

*Box 407*

- PIN:
- 08-35-302-010
  - 14-07-201-003
  - 14-07-201-024
  - 14-07-200-045
  - 14-07-200-041
  - 14-07-200-044
  - 14-07-201-022

90287307

UNOFFICIAL COPY

Property of Cook County Clerk's Office

Pursuant to the Prior Restated Loan Agreement, the Mortgagor executed and delivered to the Mortgagee various amendments to the Original Mortgage described on Schedule 1 hereto (the Original Mortgage as so amended is referred to herein as the "Amended Mortgage").

B. This Amendment.

The Mortgagor and the Mortgagee have entered into an Amendment and Restatement of Credit Agreement dated as of April 30, 1990, amending and restating the Prior Restated Loan Agreement (the Prior Restated Loan Agreement as so amended and restated and as it may be hereafter from time to time amended, supplemented or modified is referred to herein as the "Loan Agreement").

The Loan Agreement provides, inter alia, for the Mortgagor to execute and deliver to the Mortgagee a Term Note dated April 30, 1990 (the "Term Note") in the principal amount of \$8,250,000, in substitution for the Replacement Term Note dated February 21, 1990 in the original principal amount of \$9,250,000 (which itself was executed and delivered by the Mortgagor to the Mortgagee (i) in substitution for the Term Note dated May 11, 1984 (the "Prior Term Note") in the original principal amount of \$10,000,000 and (ii) to evidence an additional \$5,000,000 loan made by the Mortgagee to the Mortgagor on February 21, 1990).

The Loan Agreement also provides, inter alia, for the Mortgagor to execute and deliver to the Mortgagee a Revolving Note dated April 30, 1990 (the "Revolving Note") in the maximum principal amount of \$71,000,000, in substitution for the Restated Revolving Note dated September 15, 1989 in the maximum principal amount of \$71,000,000 (which itself was executed and delivered by the Mortgagor to the Mortgagee (i) in substitution for the Restated Revolving Note dated May 30, 1989 (the "Prior Revolving Note") in the maximum principal amount of \$66,000,000 and (ii) to evidence additional revolving loans that may be made by the Mortgagee to the Mortgagor when FINEX Draft Loans (as defined in the Loan Agreement) are not available under the terms of the Loan Agreement).

The Loan Agreement also provides, inter alia, for the Mortgagor to execute and deliver to the Mortgagee a FINEX Note dated April 30, 1990 (the "FINEX Note") in the maximum principal amount of \$6,000,000, in substitution for the FINEX Note dated December 14, 1987 (together with the Prior Term Note and the Prior Revolving Note, the "Prior Notes") in the maximum principal amount of \$6,000,000.

UNOFFICIAL COPY

Property of Cook County Clerk's Office

# UNOFFICIAL COPY

9 0 2 8 7 3 0 7

In order that the Amended Mortgage will continue to secure the indebtedness evidenced by (i) the FINEX Note, (ii) the Revolving Note and (iii) the Term Note (as defined herein and in the Amended Mortgage as amended hereby), the Mortgagor and Mortgagee have agreed to enter into this Amendment (the Amended Mortgage as amended by this Amendment and as it may hereafter be from time to time amended, supplemented or modified, is herein referred to as the "Mortgage").

NOW, THEREFORE, for and in consideration of the Mortgagee's execution and delivery of the Loan Agreement, any loan, advance or other financial accommodation made by the Mortgagee to or for the benefit of the Mortgagor and the agreements contained herein and in the Loan Agreement, and for other good and valuable consideration, the parties hereto agree as follows:

1. Recital A of the Amended Mortgage is hereby amended to read as follows.

"A. Loan Agreement and Amount and Mortgage. The Mortgagor is the owner of the leasehold interest in the real estate which is described in the Mortgage (as hereinafter defined), of rents and leases deriving therefrom and of other property now or hereafter acquired and used or useful in connection therewith. The Mortgagor and Mortgagee entered into a Credit Agreement dated as of July 7, 1981 and an Amendment and Restatement of Credit Agreement dated as of May 4, 1984 and certain further amendments thereto dated as of December 19, 1985, September 19, 1986, April 9, 1987, December 14, 1987, April 28, 1988, October 7, 1988, April 7, 1989, May 30, 1989, July 1, 1989, September 15, 1989, January 31, 1990, February 1, 1990 and February 21, 1990 (such Credit Agreement as so restated and amended is referred to herein as the "Prior Restated Loan Agreement") providing, *inter alia*, for (i) loans to be made from time to time by the Mortgagee to the Mortgagor on a revolving basis (herein referred to as the "Revolving Loans") in amounts not to exceed in the aggregate at any one time outstanding seventy-one million and no/100 dollars for all such Revolving Loans and for the aggregate amount outstanding of reimbursement obligations under any letters of credit (herein referred to as "Letters of Credit") that may be issued by the Mortgagee for the account of the Mortgagor, (ii) loans to be made from time to time under the FINEX Draft Purchase Facility (as defined in the Prior Restated Loan Agreement) by the Mortgagee to the Mortgagor (herein referred to as the "FINEX Draft Loans") in amounts not to exceed in the aggregate at any one time outstanding six million and no/100 dollars for all such FINEX Draft Loans, and (iii) a term loan (herein referred to as the "Term Loan") in the principal amount of nine million two hundred fifty thousand and no/100 dollars. The Prior Restated Loan Agreement provided that the sum of (a) the aggregate

UNOFFICIAL COPY

Property of Cook County Clerk's Office

principal amount of all Revolving Loans which the Mortgagee is committed to have outstanding under the Prior Restated Loan Agreement, plus (b) the aggregate outstanding amount of all Letters of Credit, plus (c) the aggregate outstanding principal amount of all FINEX Draft Loans, shall not at any one time exceed seventy-one million and no/100 dollars. The Mortgagor and Mortgagee have entered into an Amendment and Restatement of Credit Agreement dated as of April 30, 1990 (herein referred to as the "Amendment and Restatement"; the Prior Restated Loan Agreement as amended and restated by the Amendment and Restatement and as it may hereafter be from time to time amended, supplemented or modified, is herein referred to as the "Loan Agreement") providing for Revolving Loans in amounts not to exceed in the aggregate at any one time outstanding SEVENTY-ONE MILLION AND NO/100 DOLLARS (\$71,000,000.00) for all such Revolving Loans and for FINEX Draft Loans in amounts not to exceed in the aggregate at any one time outstanding SIX MILLION AND NO/100 DOLLARS (\$6,000,000.00) for all such FINEX Draft Loans. The aggregate maximum principal amount of the Term Loan the Mortgagor is permitted to have outstanding is not to exceed EIGHT MILLION TWO HUNDRED FIFTY THOUSAND AND NO/100 DOLLARS (\$8,250,000.00) (such amount herein referred to as the "Term Loan Amount"). The Loan Agreement provides that the sum of (a) the aggregate principal amount of all Revolving Loans which the Mortgagee is committed to have outstanding under the Loan Agreement, plus (b) the aggregate outstanding principal amount of all FINEX Draft Loans, plus (c) the aggregate outstanding amount of all Letters of Credit, shall not at any one time exceed SEVENTY-ONE MILLION AND NO/100 DOLLARS (\$71,000,000.00). The sum of such amount and the Term Loan Amount, amounting to SEVENTY-NINE MILLION TWO HUNDRED FIFTY THOUSAND AND NO/100 DOLLARS (\$79,250,000), is herein referred to as the "Loan Amount". The Loan Amount includes, and, except for an additional \$5,000,000 of the Term Loan Amount, is not in addition to, amounts advanced pursuant to the Restated Loan Agreement as in effect on the date of the Fourth Amendment to Mortgage hereinafter referred to. Pursuant to the terms of the Loan Agreement, the Mortgagor has executed and delivered to the Mortgagee a certain Mortgage, Assignment of Leases and Rents and Security Agreement dated as of July 7, 1981 encumbering the property described therein and recorded on July 10, 1981 in the Recorder's Office of Cook County, Illinois as Document 25933432 (herein referred to as the "Initial Mortgage"), a certain First Amendment of Mortgage, Assignment of Leases and Rents and Security Agreement dated as of May 4, 1984 there recorded on May 11, 1984 as Document 27081825 (herein referred to as the "First Amendment to Mortgage"), and a certain Second Amendment of Mortgage, Assignment of Leases and Rents and Security Agreement dated as of December 19, 1985 there recorded on January 13, 1986 as Document 86015517 (herein referred to as the "Second Amendment to Mortgage"), and a certain

UNOFFICIAL COPY

Property of Cook County Clerk's Office



# UNOFFICIAL COPY

9 0 2 8 7 3 0 7

Third Amendment of Mortgage, Assignment of Leases and Rents and Security Agreement dated as of December 14, 1987 there recorded on December 21, 1987 as Document 87668826 (herein referred to as the "Third Amendment to Mortgage"), and a certain Fourth Amendment of Mortgage, Assignment of Leases and Rents and Security Agreement dated as of May 30, 1989 there recorded on August 2, 1989 as Document 89355071 (herein referred to as the "Fourth Amendment to Mortgage"), and a certain Fifth Amendment of Mortgage, Assignment of Leases and Rents and Security Agreement dated April 30, 1990 (herein referred to as the "Fifth Amendment to Mortgage"; the Initial Mortgage as amended by the First Amendment to Mortgage, the Second Amendment to Mortgage, the Third Amendment to Mortgage, the Fourth Amendment to Mortgage and the Fifth Amendment to the Mortgage, and as it may hereafter be from time to time amended, supplemented or modified, is herein referred to as the "Mortgage"). Any references to the term "Mortgage, Assignment of Leases and Rents and Security Agreement" in any documents evidencing or securing the indebtedness in the Loan Agreement shall be deemed references to the Mortgage."

2. Recital B of the Amended Mortgage is amended hereby to read as follows:

"B. Note, Principal and Interest. Pursuant to the Loan Agreement, the Mortgagor has executed and delivered to the Mortgagee the following:

(i) a Term Note dated April 30, 1990 (the "Term Note") payable to the order of the Mortgagee on or before December 31, 1990 in the principal amount of \$8,250,000, in substitution for the Replacement Term Note dated February 21, 1990 in the original principal amount of \$9,250,000 (which itself was executed and delivered by the Mortgagor to the Mortgagee (A) in substitution for the Term Note dated May 11, 1984 in the original principal amount of \$10,000,000 and (B) to evidence an additional \$5,000,000 loan made by the Mortgagee to the Mortgagor on February 21, 1990);

(ii) a Revolving Note dated April 30, 1990 (the "Revolving Note") payable to the order of the Mortgagee on or before June 30, 1993 in the maximum principal amount of \$71,000,000, in substitution for the Restated Revolving Note dated September 15, 1989 in the maximum principal amount of \$71,000,000 (which itself was executed and delivered by the Mortgagor to the Mortgagee (A) in substitution for the Restated Revolving Note dated May 30, 1989 in the maximum principal amount of \$66,000,000 and (B) to evidence additional revolving loans that may be made by the Mortgagee to the Mortgagor when FINEX Draft Loans are not available under the terms of the Loan Agreement); and

UNOFFICIAL COPY

Property of Cook County Clerk's Office

(iii) a FINEX Note dated April 30, 1990 (the "FINEX Note"; the FINEX Note, the Revolving Note and the Term Note, together with any and all amendments or supplements thereto, extensions thereof and notes which may be taken in whole or partial renewal, substitution or extension thereof or which may evidence any of the indebtedness secured hereby, are herein referred to in the collective singular as the "Note") payable to the order of the Mortgagee on or before June 30, 1993 in the maximum principal amount of \$6,000,000, in substitution for the FINEX Note dated December 14, 1987 in the maximum principal amount of \$6,000,000.

The Note bears interest as provided in the Loan Agreement and the Note, on the principal amount thereof from time to time unpaid; all principal and interest on the Note are payable in lawful money of the United States of America at the office of the Mortgagee in Chicago, Illinois, or at such place as the Mortgagee or legal holder thereof may from time to time appoint in writing; and the Mortgagor is or will become justly indebted to the Mortgagee in the Loan Amount in accordance with the terms of the Loan Agreement;"

3. The first paragraph of Recital E of the Amended Mortgage is hereby amended to read as follows:

"E. The Liabilities. Mortgagor has agreed to make the Mortgage to the Mortgagee, for the purpose of securing the following (herein sometimes collectively called the "Liabilities"): (i) the payment of the principal of and interest on the Note and any amendments, extensions, renewals or refinancings thereof; (ii) the performance of the covenants, obligations and agreements (and the truth of all representations and warranties) of the Mortgagor pursuant to the Loan Agreement, the Note, the Mortgage and the other Security Agreements; (iii) repayment of any advances or expenses of Mortgagee to protect the Collateral (hereinafter defined), performance of any obligation of Mortgagor hereunder or collection of any amount owing to Mortgagee which is secured hereby; (iv) all amounts payable by the Mortgagor to the Mortgagee with respect to the Letters of Credit; and (v) the prompt payment or performance of any and all other liabilities, obligations and indebtedness, howsoever created, arising or evidenced, direct or indirect, absolute or contingent, now or hereafter existing or due or to become due, of the Mortgagor to the Mortgagee pursuant to or in connection with the Loan Agreement (provided, however, that the maximum amount included within the Liabilities on account of principal advances made by the Mortgagee to or for the account of the Mortgagor shall not exceed twice the Loan Amount, plus the total of all advances made by the Mortgagee to protect the Collateral and the security interest and lien created hereby, plus interest on all of the foregoing, and plus all costs of enforcement and collection of this Mortgage and the other Liabilities)."

UNOFFICIAL COPY

Property of Cook County Clerk's Office

# UNOFFICIAL COPY

9 0 2 8 7 3 0 7

4. The Mortgagor confirms for the benefit of the Mortgagee that the Mortgage secures the payment of principal of and interest on the Note and all of the other Liabilities (all as defined in the Mortgage) and that future advances shall have the same priority as if advanced at the date of this Amendment and in furtherance thereof, does hereby CONFIRM, MORTGAGE, GRANT, CONVEY, TRANSFER and ASSIGN UNTO Mortgagee, its successors and assigns, and does hereby grant to Mortgagee and its successors and assigns, forever, a continuing security interest in and to, all of the Collateral. The Mortgagor also confirms that the indebtedness evidenced by the Note is the same indebtedness that was evidenced by the Prior Notes except for (i) an additional \$5,000,000 loan made by the Mortgagee to the Mortgagor on February 21, 1990 evidenced by the Term Note and (ii) \$5,000,000 of additional revolving loans that may be made when FINEX Draft Loans are not available under the terms of the Loan Agreement.

5. Except as herein amended and supplemented, the Amended Mortgage is reaffirmed and shall remain in full force and effect.

WITNESS the hands of the Mortgagor and the Mortgagee, at Chicago, Illinois on the day first above written.

TEMPEL STEEL COMPANY

By: [Signature]

Name: REBA LITZ

Title: VP Finance

CONTINENTAL BANK N.A.

(formerly known as Continental Illinois National Bank and Trust Company of Chicago)

By: [Signature]

Name: F.W. Flewelling

Title: Vice-President

This instrument was prepared by and upon recordation should be returned to:

Yuichiro Takayanagi  
Mayer, Brown & Platt  
190 South LaSalle Street  
Chicago, Illinois 60603

UNOFFICIAL COPY

Property of Cook County Clerk's Office

# UNOFFICIAL COPY

9 0 2 8 7 3 0 7

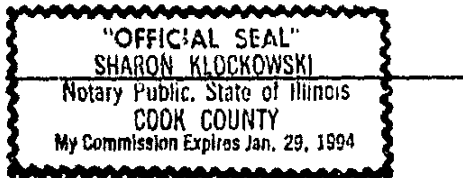
STATE OF ILLINOIS            )  
  )    SS.  
COUNTY OF C O O K         )

I, Sharon Klockowski, a notary public in and for said County, in the State aforesaid, DO HEREBY CERTIFY THAT F.W. Flewelling personally known to me to be the Vice President of Continental Bank N.A. and personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he signed and delivered the said instrument as his/her free and voluntary act for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 30<sup>th</sup> day of April, 1990.

Sharon Klockowski  
Notary Public

My Commission Expires:



Property of Cook County Clerk's Office

90287307

UNOFFICIAL COPY

Property of Cook County Clerk's Office



# UNOFFICIAL COPY

9 0 2 8 7 3 0 7

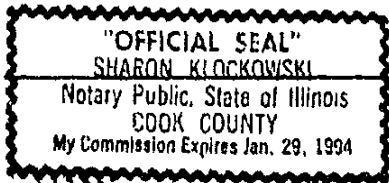
STATE OF ILLINOIS            )  
  ) SS.  
COUNTY OF C O O K         )

I, Sharon Klockowski, a notary public in and for said County, in the State aforesaid, DO HEREBY CERTIFY THAT R.E. Bailitz personally known to me to be the V.P. Finance of TEMPEL STEEL COMPANY, an Illinois corporation and personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and severally acknowledged that as such V.P. Finance of said corporation, he signed the within instrument as his/her free and voluntary act, and as the free and voluntary act and deed of said corporation, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 30<sup>th</sup> day of April, 1990.

Sharon Klockowski  
Notary Public

My Commission Expires:



COOK County Clerk's Office

90287307

UNOFFICIAL COPY

Property of Cook County Clerk's Office

## Schedule 1

### List of Prior Mortgage Amendments

1. First Amendment of Mortgage, Assignment of Leases and Rents and Security Agreement dated as of May 4, 1984, recorded on May 11, 1984 in the Recorder's Office of Cook County, Illinois as Document No. 27081825.

2. Second Amendment of Mortgage, Assignment of Leases and Rents and Security Agreement dated as of December 19, 1985, recorded on January 13, 1986 in the Recorder's Office of Cook County, Illinois as Document No. 86015517.

3. Third Amendment of Mortgage, Assignment of Leases and Rents and Security Agreement dated as of December 13, 1987, recorded on December 21, 1987 in the Recorder's Office of Cook County, Illinois as Document No. 87668826.

4. Fourth Amendment of Mortgage, Assignment of Leases and Rents and Security Agreement dated as of May 30, 1989, recorded on August 2, 1989 in the Recorder's Office of Cook County, Illinois as Document No. 89355071.

PROCESSED BY COOK COUNTY CLERK'S OFFICE

UNOFFICIAL COPY

Property of Cook County Clerk's Office