

STATE OF INDIANA  
LAKE COUNTY  
FILED FOR RECORD

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MORTGAGE, ASSIGNMENT OF PERMITS  
AND REVENUES AND SECURITY AGREEMENT

THIS MORTGAGE, ASSIGNMENT OF PERMITS AND REVENUES AND SECURITY AGREEMENT (this "Mortgage"), dated as of the 31st day of March, 1998, is made by POLLUTION CONTROL INDUSTRIES, INC., a Delaware corporation, with a mailing address at 4343 Kennedy Avenue, East Chicago, Indiana 46312 ("Mortgagor") in favor of AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO, a national banking association, with its principal place of business at 33 North LaSalle Street, Chicago, Illinois 60690 ("Mortgagee"), and has reference to the following facts and circumstances:

A. MORTGAGOR now and from time to time hereafter, may request loans, advances, extensions of credit and/or other financial accommodations from Mortgagee; and

B. MORTGAGEE will lend monies and/or make advances, extensions of credit and/or other financial accommodations to, on behalf or for the benefit of Mortgagor and its wholly-owned subsidiary, Pollution Control Industries of Tennessee, LLC, a limited liability company (collectively, the "Borrower"), or upon the application of Borrower, pursuant to the "Credit Agreement" and the "Other Agreements" (each as hereinafter defined).

NOW, THEREFORE, in consideration of any "Loans" (as defined in the Credit Agreement) at any time made by Mortgagee to or for the benefit of Borrower, Mortgagor agrees with Mortgagee as follows:

1. DEFINITIONS AND TERMS

1.1 The following words, terms and/or phrases shall have the meanings set forth thereafter and such meanings shall be applicable to the singular and plural form thereof, giving effect to the numerical difference; whenever the context so requires, the use of "it" in reference to Mortgagor shall mean Mortgagor as identified at the beginning of this Mortgage:

THIS INSTRUMENT PREPARED BY AND AFTER RECORDING SHOULD BE RETURNED TO:

Ann Marie Sink, Esq.  
Katten Muchin & Zavis  
525 West Monroe Street  
Suite 1600  
Chicago, IL 60661-3693

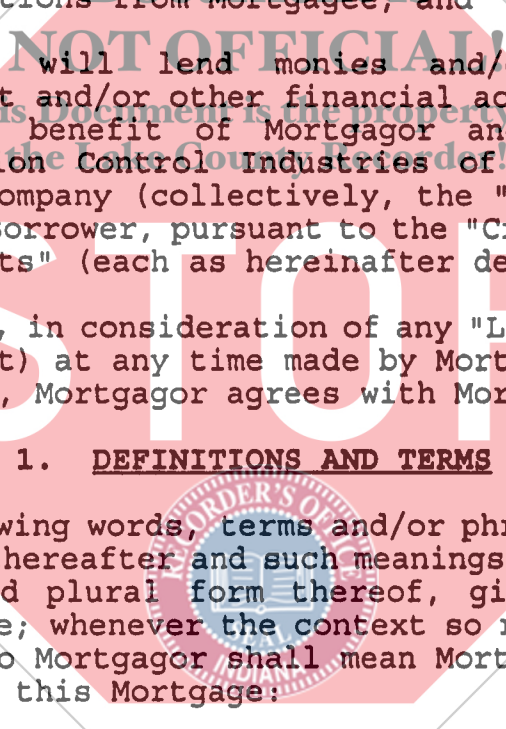
Property Address:

4343 Kennedy Avenue  
4505 Kennedy Avenue  
East Chicago, Indiana 46312  
Lake County

Permanent Index Numbers:

24-31-0031-0003  
24-31-0031-0004  
24-31-0031-0007

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(A) "And/or": one or the other or both, or any one or more or all, of the things or "Persons" (hereinafter defined) in connection with which the conjunction is used.

(B) "Charges": all national, federal, state, county, city, municipal and/or other governmental (or any instrumentality, division, agency, body or department thereof) charges, impositions, levies, assessments and taxes (whether general, special or otherwise), water charges, sewer service charges, liens, claims or encumbrances upon and/or relating to the "Mortgaged Property" (hereinafter defined), "Mortgagor's Liabilities" (hereinafter defined) and/or "Mortgagor's Obligations" (hereinafter defined).

(C) "Credit Agreement": that certain Secured Credit Agreement of even date herewith, executed and delivered by and among Borrower and Mortgagee.

(D) "Documents": the definition ascribed to this term in Paragraph 2.4 below.

(E) "Encumbrances": all liabilities, liens, claims, debts, exceptions, easements, restrictions, security interests, Charges and all other types of encumbrances.

(F) "Equipment": all present and future apparatus, machinery, equipment, furniture, furnishings, vehicles, fixtures and articles of personal property of any and every kind and nature whatsoever used, attached to, installed or located in or on the "Premises" (hereinafter defined), or required for use in or on or in connection with the Premises or the management, maintenance, operation or business thereof and all replacements thereof, substitutions therefor and accessions thereto, including, without limitation, any such item now or at any time or times hereafter situated on the Premises and used to supply or otherwise deliver heat, gas, air conditioning, water, light, electricity, power, plumbing, refrigeration, sprinkling, ventilation, mobility, communication, incineration, recreation, laundry service and all other related or other such services.

(G) "Event of Default": the definition ascribed to this term in Paragraph 6.1 below.

(H) "Financing Agreements": the Credit Agreement and the Other Agreements.

(I) "Mortgaged Property": (a) the Premises; (b) the "Revenues" (hereinafter defined); (c) the Permits; (d) the Equipment (which shall be deemed to be a part of the Premises, whether physically attached thereto or not); (e) all present and future judgments, awards of damages and settlements made as a result or in lieu of any taking of the Premises, the Equipment and/or the Permits, or any part thereof, under the power of eminent domain, or for any damage (whether caused by such taking or otherwise) thereto; (f) all present and future insurance policies in force or effect insuring the Premises, the Revenues, the Permits

or the Equipment; and (g) all proceeds of each and every of the foregoing.

(J) "Mortgagor's Liabilities": (a) the payment of any and all monies, including, without limitation, the payment, when due or declared due, of the principal sum thereof and interest thereon (including all additional interest set forth therein), now and/or hereafter owed or to become owing by Borrower to Mortgagee under and/or pursuant to the terms and provisions of the Financing Agreements, including, without limitation, those evidenced by those certain "Notes" (as defined in the Credit Agreement) dated of even date herewith, executed and delivered by Borrower in favor of Mortgagee, relating to revolving and term loans, letters of credit and other credit facilities to be made by Mortgagee to Borrower, some of which loans may be repaid and reborrowed by Borrower at any time and from time to time during the term of the Financing Agreements; (b) the payment of any and all other debts, claims, obligations, demands, monies, liabilities and/or indebtednesses (of any and every kind or nature) now and/or hereafter owing, arising, due or payable from Borrower to Mortgagee under and/or pursuant to the terms and provisions of this Mortgage (including, without limitation, all advances made to protect and preserve the value of the Mortgaged Property and the priority of Mortgagee's lien thereon); and (c) the payment of any and all other obligations and liabilities of Borrower to Mortgagee, including, without limitation, all debts, claims, obligations, demands, monies, liabilities and/or indebtednesses (of any and every kind or nature) whether primary, secondary, direct, contingent, fixed or otherwise, now and/or from time to time hereafter owing, arising, due or payable, howsoever evidenced, created, incurred, acquired or owing, and however arising, whether under this Mortgage, the Financing Agreements, or by oral agreement or operation of law or otherwise. Mortgagor's Liabilities shall include all future advances made by Mortgagee to Borrower, including, without limitation, those consisting of revolving and term loans made by Mortgagee to Borrower, and reimbursement obligations arising out of letters of credit issued by Mortgagee upon the application of Borrower. Mortgagor's Liabilities shall not exceed three times the aggregate face amount of the Notes, all in the maximum aggregate amount of \$6,522,106.00.

(K) "Mortgagor's Obligations": the prompt, full and faithful performance, discharge, compliance and observance by Mortgagor of each and every term, condition, warranty, representation, agreement, undertaking, covenant and provision (other than Mortgagor's Liabilities) to be performed, discharged, observed or complied with by Mortgagor contained in this Mortgage and/or in the Financing Agreements.

(L) "Other Agreements": all agreements, instruments and documents, including, without limitation, loan agreements, security agreements, guaranties, mortgages, deeds of trust, notes, applications and agreements for letters of credit, letters of credit, advices of credit, bankers acceptances, pledges, power of attorney, consents, assignments, contracts, notices, leases,

financing statements and all other written matter heretofore, now and/or from time to time hereafter executed by and/or on behalf of Borrower or Mortgagor and delivered to Mortgagee, or issued by Mortgagee upon the application and/or other request of, and on behalf of Borrower or Mortgagor.

(M) "Permits": all present and future permits, including, inter alia, the Hazardous Waste Management Permit issued by the Indiana Department of Environmental Management ("IDEM") and the Hazardous Waste Management Permit issued by the United States Environmental Protection Agency, agreements, registration licenses and franchises of or from the Premises and/or the Equipment or other facilities which are in any way, manner or respect required, existing, used, usable, or at some future date used, in connection with the Premises and/or the Equipment, or the management, maintenance, operation or business thereof and requiring compliance with the terms and conditions of the Permits, and all deposits of money as bonds for performance or for security under any or all of the Permits.

(N) "Person": any individual, sole proprietorship, partnership, joint venture, trust, unincorporated organization, association, corporation, institution, entity, party or government (whether national, federal, state, county, city, municipal or otherwise, including, without limitation, any instrumentality, division, agency, body or department thereof).

(O) "Premises": all of the following described real estate, and all of Mortgagor's estate, right, title and interest therein, situated, lying and being in the City of East Chicago, County of Lake, State of Indiana, and legally described on Exhibit A attached hereto and made a part hereof and commonly known as 4343 Kennedy Avenue and 4050 Kennedy Avenue, East Chicago, Indiana 46312, together with all buildings, improvements, tenements, easements, hereditaments and appurtenances now and/or at any time or times hereafter upon, belonging or otherwise appertaining to or situated on said real estate and all heretofore or hereafter acquired roads, alleys, streets and other publicways abutting said real estate, whether before or after vacation thereof.

(P) "Revenues": all present and future income, issues, avails, profits and proceeds of or from the Premises, the Permits and/or the Equipment.

## 2. CONVEYANCE

2.1 To secure the prompt and full payment by Mortgagor of Mortgagor's Liabilities and the prompt and complete performance by Mortgagor of Mortgagor's Obligations, Mortgagor hereby does warrant, grant, give, bargain, confirm, assign, pledge, set over, transfer, sell, convey, remise, release and otherwise mortgage to Mortgagee, its successors and assigns, forever, the Mortgaged Property for the purposes and uses set forth in this Mortgage; provided, nevertheless, that if Mortgagor, its successors or

assigns, shall satisfy, discharge and otherwise pay to Mortgagee, its successors or assigns, in full, Mortgagor's Liabilities and keep and perform all of Mortgagor's Obligations, then this Mortgage shall become null and void and shall be released as provided in Paragraph 6.9 hereof.

2.2 This Mortgage shall operate as and constitute a Security Agreement with respect to that portion of the Mortgaged Property constituting property or interests in property, whether real or personal, tangible or intangible, which are subject to the priority and perfection of security interest provisions of the Uniform Commercial Code or any similar and applicable law, statute, code or other governing body of law. Therefore, to secure the payment by Mortgagor of Mortgagor's Liabilities and the performance by Mortgagor of Mortgagor's Obligations, Mortgagor hereby grants to Mortgagee a security interest in the Mortgaged Property.

2.3 Mortgagor, within ten (10) days after request by Mortgagee therefor, will certify, in writing, to Mortgagee, or to any proposed transferee or assignee of this Mortgage, the amount of principal and interest then owing and unpaid under the Financing Agreements and whether Mortgagor has or asserts any offsets or defenses thereto.

2.4 Mortgagor, immediately upon request by Mortgagee, at Mortgagor's sole expense, will make, execute and deliver and/or will cause to be made, executed and delivered to and/or for the benefit of Mortgagee, in form and substance acceptable to Mortgagee, all documents that Mortgagee is advised are and/or deems necessary or appropriate to evidence, document or conclude the transactions described in and/or contemplated by this Mortgage or the Financing Agreements or required to perfect or continue perfected, as valid Encumbrances, the Encumbrances granted herein or in the Other Agreements by Mortgagor to Mortgagee upon the Mortgaged Property. "Documents" means any mortgage, deed of trust or similar instrument, assignment of permits, assignment of revenues, note, security agreement, guaranty, financing statement, assignment of insurance, loss payable clause, mortgage title insurance policy, letter of opinion, waiver letter, estoppel letter, consent letter, non-offset letter, insurance certificate, appraisal, survey and any other similar such agreements, instruments or documents.

### 3. COVENANTS, WARRANTIES AND REPRESENTATIONS

3.1 Mortgagor covenants with and warrants and represents to Mortgagee as follows:

(A) Mortgagor promptly will pay, or cause to be paid, when due or declared due, Mortgagor's Liabilities and promptly, fully and faithfully will perform, discharge, observe and comply with each and every of Mortgagor's Obligations.

(B) Mortgagor now has and hereafter shall maintain the standing, right, power and lawful authority to own the Mortgaged

Property, to carry on the business of and operate the Mortgaged Property, to enter into, execute and deliver this Mortgage and the Financing Agreements to Mortgagee, to encumber the Mortgaged Property to Mortgagee as provided herein or in the Financing Agreements and to perform all of Mortgagor's Obligations and to consummate all of the transactions described in or contemplated by this Mortgage and the Financing Agreements.

(C) The execution and delivery by Mortgagor of this Mortgage and the Financing Agreements and the performance by Mortgagor of and under this Mortgage and the Financing Agreements, does not and will not constitute a violation of any applicable law and does not and will not conflict with or result in a default or breach of or under or an acceleration of any obligation arising, existing or created by or under any agreement, instrument, document, mortgage, deed, trust deed, note, judgment, order, award, decree or other restriction to which Mortgagor or any of the Mortgaged Property is or hereafter shall become a party or by which Mortgagor or any of the Mortgaged Property is or hereafter shall become bound or any law or regulatory provision now or hereafter affecting Mortgagor or any of the Mortgaged Property.

(D) Mortgagor has duly filed and shall continue timely to file all federal, state and other governmental tax and similar returns which Mortgagor is required by law to file. All Charges and other sums which are shown to be payable under such returns have been and shall be (subject to Paragraph 8.2 of the Credit Agreement) timely and fully paid and Mortgagor shall maintain adequate reserves in amount to pay fully all such Charges which hereafter may accrue.

(E) Except as described in the Credit Agreement, there is no litigation, action, claim or proceeding pending or to the best of Mortgagor's knowledge, threatened which might, in any way, manner or respect, materially or adversely affect the Mortgaged Property, the operation or the business thereof, Mortgagee's Encumbrances thereon, the collectability of the obligations under the Financing Agreements, the ability of Mortgagor and Mortgagee to repay the obligations under the Financing Agreements, or the financial condition of the Mortgaged Property or the operation or business thereof.

(F) The Mortgaged Property now consists of and is in the same condition, ordinary wear and tear excepted, as it was when Mortgagee last inspected it and, ordinary wear and tear excepted, it shall consist of and remain in such condition until the payment, in full, of Mortgagor's Liabilities.

(G) Except as disclosed in writing to the Mortgagee, Mortgagor and the Mortgaged Property possess and hold and shall maintain adequate properties, interests in properties, leases, licenses, franchises, rights and all Permits, including all governmental and other permits, certificates, consents and approvals to conduct and operate the business of the Mortgaged Property. None of the foregoing contain or shall contain any term

or condition that is materially burdensome to said business or materially different than those of the foregoing customarily possessed or held by other parties conducting or operating a similar business.

(H) There does not exist and hereafter there shall not arise any default or breach of or under any agreement, instrument or document for borrowed money by which Mortgagor or the Mortgaged Property is bound or obligated.

(I) Except as disclosed in writing to the Mortgagee, the location, existence and use of the Premises and the Equipment are and shall remain in compliance with all applicable laws, rules, ordinances and regulations, including, without limitation, building, zoning and environmental laws, and all covenants and restrictions of record and all Permits, a breach of which would materially and adversely affect Mortgagor's business, credit, operations, financial condition or prospects.

(J) Mortgagor is and shall remain in peaceful possession of and will forever warrant and defend the Mortgaged Property from and against any and all claims thereon or thereto of any and all parties.

(K) Mortgagor will save and hold Mortgagee harmless of and from any and all damage, loss, cost and expense, including, without limitation, reasonable attorneys' fees, costs and expenses, incurred by reason of or arising from or on account of or in connection with any suit or proceeding, threatened, filed and/or pending, in or to which Mortgagee is or may become or may have to become a party by reason of or arising from or on account of or in connection with Mortgagor's Liabilities, Mortgagor's Obligations, this Mortgage or the Financing Agreements.

3.2 Mortgagor covenants with and warrants and represents to Mortgagee that Mortgagor is lawfully seized, possessed and the owner of and has good and indefeasible, marketable fee-simple title to the Mortgaged Property, free and clear of all Encumbrances except (i) the Encumbrances of Mortgagee, (ii) existing Permits, and (iii) Encumbrances permitted by the Financing Agreements.

3.3 Mortgagor covenants with and warrants and represents to Mortgagee as follows:

(A) Mortgagor will not change the use or character of or abandon the Mortgaged Property and at all times hereafter shall keep the Mortgaged Property in good condition and repair and will not commit or suffer waste and will make all necessary repairs, replacements and renewals (including the replacement of any items of the Equipment) to the Mortgaged Property so that the value and operating efficiency thereof shall at all times hereafter be maintained and preserved. Mortgagor shall not remove any fixture (other than in the ordinary course of repair and maintenance) or demolish any building or improvement located in or on the Premises. Mortgagor shall pay for and complete, within a reasonable time, any

building or improvement at any time in the process of erection upon the Premises, shall refrain from impairing or diminishing the value of the Mortgaged Property and shall make no material alterations to the Mortgaged Property which in the reasonable opinion of Mortgagee diminishes its value, and promptly shall repair, restore or rebuild any building or improvement now or hereafter on the Premises which may become damaged or destroyed and which is necessary for the operation of Mortgagor's business. Mortgagor shall comply with all requirements of the Permits, of law and all municipal ordinances governing the Mortgaged Property and the use thereof, a breach of which would materially and adversely affect Mortgagor's business, credit, operations, financial condition or prospects. Mortgagor shall permit Mortgagee, and its agents, upon demand, access to and to inspect the Mortgaged Property at all reasonable times.

(B) Mortgagor promptly shall pay and discharge, as and when due and payable, before any penalty attaches, all Charges, that may be at any time levied, assessed or imposed upon or against the Mortgaged Property, or any part thereof, and, upon Mortgagee's request therefor, shall deliver to Mortgagee duplicate receipts evidencing payment thereof prior to delinquency. To prevent default hereunder, Mortgagor may pay in full, under protest, and in the manner provided by statute, any Charge which Mortgagor may desire to contest. If Mortgagee is required by legislative enactment or judicial decision to pay any Charge in or to any state, municipality or government on the Mortgaged Property (or on any interest therein), this Mortgage, the Financing Agreements or Mortgagor's Liabilities, all of Mortgagor's Liabilities shall become and be due and payable, at the election of Mortgagee, thirty (30) days after the mailing of notice of such election to Mortgagor; provided, however, said election and right to elect will be unavailing and this Mortgage and the Financing Agreements will be and remain in full force and effect as though said law had not been enacted or said decision had not been rendered if, notwithstanding such law or decision, Mortgagor lawfully may pay such Charge to or for Mortgagee and does, in fact, pay, when payable, so much thereof as, taken with interest as aforesaid, does not exceed the maximum amount of interest permitted by applicable law. If at any time the United States of America shall require internal revenue stamps to be affixed to this Mortgage or the Financing Agreements, Mortgagor will pay for the same, together with any interest or penalties imposed in connection therewith.

(C) Mortgagor shall keep the Mortgaged Property free and clear of all Encumbrances of any and every kind and nature except those described in Paragraph 3.2 above and those permitted under the terms and provisions of the Credit Agreement, if any, and shall promptly pay or cause to be paid, as and when due and payable or when declared due and payable, any indebtedness which may become or be secured by such an Encumbrance and, immediately upon request by Mortgagee, shall deliver to Mortgagee evidence satisfactory to Mortgagee of the payment and discharge thereof. To prevent default hereunder, Mortgagor may indemnify Mortgagee, by a means determined solely by and acceptable to Mortgagee, against loss by reason of such an Encumbrance which Mortgagor may desire to contest. If, in



accordance with the terms of this Mortgage, Mortgagee makes payment of any such Encumbrance, Mortgagee shall be subrogated to the rights of such claimant, notwithstanding that the Encumbrance may be released of record.

(D) Mortgagor shall not, at any time or times hereafter, pledge, hypothecate or otherwise encumber all or any portion of the Mortgaged Property or Mortgagor's interest therein. Without the prior written consent of Mortgagee, Mortgagor shall not sell or otherwise transfer all or any portion of the Mortgaged Property or Mortgagor's interest therein. Mortgagee, in its sole discretion, may deliver or withhold such consent based upon Mortgagee's determination, to its sole satisfaction, of the credit worthiness and ability of the proposed assignee, transferee or purchaser to satisfy, perform and discharge Mortgagor's Liabilities in a proper and timely fashion and manner. Mortgagee, in its sole discretion, may condition the delivery of its consent upon Mortgagor agreeing to provide for such additional terms and conditions in this Mortgage or in the Financing Agreements as may be acceptable to Mortgagee, in its sole discretion.

(E) All present and future items of fixtures, equipment, furnishings or other tangible personal property (whether or not constituting a part of the Mortgaged Property) related or necessary to or used or usable in connection with any present or future building or improvement on the Premises, or the operation or business thereof, are and will be owned free and clear of all Encumbrances except those described in Paragraph 3.2 above and Mortgagor will not acquire any such property subject to any Encumbrance except those Encumbrances described in Paragraph 3.2 above. Within five (5) days after request by Mortgagee, Mortgagor will execute and deliver to Mortgagee an additional security agreement and financing statement, in form and substance acceptable to Mortgagee, covering all such property.

3.4 If Mortgagor, immediately after written demand from Mortgagee, shall neglect or refuse to keep the Mortgaged Property in good operating condition and repair or to replace or maintain the same as herein agreed, to pay the premiums for the insurance which is required to be maintained hereunder, to pay and discharge all Encumbrances as herein agreed or otherwise defaults in the performance of Mortgagor's Obligations, Mortgagee, at its sole election, may cause such repairs or replacements to be made, obtain such insurance, pay such Encumbrances or perform such Obligations. Any amounts paid by Mortgagee in taking such action (together with interest thereon at the default rate provided in the Credit Agreement, herein the "Default Rate") from the date of Mortgagee's payment thereof until repaid by Mortgagor to Mortgagee, shall be due and payable by Mortgagor to Mortgagee upon demand, and, until paid, shall constitute a part of Mortgagor's Liabilities secured by this Mortgage. Notwithstanding the foregoing, such advances by Mortgagee shall not be deemed to relieve Mortgagor from any Event of Default hereunder or impair any right or remedy consequent thereon. The exercise of the right to take such action shall be optional with Mortgagee and not obligatory upon Mortgagee and

Mortgagee shall not in any case be liable to Mortgagor for failure or refusal to exercise any such right. In making any payments pursuant to the exercise of any such right, Mortgagee may rely upon any bills delivered to it by Mortgagor or any such payee and shall not be liable for any failure to make payments in any amounts other than as set forth in any such bills.

3.5 (A) To the best of Mortgagor's knowledge, the Premises (including underlying groundwater and areas leased to tenants, if any), and the use and operation thereof, are currently in material compliance and will remain in material compliance with all applicable laws, ordinances, rules, guidances and regulations (including consent decrees and administrative orders) relating to, but not limited to, health and safety and protection of the environment, including those statutes, laws, rules, guidances, regulations, and ordinances identified in subparagraph (G) below, all as amended and modified from time to time (collectively, "Environmental Laws"). All Permits relating to the use and/or operation of the Premises required by applicable Environmental Laws are and will remain in effect, and the Mortgagor shall materially comply therewith.

(B) Except as disclosed in writing to Mortgagee, no release, generation, discharge, manufacture, storage, treatment, transportation or disposal of "Hazardous Material" (as hereinafter defined) has occurred or will occur on, in, under (including the underlying groundwater) or from the Premises or any parcel(s) of real estate adjacent thereto in contravention to the terms and conditions set forth in the Permits which might materially and adversely affect Mortgagor's business, credit, operations, financial condition or prospects. There is and will be: (i) no Hazardous Material on, in or under the Premises (including the underlying groundwater) or any parcel(s) of real estate adjacent thereto, except pursuant to the terms of the Permits and all applicable Environmental Laws; and (ii) no underground storage tanks present on or under the Premises. Without limitation of the foregoing: (i) the Mortgagor will promptly notify Mortgagee, in writing, in the event that the Mortgagor has or acquires notice or knowledge that any Hazardous Material has been or is threatened to be released, discharged, disposed of, transported or stored on, in, under or from or otherwise located on or beneath the surface of the Premises or any parcel(s) of real estate adjacent thereto in violation of the Permits or applicable Environmental Laws, and (ii) if any Hazardous Material is found on or beneath the surface of the Premises in violation of the Permits or applicable Environmental Laws, the Mortgagor at its own cost and expense, shall immediately take such action as is necessary to mitigate the spread of and effectuate the remediation of, such Hazardous Material, to the complete satisfaction of Mortgagee and the appropriate governmental authorities. Without limiting the foregoing, all Hazardous Material shall be handled in compliance with all applicable Environmental Laws.

(C) There are no pending or, to the best of knowledge of Mortgagor, threatened: (i) requests for information, actions or

proceedings from any governmental agency or any other person or entity regarding the condition or use of the Premises, or the disposal of Hazardous Material, or compliance with Environmental Laws or Permits, except for those incidents contained in Schedule 3.5 which might materially and adversely affect the Mortgagor's business, credit, operations, financial condition or prospects; or (ii) liens or governmental actions, notices of violations, notices of noncompliance or other proceedings of any kind with respect to the Premises or the Mortgagor which might materially and adversely affect the Mortgagor's business, credit, operations, financial condition or prospects. The Mortgagor shall immediately notify Mortgagee and provide copies upon receipt of all written complaints, claims, citations, demands, inquiries, reports, or notices relating to the condition of the Premises or material compliance with Environmental Laws or Permits. The Mortgagor shall promptly cure and have dismissed with prejudice any such actions and proceedings to the satisfaction of Mortgagee. The Mortgagor shall keep the Premises free of any lien imposed pursuant to any Environmental Law.

(D) In the event that Mortgagee has notice of a release, Mortgagee shall have the right, but not the obligation, at all reasonable times and from time to time to conduct environmental audits of the Premises and the Mortgagor shall cooperate in the conduct of each such audit and allow access to the Premises and relevant documents for same. The audits shall be conducted by a consultant of Mortgagee's choosing and at Mortgagor's expense. If any release of Hazardous Material or non-compliance with applicable Environmental Laws or Permits is detected or if a violation of any of the warranties, representations or covenants contained in this Paragraph 3.5 is discovered, the fees and expenses of such consultant shall be borne by the Mortgagor and shall be paid by the Mortgagor to Mortgagee on demand, together with interest thereon at the Default Rate. A copy of the reports generated by any environmental audits of the Premises conducted by Mortgagor during the term of this agreement shall be immediately supplied to Mortgagee.

(E) If the Mortgagor fails to comply with any of the foregoing warranties, representations and covenants, Mortgagee may, but is not obligated to (i) declare an Event of Default under this Mortgage, and/or (ii) cause the removal (and/or other cleanup acceptable to Mortgagee) of any Hazardous Material (in violation of applicable Environmental Law or the Permits) from the Premises. The costs of Hazardous Material removal and/or other cleanup (including transportation and storage costs and the fees and expenses of technical consultants and legal counsel) shall be added to the indebtedness secured by this Mortgage, whether or not the costs exceed the amount of the Loans and whether or not a court has ordered the cleanup, and such costs shall become due and payable, on demand by Mortgagee, with interest thereon at the Default Rate. The Mortgagor shall give Mortgagee, its agents and employees, access to the Premises to remove or otherwise clean up any Hazardous Material. Mortgagee, however, has no affirmative obligation to remove or otherwise clean up any Hazardous Material,

and this Mortgage and the Financing Agreements shall not be construed as creating any such obligation.

(F) The Mortgagor agrees to indemnify, defend (with counsel reasonably acceptable to Mortgagee and at the Mortgagor's sole cost), and hold Mortgagee and Mortgagee's affiliates, shareholders, directors, officers, employees and agents, free and harmless from and against all losses, liabilities, obligations, penalties, claims, litigation, demands, defenses, costs, judgments, suits, proceedings, damages (including consequential damages), disbursements or expenses of any kind or nature whatsoever (including attorneys' and experts' fees and disbursements and expenses incurred in investigating, defending against or prosecuting any litigation, claim or proceeding) which may at any time be imposed upon, incurred by or asserted or awarded against Mortgagee or any of them in connection with or arising from or out of:

1. any Hazardous Material on, in, under or affecting all or any portion of the Premises, the underlying groundwater, or any adjacent or surrounding areas or in any substance sold or transported for disposal or recycling to another facility in violation of applicable Environmental Laws, applicable state common law or the Permits;
2. any misrepresentation, inaccuracy or breach of any warranty, covenant or agreement contained or referred to in this Paragraph 3.5;
3. any violation or claim of violation by the Mortgagor of any Environmental Law or the Permits;
4. any action to fund or recover under the bonds posted pursuant to the Permits; or
5. the imposition of any lien on the Premises for the recovery of any costs for environmental cleanup and/or other response costs relating to the release or threatened release of Hazardous Material in violation of the terms and conditions set forth in the Permits.

The foregoing indemnification is the personal obligation of the Mortgagor, and shall survive repayment of the Loans or any transfer of the Premises by foreclosure or by a deed in lieu of foreclosure. The foregoing indemnification shall not be affected or negated by an exculpatory clause that may be contained in the Notes, this Mortgage or any of the Financing Agreements. The Mortgagor and its successors and assigns hereby waive, release and agree not to make any claim or bring any cost recovery action against Mortgagee under "CERCLA," "RCRA" (each as hereinafter defined) or any state equivalent, or any similar law now existing or hereafter enacted. It is expressly understood and agreed that to the extent that Mortgagee is strictly liable under any such law,

regulation, ordinance or requirement, the Mortgagor's obligation to Mortgagee under this indemnity shall likewise be without regard to fault on the part of the Mortgagor with respect to the violation or condition which results in liability to Mortgagee.

(G) For purposes of this Mortgage, "Hazardous Material" means: (i) "hazardous substances", or "toxic substances" as those terms are defined by the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C. §§9601 et seq.; the Hazardous Materials Transportation Act, 49 U.S.C. §§1802, all as amended and hereafter amended; (ii) "hazardous wastes", as that term is defined by the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. §§6902 et seq., as amended and hereafter amended; (iii) any hazardous, toxic or other substance ascribed as such under any applicable state law, local ordinance or other applicable environmental standard as amended and hereafter amended; and (iv) any pollutant or contaminant or hazardous, dangerous or toxic chemicals, materials or substances within the meaning of any other applicable federal, state or local law, regulation, ordinance or requirement (including consent decrees and administrative orders) relating to or imposing liability for, standards of conduct concerning, or a duty to investigate or remediate any hazardous, toxic or dangerous waste substance or material, all as amended or hereafter amended. "Hazardous Material" shall also include (v) petroleum or crude oil or any fraction thereof, natural gas, natural gas liquids, liquified natural gas or synthetic gas usable for fuel and not otherwise designated as a hazardous substance under CERCLA; (vi) any radioactive material, including any source, special nuclear or by-product material as defined at 42 U.S.C. §§2011 et seq., as amended or hereafter amended; (vii) friable asbestos in any form or condition; (viii) regulated levels of polychlorinated biphenyls ("PCBs") or substances or compounds containing PCBs; and (ix) substances the presence of which on the Mortgaged Property causes or threatens to cause a nuisance on the Mortgaged Property or adjacent properties or poses or threatens to pose a hazard to the health or safety of persons.

#### 4. INSURANCE AND CONDEMNATION

4.1 (A) Mortgagor, at all times, shall keep and maintain the Mortgaged Property fully insured (without co-insurance) against loss or damage by, or abatement of income resulting from, environmental impairment, fire and such other hazards, casualties and contingencies as Mortgagee, from time to time, may require in companies, form, amounts and for such periods as are reasonably satisfactory to Mortgagee and as is customary for other Persons in Mortgagor's same or similar business, but, in any event, for not less than the greater of the full insurable value or the full replacement value of the Mortgaged Property. All such policies and renewals thereof shall contain, in form and substance acceptable to Mortgagee, standard mortgagee loss payable clauses naming Mortgagee as "First Mortgagee," as well as a standard waiver of subrogation endorsement and shall be delivered, as issued, to Mortgagee, with premiums therefor paid in full by Mortgagor. All policies shall provide that they are non-cancellable by the insurer without first

giving at least thirty (30) days prior written notice to Mortgagee of any intended cancellation. Mortgagor will give immediate written notice to Mortgagee of any loss or damage to the Mortgaged Property, in excess of \$50,000, caused by any casualty. In case of policies about to expire, Mortgagor will deliver to Mortgagee certificates reflecting renewal policies prior to the respective dates of expiration. Mortgagor will deliver to Mortgagee evidence of the payment of the premiums on all policies and renewals thereof. In the event of foreclosure of this Mortgage or assignment hereof by Mortgagee or transfer of title to the Mortgaged Property in extinguishment of Mortgagor's Liabilities, all right, title and interest of Mortgagor in and to any policies then in force shall pass to the purchaser, grantee or assignee.

(B) (1) Full power is hereby conferred on Mortgagee:

(a) to demand, receive and receipt for all monies becoming due and/or payable under all policies; and

(b) to assign all policies to any holder of Mortgagor's Liabilities or to the grantee of the Mortgaged Property in the event of the foreclosure of this Mortgage or other transfer of title to the Mortgaged Property.

(2) In the event of payment under any of the policies, the proceeds of the policies shall be paid by the insurer to Mortgagee and Mortgagor as co-payee and Mortgagee, in its sole and absolute discretion, may:

(a) apply such proceeds, wholly or partially, after deducting all costs of collection, including reasonable attorneys' fees, either:

(i) toward the alteration, reconstruction, repair or restoration of the Mortgaged Property or any portion thereof; or

(ii) as a payment on account of Mortgagor's Liabilities (without affecting the amount or time of subsequent payments required to be made to Mortgagee under the Financing Agreements), whether or not then due or payable; or

(b) deliver the same to Mortgagor.

4.2 Notwithstanding the foregoing Section 4.1(B)(2), in the event of a casualty loss or damage of less than \$500,000, and upon

Mortgagor's request therefor, Mortgagee shall establish an escrow account for the deposit of insurance proceeds, to be used by the Mortgagor for the payment of all costs of alteration, reconstruction, repair or restoration of the Mortgaged Property or any portion thereof.

4.3 (A) All awards now or hereafter made by any public or quasi-public authority to or for the benefit of Mortgagor in any way, manner or respect affecting, arising from or relating to the Mortgaged Property, or any portion thereof, by virtue of an exercise of the right of eminent domain by such authority (including, without limitation, any award for taking of title, possession or right of access to a public way, or for any change of grade of streets affecting the Mortgaged Property) hereby are assigned to Mortgagee as additional security for the payment of Mortgagor's Liabilities (and for such purpose, Mortgagee hereby grants to Mortgagee a security interest therein).

(B) Mortgagee shall and hereby is authorized, directed and empowered to collect and receive the proceeds of any such awards from the authorities making the same and to give proper receipts therefor (in Mortgagor's name, in Mortgagee's name or in both names), and may, in its sole and absolute discretion, use such proceeds for any one or more of the following purposes:

(1) apply the same, or any part thereof, to Mortgagor's Liabilities, whether or not then matured and without affecting the amount or time of subsequent payments required to be made to Mortgagee under the Financing Agreements;

(2) use the same, or any part thereof, to satisfy, perform or discharge any of Mortgagor's Obligations;

(3) use the same, or any part thereof, to replace, repair or restore any or all of the Mortgaged Property to a condition satisfactory to Mortgagee; or

(4) release the same to Mortgagor.

(C) Mortgagor, immediately upon request by Mortgagee, shall make, execute and deliver and/or cause to be made, executed and delivered to and/or for the benefit of Mortgagee any and all assignments and other instruments sufficient to assign, and cause the payment directly to Mortgagee of, all such awards, free and clear of all Encumbrances except those Encumbrances described in paragraph 3.2 above. Notwithstanding any taking by eminent domain, alteration of the grade of any street or other injury to or decrease in value of the Mortgaged Property by any public or quasi-public authority or corporation, Mortgagor shall continue to pay all of the Mortgagor's Liabilities, as and when due and payable, until any such award or payment shall have been actually received by Mortgagee, and any reduction in Mortgagor's Liabilities

resulting from the application by Mortgagee of such award or payment as herein set forth shall be deemed to take effect only on the date of such receipt. If, prior to the receipt by Mortgagee of such award or payment, the Mortgaged Property shall have been sold on foreclosure of this Mortgage, Mortgagee shall have the right to receive such award or payment to the extent of any deficiency found to be due upon such sale, with legal interest thereon, whether or not a deficiency judgment on this Mortgage shall have been sought or recovered or denied, and of the reasonable attorneys' fees, costs, expenses and disbursements incurred by Mortgagee in connection with the collection of such award or payment.

## 5. PERMITS AND REVENUES

5.1 So long as there shall not have occurred an Event of Default under this Mortgage, or any event which, with notice or lapse of time or both would become an Event of Default under this Mortgage, Mortgagor shall have the right to collect all of the Revenues arising from the operation of the Mortgaged Property pursuant to the Permits, or renewals thereof, and shall hold the same, in trust, to be applied first to the payment of all Charges upon the Mortgaged Property, second to the cost of the maintenance of insurance policies upon the Mortgaged Property required hereby, third to the maintenance and repairs required hereby and last to the payment of Mortgagor's Liabilities, before using any part of the Revenues for any other purposes.

5.2 At all times, Mortgagee or any of Mortgagee's agents shall have the right to verify the validity or any other matter relating to any or all of the Permits or the compliance status of the Premises, by mail, telephone, telegraph or otherwise, in the name of Mortgagor, Mortgagee, a nominee of Mortgagee or in any or all of said names.

5.3 Unless Mortgagee notifies Mortgagor thereof in writing that it dispenses with any one or more of the following requirements, Mortgagor shall: (a) promptly upon Mortgagor's receipt or learning thereof, inform Mortgagee, in writing, of any assertion of any material claims with respect to any of the Permits or the material compliance of the Premises with applicable Environmental Laws which might materially and adversely affect the Mortgagor's business, credit, operations, financial condition or prospects; (b) not permit or agree to any material adverse compromise or settlement or make any adverse material change or modification of any kind or nature of or with respect to the Permits or the terms thereof; and (c) promptly upon Mortgagor's receipt or learning thereof, furnish to and inform Mortgagee of all material adverse information relating to or affecting the financial condition of the Mortgaged Property, the compliance status of the Premises or the Permits.

5.4 Within fifteen (15) days after demand therefor by Mortgagee, Mortgagor shall deliver to Mortgagee, in form and substance acceptable to Mortgagee, such matters and information



relating to the Permits or the compliance status of the Premises as Mortgagee may reasonably request.

5.5 Upon the occurrence of an Event of Default under this Mortgage:

(A) Immediately upon demand by Mortgagee, Mortgagor shall deliver to Mortgagee the originals of the Permits, and shall cooperate in any manner requested with the official transfer of the Permits with IDEM and U.S. EPA to Mortgagee or its designate. Mortgagor shall operate the facility in the intervening period pursuant to the terms of the Permits.

(B) Mortgagor, irrevocably, hereby designates, makes, constitutes and appoints Mortgagee (and all Persons designated by Mortgagee) as Mortgagor's true and lawful attorney and agent-in-fact, with power, without notice to Mortgagor and at such time or times thereafter as Mortgagee, at its sole election, may determine, in the name of Mortgagor, Mortgagee or in both names: (i) to demand payment of the Revenues; (ii) to enforce payment of the Revenues, by legal proceedings or otherwise; (iii) to exercise any or all of Mortgagor's rights, interests and remedies in and under the Permits and to collect the Revenues; (iv) to settle, adjust, compromise, extend or renew the Permits; (v) to settle, adjust or compromise any legal proceeding brought to collect the Revenues or obtain performance pursuant to the Permits; (vi) to take control, in any manner, of the Revenues; (vii) to prepare, file and sign Mortgagor's name on any Proof of Claim in bankruptcy, or similar document in a similar proceeding, against any obligor pursuant to the Permits; (viii) to endorse the name of Mortgagor upon any payments or proceeds of the Revenues and to deposit the same to the account of Mortgagee; and (ix) to do all acts and things necessary, in Mortgagee's sole discretion, to carry out any or all of the foregoing.

(C) All of the foregoing payments and proceeds received by Mortgagee shall be utilized by Mortgagee, at its sole election and in its sole discretion, for any one or more of the following purposes: (i) to be held by Mortgagee as additional collateral for the payment of Mortgagor's Liabilities; (ii) to be applied to Mortgagor's Liabilities, in such manner and fashion and to such portions thereof as Mortgagee, at its sole election, shall determine; (iii) to be applied to such obligations of Mortgagor or the Mortgaged Property or the operation or business thereof as Mortgagee, at its sole election, shall determine appropriate or warranted under the then existing circumstances; or (iv) to be remitted to Mortgagor.

## 6. DEFAULT

6.1 The occurrence of any one or more of the following events shall constitute an "Event of Default" under this Mortgage:

(A) the occurrence and continuance of an Event of Default under the Credit Agreement; or

(B) if a notice of any Charge is filed of record with respect to all or any material portion of Mortgagor's assets, or if any Charge at any time or times hereafter becomes an Encumbrance upon the Mortgaged Property or any other material portion of Mortgagor's assets and the same is not released or contested in such manner as to stay the enforcement thereof within sixty (60) days after the same becomes an Encumbrance.

6.2 Upon the occurrence of an Event of Default, without notice to or demand of Mortgagor, all of Mortgagor's Liabilities shall become immediately due and payable, and Mortgagee, in its sole discretion and at its sole election, without notice of such election, and without demand, may do any one or more of the following:

(A) Collect Mortgagor's Liabilities at once by foreclosure or otherwise, without notice of broken covenant or condition (and in case of such Event of Default and the exercise of such option, Mortgagor's Liabilities shall bear interest, from the date of such Event of Default, at the Default Rate).

(B) With process of law, forcibly or otherwise, enter upon and take immediate possession of the Mortgaged Property, expel and remove any Persons, goods or chattels occupying or upon the same, receive all Revenues, and issue receipts therefor, manage, control and operate the Mortgaged Property as fully as Mortgagor might do if in possession thereof, including, without limitation, the making of all repairs and replacements deemed necessary by Mortgagee and the leasing of the same, or any part thereof, from time to time, and, after deducting all reasonable attorneys' fees and all costs and expenses incurred in the protection, care, maintenance, management and operation of the Mortgaged Property, apply the remaining net income, if any, to Mortgagor's Liabilities or upon any deficiency decree entered in any foreclosure proceeding. At the option of Mortgagee, such entry and taking of possession shall be accomplished either by actual entry and possession or by written notice served personally upon or sent by registered mail to Mortgagor at the address of Mortgagor last appearing on the records of Mortgagee. Mortgagor agrees to surrender possession of the Mortgaged Property to Mortgagee immediately upon the occurrence of an Event of Default. If Mortgagor shall remain in physical possession of the Mortgaged Property, or any part thereof, after any such Event of Default, such possession shall be as a tenant at sufferance of Mortgagee, and Mortgagor agrees to pay to Mortgagee, or to any receiver appointed as provided below, after such Event of Default, a reasonable monthly rental for the Mortgaged Property, or the part thereof so occupied by Mortgagor, to be applied as provided above in the first sentence of this Subparagraph, and to be paid in advance on the first day of each calendar month, and, in default of so doing, Mortgagor may be dispossessed by the usual summary proceedings. In the event Mortgagor shall so remain in possession of all, or any part, of the Mortgaged Property, said reasonable monthly rental shall be in amounts established by Mortgagee in its sole discretion. This covenant shall be effective irrespective of

whether any foreclosure proceeding shall have been instituted and irrespective of any application for, or appointment of, a receiver.

(C) File one or more suits at law or in equity for the foreclosure of this Mortgage or to collect Mortgagor's Liabilities. In the event of the commencement of any such suit by Mortgagee, Mortgagee shall have the right, either before or after sale, without notice and without requiring bond (notice and bond being hereby waived), without regard to the solvency or insolvency of Mortgagor at the time of application and without regard to the then value of the Mortgaged Property or whether the same is then occupied, to make application for and obtain the appointment of a receiver for the Mortgaged Property. Such receiver shall have the power to collect the Revenues during the pendency of such suit and, in case of a sale and a deficiency, during the full statutory period of redemption or not, as well as during any further times when Mortgagor, except for the intervention of such receiver, would be entitled to collect the Revenues, and shall have all other powers which may be necessary or usual in such cases for the protection, possession, control, management and operation of the Mortgaged Property. The court before which such suit is pending may from time to time authorize the receiver to apply the net income in his hands in payment, in whole or in part, of Mortgagor's Liabilities. In case of a sale pursuant to foreclosure, the Premises may be sold as one parcel.

(D) In the event of the commencement of any suit by Mortgagee to foreclose this Mortgage, Mortgagee shall have the right to apply to the court in which such proceedings are pending for entry of an order placing Mortgagee in possession of the Mortgaged Property. In the event an order is entered placing Mortgagee in possession of the Mortgaged Property, Mortgagee may thereupon enter upon and take immediate possession of the Mortgaged Property, expel and remove any Persons, goods or chattels occupying or upon the same, receive all Revenues, and issue receipts therefor, manage, control and operate the Mortgaged Property, including, without limitation, make all repairs and replacements deemed necessary by Mortgagee and lease the same, or any part thereof, from time to time, and, after deducting all reasonable attorneys' fees and all costs and expenses incurred in the protection, care, maintenance, management and operation of the Mortgaged Property, apply the remaining net income, if any, to Mortgagor's Liabilities or upon any deficiency decree entered in such foreclosure proceedings. At the option of Mortgagee, such entry and taking of possession shall be accomplished either by actual entry and possession or by written notice of entry of the order placing Mortgagee in possession served personally upon or sent by registered mail to Mortgagor at the address of Mortgagor last appearing on the records of Mortgagee. If Mortgagor shall remain in physical possession of the Mortgaged Property after entry of an order placing Mortgagee in possession, Mortgagor's possession shall be as a tenant at sufferance of Mortgagee, and Mortgagor agrees to pay to Mortgagee, or to any other Person authorized by Mortgagee, after entry of such order, a reasonable monthly rental for the Mortgaged Property, or the part thereof so occupied by

Mortgagor, to be applied as provided above in the first sentence of Subparagraph (B) and to be paid in advance on the first day of each calendar month, and, in default of so doing, Mortgagor may be dispossessed by the usual summary proceedings. In the event Mortgagor shall so remain in possession of all or any part of the Mortgaged Property, said reasonable monthly rental shall be in amounts established by Mortgagee in its sole discretion.

6.3 Upon the occurrence of an Event of Default under this Mortgage, there will be added to and included as part of Mortgagor's Liabilities (and allowed in any decree for sale of the Mortgaged Property or in any judgment rendered upon this Mortgage or the Financing Agreements) the following: all of the costs and expenses of taking possession of the Mortgaged Property and of the holding, using, leasing, maintaining, repairing, improving and selling the same, including, without limitation, the costs, charges, expenses and attorneys' fees specified in Paragraph 6.4 below; receivers' fees; any and all expenditures which may be paid or incurred by or on behalf of Mortgagee for appraisers' fees, documentary and expert evidence, stenographers' charges, publication costs, fees and expenses for examination of title, title searches, guaranty policies, Torrens certificates and similar data and assurances with respect to the title to the Mortgaged Property; all prepayment or like premiums, if any, provided for in the Financing Agreements; and all other fees, costs and expenses which Mortgagee deems necessary to prosecute any remedy it has under this Mortgage, or to inform bidders at any sale which may be had pursuant to its rights hereunder, of the true condition of title or of the value of the Mortgaged Property. All such costs, charges, expenses, prepayment or like premiums, fees and other expenditures shall be a part of Mortgagor's Liabilities, secured by this Mortgage, payable on demand and shall bear interest at the Default Rate from the date of Mortgagee's payment thereof until repaid to Mortgagee.

6.4 If foreclosure proceedings are instituted upon this Mortgage, or if the Mortgagee shall be a party to, shall intervene, or file any petition, answer, motion or other pleadings in any suit or proceeding relating to this Mortgage, the Financing Agreements, any of the Permits or Mortgagor's Liabilities, or if Mortgagee shall incur or pay any expenses, costs, charges or attorneys' fees by reason of the employment of counsel for advice with respect to this Mortgage, the Financing Agreements, any of the Permits or Mortgagor's Liabilities, and whether in court proceedings or otherwise, such expenses and all of the Mortgagee's reasonable attorneys' fees shall be part of Mortgagor's Liabilities, secured by this Mortgage, payable on demand and shall bear interest at the Default Rate from the date of Mortgagee's payment thereof until repaid to Mortgagee.

6.5 Subject to applicable law, the proceeds of any foreclosure sale of the Mortgaged Property shall be applied and distributed, first, on account of the fees, charges, costs and expenses described in Paragraph 6.3 above, second, to the balance

of Mortgagor's Liabilities, and third, the surplus, if any, to Mortgagor.

6.6 In the event of the commencement of judicial proceedings to foreclose this Mortgage, Mortgagor, on behalf of itself, its successors and assigns, and each and every Person it may legally bind acquiring any interest in or title to the Mortgaged Property subsequent to the date of this Mortgage: (a) does hereby expressly waive any and all rights of appraisal, valuation, stay extension and (to the extent permitted by law) redemption from sale under any order or decree of foreclosure of this Mortgage; and (b) does hereby agree that when sale is had under any decree of foreclosure of this Mortgage, upon confirmation of such sale, the master in chancery or other officer making such sale, or his successor in office, shall be and is authorized immediately to execute and deliver to any purchaser at such sale a deed conveying the Mortgaged Property, showing the amount paid therefor, or if purchased by the Person in whose favor the order or decree is entered, the amount of his bid therefor.

6.7 Mortgagee shall have the right from time to time to sue for any sums, whether interest, principal or any other sums required to be paid by or for the account of Mortgagor under the terms of this Mortgage or the Financing Agreements, as the same become due under the Financing Agreements or this Mortgage, or for any other of Mortgagor's Liabilities which shall become due, and without prejudice to the right of Mortgagee thereafter to bring an action of foreclosure, or any other action, for a default or defaults by Mortgagor existing at the time such earlier action was commenced.

6.8 No right or remedy of Mortgagee hereunder is exclusive of any other right or remedy hereunder or now or hereafter existing at law or in equity, but is cumulative and in addition thereto and Mortgagee may recover judgment thereon, issue execution therefor, and resort to every other right or remedy available at law or in equity, without first exhausting or affecting or impairing the security or any right or remedy afforded by this Mortgage. No delay in exercising, or omission to exercise, any such right or remedy will impair any such right or remedy or will be construed to be a waiver of any Event of Default by Mortgagor hereunder, or acquiescence therein, nor will it affect any subsequent Event of Default hereunder by Mortgagor of the same or different nature. Every such right or remedy may be exercised independently or concurrently, and when and so often as may be deemed expedient by Mortgagee. No terms or conditions contained in this Mortgage or the Financing Agreements may be waived, altered or changed except as evidenced in writing signed by Mortgagor and Mortgagee.

6.9 Mortgagee shall release this Mortgage by proper instrument upon payment and discharge of all of Mortgagor's Liabilities, including all prepayment or like premiums, if any, provided for in the Financing Agreements and/or in the Permits and payment of all costs, expenses and fees, including reasonable

attorneys' fees, incurred by Mortgagee for the preparation, execution and/or recording of such release.

6.10 Upon occurrence of an Event of Default and acceleration of the maturity of Mortgagor's Liabilities as provided herein, a tender of payment thereof by Mortgagor, or any other Person, or a payment thereof received upon or on account of a foreclosure of this Mortgage or Mortgagee's exercise of any of its other rights or remedies under this Mortgage, the Financing Agreements or under any applicable law or in equity shall be deemed to be a voluntary prepayment made by Mortgagor of Mortgagor's Liabilities.

6.11 (A) Any agreements between Mortgagor and Mortgagee are expressly limited so that, in no event whatsoever, whether by reason of disbursement of the proceeds of the Loans secured hereby or otherwise, shall the amount paid or agreed to be paid to Mortgagee for the use, detention or forbearance of the loan proceeds to be disbursed exceed the highest lawful contract rate permissible under any law which a court of competent jurisdiction may deem applicable thereto.

(B) If fulfillment of any provision herein or in the Financing Agreements, at the time performance of such provision becomes due, involves exceeding such highest lawful contract rate, then ipso facto, the obligation to fulfill the same shall be reduced to such highest lawful contract rate. If by any circumstance Mortgagee shall ever receive as interest an amount which would exceed such highest lawful contract rate, the amount which may be deemed excessive interest shall be applied to the principal of Mortgagor's Liabilities and not to interest.

(C) The terms and provisions of this Paragraph shall control all other terms and provisions contained herein or in the Financing Agreements.

6.12 Any failure of Mortgagee to insist upon the strict performance by Mortgagor or Borrower of any of the terms and provisions of this Mortgage or the Financing Agreements shall not be deemed to be a waiver of any of the terms and provisions thereof, and Mortgagee, notwithstanding any such failure, shall have the right at any time or times thereafter to insist upon the strict performance by Mortgagor and Borrower of any and all of the terms and provisions thereof to be performed by Mortgagor. Neither Mortgagor, nor any other Person now or hereafter obligated for the payment of the whole or any part of Mortgagor's Liabilities, shall be relieved of such obligation by reason of the sale, conveyance or other transfer of the Mortgaged Property or the failure of Mortgagee to comply with any request of Mortgagor, or of any other Person, to take action to foreclose this Mortgage or otherwise enforce any of the provisions of this Mortgage or the Financing Agreements, or by reason of the release, regardless of consideration, of the whole or any part of the security held for Mortgagor's Liabilities, or by reason of any agreement or stipulation between any subsequent owner or owners of the Mortgaged Property and Mortgagee extending the time of payment of Mortgagor's

Liabilities or modifying the terms of the Financing Agreements or this Mortgage without first having obtained the consent of Mortgagor or such other Person, and, in the latter event, Mortgagor, and all such other Persons, shall continue liable on account of Mortgagor's Liabilities and to make such payments according to the terms of any such agreement, extension or modification unless expressly released and discharged in writing by Mortgagee. Mortgagee, without notice, may release, regardless of consideration, any part of the security held for Mortgagor's Liabilities, without, as to the remainder of the security therefor, in any way impairing or affecting the lien of this Mortgage or the priority of such lien over any subordinate lien. Mortgagee may resort for the payment of Mortgagor's Liabilities to any other security therefor held by Mortgagee in such order and manner as Mortgagee may elect.

**7. MISCELLANEOUS**

7.1 Every provision for notice, demand or request required in this Mortgage or the Financing Agreements or by applicable law shall be deemed fulfilled by written notice, demand or request personally served on (with proof of service endorsed thereon), or mailed to, as hereinafter provided, the party entitled thereto or on its successors or assigns. If mailed, such notice, demand or request shall be made certified or registered mail, return receipt requested, and deposited in any post office station or letter-box, enclosed in a postage paid envelope addressed to such party at its address set forth below or to such other address as either party hereto shall direct by like written notice and shall be deemed to have been made on the third (3rd) day following posting as aforesaid. For the purposes herein, notices shall be sent to Mortgagor and Mortgagee as follows:

**To Mortgagor:**

Pollution Control Industries, Inc.  
3322 Commercial Avenue  
South Chicago Heights, Illinois 60411  
Attention: John Newell

**with a copy to:**

Katz Randall & Weinberg  
333 West Wacker Drive  
Suite 1800  
Chicago, Illinois 60601  
Attention: Steven Jay Katz, Esq.

**To Mortgagee:**

American National Bank and Trust Company  
of Chicago  
33 North LaSalle Street  
Chicago, Illinois 60606  
Attention: Matthew D. Means

with a copy to:

Katten Muchin & Zavis  
525 West Monroe Street, Suite 1600  
Chicago, Illinois 60661-3693  
Attention: Ann Marie Sink, Esq.

7.2 Mortgagor agrees promptly to send to Mortgagee copies of any notice received by it with respect to the Permits or the compliance status of the Premises.

7.3 All the covenants contained in this Mortgage will run with the land. Time is of the essence of this Mortgage and all provisions herein relating thereto shall be strictly construed.

7.4 This Mortgage, and all the provisions hereof, will be binding upon and inure to the benefit of the successors and assigns of Mortgagor and Mortgagee.

7.5 This Mortgage was executed and delivered in, and, except as otherwise specifically stated in any given paragraph hereof, shall be governed as to validity, interpretation, construction, effect and in all other respects by the internal laws and decisions of the State of Illinois, except and to the extent that the laws of the State of Indiana shall be deemed to apply with respect to the Mortgaged Property.


7.6 Any provision of this Mortgage which is unenforceable in any state in which this Mortgage may be filed or recorded or is invalid or contrary to the law of such state, or the inclusion of which would affect the validity, legality or enforcement of this Mortgage, shall be of no effect, and in such case all the remaining terms and provisions of this Mortgage shall subsist and be fully effective according to the tenor of this Mortgage, the same as though no such invalid portion had ever been included herein.

7.7 To the extent that any of Mortgagor's Liabilities represent funds utilized to satisfy any outstanding indebtedness or obligations secured by liens, rights or claims against the Mortgaged Property or any part thereof, Mortgagee shall be subrogated to any and all liens, rights, superior titles and equities owned or claimed by the holder of any such outstanding indebtedness or obligation so satisfied, however remote, regardless of whether said liens, rights, superior title and equities are by the holder(s) thereof assigned to Mortgagee or released.



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

POLLUTION CONTROL INDUSTRIES,  
INC., a Delaware corporation  
(Mortgagor)

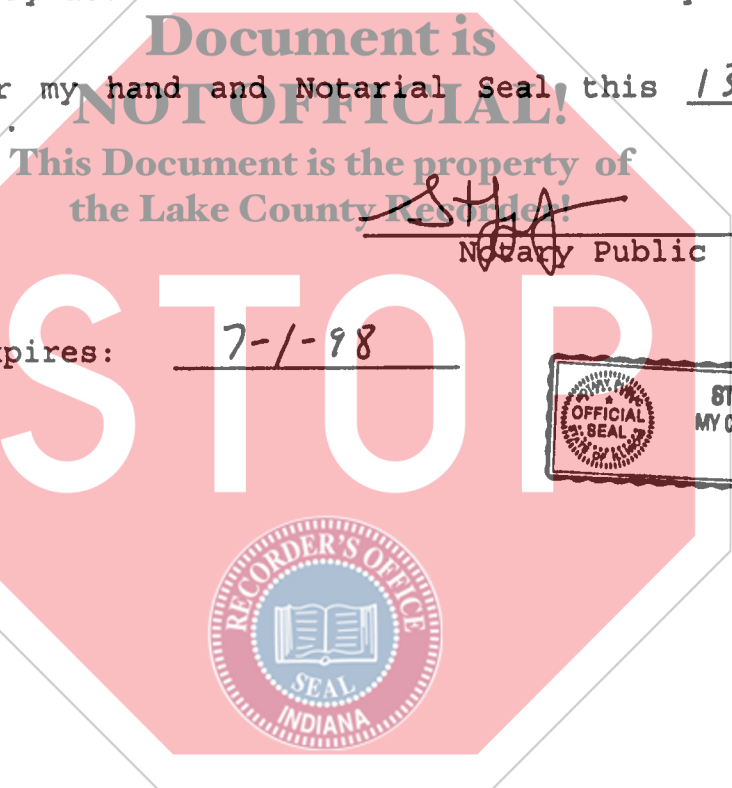
By:   
Name: JOHN H. NEWELL  
Its: SECRETARY & TREASURER



STATE OF Illinois )  
 )  
COUNTY OF Cook ) SS

I, Steven Jay Katz, a Notary Public in and for said County, in the State aforesaid, do hereby certify that on April 13, 1998, John Newell and \_\_\_\_\_, personally known to me to be the Secretary and Treasurer respectively of POLLUTION CONTROL INDUSTRIES, INC. a Delaware corporation and personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that they signed and delivered the said instrument on behalf of the aforesaid corporation, pursuant to due power and authority conferred by its Board of Directors, as their free and voluntary act and as the free and voluntary act of said corporation.

GIVEN under my hand and Notarial Seal this 13<sup>th</sup> day of April, 1998.



SJK  
Notary Public

My commission expires: 7-1-98

 **STEVEN JAY KATZ**  
MY COMMISSION EXPIRES  
July 1, 1998

**EXHIBIT A TO MORTGAGE, ASSIGNMENT OF PERMITS AND  
REVENUES AND SECURITY AGREEMENT DATED MARCH 31, 1998  
FROM POLLUTION CONTROL INDUSTRIES, INC.,  
as MORTGAGOR, to AMERICAN NATIONAL  
BANK AND TRUST COMPANY OF CHICAGO, as MORTGAGEE**

**LEGAL DESCRIPTION:**

Parcel 1: Part of the Northeast Quarter of Section 28, Township 37 North, Range 9 West of the 2<sup>nd</sup> P.M., more particularly described as follows: Beginning at a point 30 feet East and 1747.0 feet South of the Northwest corner of the Northeast Quarter; thence East 404.35 feet to a point on a line 15.0 feet West of the West Right of Way line of the Elgin Joliet Railroad which point lies 1743.0 feet South of the North line of said Northeast Quarter as measured along said 15 foot parallel line; thence Southerly along a line 15 feet West of and parallel to said right of way line of the E. J. and E. Railroad 870.7 feet to a point on the North line of 145<sup>th</sup> Street which lies 33 feet North of the South line of said Northeast Quarter; thence West along the North line of 145<sup>th</sup> Street 108.0 feet; thence Northerly along a line parallel to and 123.0 feet West of the West right of way line of the E. J. and E. Railroad a distance of 409.40 feet; thence Westerly parallel with the South line of said Northeast Quarter, a distance of 12.0 feet; thence Northerly parallel to the said West right of way of the E. J. and E. Railroad, 28.5 feet; thence Westerly 128.0 feet; thence Southerly parallel with the aforesaid railroad right of way, 24.9 feet to the North line of an existing 20 foot alley; thence Westerly along the North line of said existing alley, 159.80 feet to the East line of Kennedy Avenue, thence North, along the East line of Kennedy Avenue, a distance of 457.3 feet to the place of beginning, in the city of East Chicago, Lake County, Indiana.

Parcel 2: Part of the Northeast Quarter of Section 28, Township 37 North, Range 9 West of the 2<sup>nd</sup> P.M., more particularly described as follows: Commencing at a point on the Northerly line of a 20 foot alley lying Northerly of and adjoining Calumet-Kennedy Land Company's Resubdivision at a point 12 feet West of the East line of Ganister Court; thence North, parallel to the East line of Ganister Court extended, 28.5 feet; thence Westerly 128 feet to a point 24.9 feet North of the Northerly line of said 20 foot alley; thence South parallel to the East line of Ganister Court extended 24.9 feet to the Northerly line of said 20 foot alley; thence Easterly along said Northerly line of said 20 foot alley, 128 feet to the place of beginning, in the City of East Chicago, in Lake County, Indiana.

Parcel 3: All that part of the Northwest Quarter of the Southeast Quarter of Section 28, Township 37 North, Range 9 West of the 2<sup>nd</sup> P.M., in Lake County, Indiana, aforesaid, lying Northwesterly of a line described as follows: Commencing at a point on the West line of said Southeast Quarter of Section 28, which is 60 feet North of the North right of way line of the State Line and Indiana City Railway Company as conveyed by deed dated April 22<sup>nd</sup>, 1892, and recorded July 23<sup>rd</sup>, 1892, in Book 61, pages 146 to 149; thence Easterly parallel with the North line of said Southeast Quarter 97 feet to a point; thence Northeasterly by a curve convexed to the Southeast with a radius of 315 feet to a point which is 40 feet South of the North line of said Southeast Quarter and 30 feet West of the West line of the 100 foot right of way conveyed to the Western Indiana Railway Company by deed dated July 22<sup>nd</sup>, 1896, and recorded October 27<sup>th</sup>, 1896, in Book 79, pages 304 to 311, and now operated by the Elgin Joliet and Eastern Railway Company; thence Northerly parallel with the said West line 40 feet to the North line of said Southeast Quarter, excepting therefrom all the real estate included in the above described parcel which lies within the public highway known as Kennedy Avenue.