

**CBI TITLE AGENCY**

1/16

07113079

200800001492  
 Filed for Record in  
 FAIRFIELD COUNTY, OH  
 GENE WOOD  
 01-24-2008 At 03:15 pm.  
 MORTGAGE 76.00  
 OR Book 1484 Page 3012 - 3019

18-16-19+30

State of Ohio Space Above This Line For Recording Data

**OPEN-END MORTGAGE**  
 (With Future Advance Clause)

1. **DATE AND PARTIES.** The date of this Mortgage is Jan 15, 2008 and the parties and their addresses are as follows:

**MORTGAGOR: Wagner Rentals LLC, An Ohio Limited Liability Company**

7498 Ruffner Rd  
 BALTIMORE, OH 43105

Refer to the Addendum which is attached and incorporated herein for additional Mortgagors.

**LENDER: FIRST BREMEN BANK**

119 MAIN STREET BREMEN, OH 43107

Organized and Existing Under the Laws of THE STATE OF OHIO

2. **MORTGAGE.** For good and valuable consideration, the receipt and sufficiency of which is acknowledged, upon the statutory condition and to secure the Secured Debt (hereafter defined), Mortgagor grants, bargains, conveys and mortgages to Lender, with mortgage covenants, the following described property:  
 See Attached Exhibit "A"

The property is located in Fairfield at 77 1/2 +/- Acres and 950  
 (County)  
Baltimore Somerset Rd (6.94 ac.), Baltimore, Ohio 43105  
 (Address) AKA Tract One (City) (ZIP Code)

Tract Two & Three

Together with all rights, easements, appurtenances, royalties, mineral rights, oil and gas rights, crops, timber, all diversion payments or third party payments made to crop producers, and all existing and future improvements, structures, fixtures, and replacements that may now, or at any time in the future, be part of the real estate described above (all referred to as "Property"). The term Property also includes, but is not limited to, any and all water wells, water, ditches, reservoirs, reservoir sites and dams located on the real estate and all riparian and water rights associated with the Property, however established.

3. **MAXIMUM OBLIGATION LIMIT.** The total principal amount of the Secured Debt (hereafter defined) secured by this Mortgage at any one time shall not exceed \$ 1,810,000.00. This limitation of amount does not include interest, loan charges, commitment fees, brokerage commissions, attorneys' fees and other charges validly made pursuant to this Mortgage and does not apply to advances (or interest accrued on such advances) made under the terms of this Mortgage to protect Lender's security and to perform any of the covenants contained in this Mortgage. Future advances are contemplated and, along with other future obligations, are secured by this Mortgage even though all or part may not yet be advanced. Nothing in this Mortgage, however, shall constitute a commitment to make additional or future loans or advances in any amount. Any such commitment would need to be agreed to in a separate writing.

4. **SECURED DEBT DEFINED.** The term "Secured Debt" includes, but is not limited to, the following:  
 A. The promissory note(s), contract(s), guaranty(s) or other evidence of debt described below and all extensions, renewals, modifications or substitutions (Evidence of Debt): **A PROMISSORY NOTE DATED 01/15/2008 WITH AN INITIAL MATURITY 01/15/2023**

(e.g., borrower's name, note amount, interest rate, maturity date)

OHIO - AGRICULTURAL/COMMERCIAL MORTGAGE (NOT FOR FNMA, FHLMC, FHA OR VA USE, AND NOT FOR CONSUMER PURPOSES)

(page 1 of 6)

- B. All future advances from Lender to Mortgagor or other future obligations of Mortgagor to Lender under any promissory note, contract, guaranty, or other evidence of debt existing now or executed after this Mortgage whether or not this Mortgage is specifically referred to in the evidence of debt.
- C. All obligations Mortgagor owes to Lender, which now exist or may later arise, to the extent not prohibited by law, including, but not limited to, liabilities for overdrafts relating to any deposit account agreement between Mortgagor and Lender.
- D. All additional sums advanced and expenses incurred by Lender for insuring, preserving or otherwise protecting the Property and its value and any other sums advanced and expenses incurred by Lender under the terms of this Mortgage, plus interest at the highest rate in effect, from time to time, as provided in the Evidence of Debt.
- E. Mortgagor's performance under the terms of any instrument evidencing a debt by Mortgagor to Lender and any Mortgage securing, guarantying, or otherwise relating to the debt.

If more than one person signs this Mortgage as Mortgagor, each Mortgagor agrees that this Mortgage will secure all future advances and future obligations described above that are given to or incurred by any one or more Mortgagor, or any one or more Mortgagor and others. This Mortgage will not secure any other debt if Lender fails, with respect to such other debt, to make any required disclosure about this Mortgage or if Lender fails to give any required notice of the right of rescission.

- 5. **PAYMENTS.** Mortgagor agrees to make all payments on the Secured Debt when due and in accordance with the terms of the Evidence of Debt or this Mortgage.
- 6. **CLAIMS AGAINST TITLE.** Mortgagor will pay all taxes, assessments, liens, encumbrances, lease payments, ground rents, utilities, and other charges relating to the Property when due. Lender may require Mortgagor to provide to Lender copies of all notices that such amounts are due and the receipts evidencing Mortgagor's payment. Mortgagor will defend title to the Property against any claims that would impair the lien of this Mortgage. Mortgagor agrees to assign to Lender, as requested by Lender, any rights, claims or defenses which Mortgagor may have against parties who supply labor or materials to improve or maintain the Property. Lender is authorized to do all things provided to be done by a mortgage under Section 1311.14 of the Ohio Revised Code.
- 7. **PRIOR SECURITY INTERESTS.** With regard to any other mortgage, deed of trust, security agreement or other lien document that created a prior security interest or encumbrance on the Property and that may have priority over this Mortgage, Mortgagor agrees:
  - A. To make all payments when due and to perform or comply with all covenants.
  - B. To promptly deliver to Lender any notices that Mortgagor receives from the holder.
  - C. Not to make or permit any modification or extension of, and not to request or accept any future advances under any note or agreement secured by, the other mortgage, deed of trust or security agreement unless Lender consents in writing.
- 8. **DUE ON SALE OR ENCUMBRANCE.** Lender may, at its option, declare the entire balance of the Secured Debt to be immediately due and payable upon the creation of any lien, encumbrance, transfer, or sale, or contract for any of these on the Property. However, if the Property includes Mortgagor's residence, this section shall be subject to the restrictions imposed by federal law (12 C.F.R. 591), as applicable. For the purposes of this section, the term "Property" also includes any interest to all or any part of the Property. This covenant shall run with the Property and shall remain in effect until the Secured Debt is paid in full and this Mortgage is released.
- 9. **TRANSFER OF AN INTEREST IN THE MORTGAGOR.** If Mortgagor is an entity other than a natural person (such as a corporation or other organization), Lender may demand immediate payment if (1) a beneficial interest in Mortgagor is sold or transferred; (2) there is a change in either the identity or number of members of a partnership or similar entity; or (3) there is a change in ownership of more than 25 percent of the voting stock of a corporation or similar entity. However, Lender may not demand payment in the above situations if it is prohibited by law as of the date of this Mortgage.
- 10. **ENTITY WARRANTIES AND REPRESENTATIONS.** If Mortgagor is an entity other than a natural person (such as a corporation or other organization), Mortgagor makes to Lender the following warranties and representations which shall be continuing as long as the Secured Debt remains outstanding:
  - A. Mortgagor is an entity which is duly organized and validly existing in the Mortgagor's state of incorporation (or organization). Mortgagor is in good standing in all states in which Mortgagor transacts business. Mortgagor has the power and authority to own the Property and to carry on its business as now being conducted and, as applicable, is qualified to do so in each state in which Mortgagor operates.
  - B. The execution, delivery and performance of this Mortgage by Mortgagor and the obligation evidenced by the Evidence of Debt are within the power of Mortgagor, have been duly authorized, have received all necessary governmental approval, and will not violate any provision of law, or order of court or governmental agency.
  - C. Other than disclosed in writing Mortgagor has not changed its name within the last ten years and has not used any other trade or fictitious name. Without Lender's prior written consent, Mortgagor does not and will not use any other name and will preserve its existing name, trade names and franchises until the Secured Debt is satisfied.
- 11. **PROPERTY CONDITION, ALTERATIONS AND INSPECTION.** Mortgagor will keep the Property in good condition and make all repairs that are reasonably necessary. Mortgagor will give Lender prompt notice of any loss or damage to the Property. Mortgagor will keep the Property free of noxious weeds and grasses. Mortgagor will not initiate, join in or consent to any change in any private restrictive covenant, zoning ordinance or other public or private restriction limiting or defining the uses which may be made of the Property or any part of the Property, without Lender's prior written consent. Mortgagor will notify Lender of all demands, proceedings, claims, and actions against Mortgagor or any other owner made under law or regulation regarding use, ownership and occupancy of the Property. Mortgagor will comply with all legal requirements and restrictions, whether public or private, with respect to the use of the Property. Mortgagor also agrees that the nature of the occupancy and use will not change without Lender's prior written consent.

No portion of the Property will be removed, demolished or materially altered without Lender's prior written consent except that Mortgagor has the right to remove items of personal property comprising a part of the Property that become worn or obsolete, provided that such personal property is replaced with other personal property at least equal in value to the replaced personal property, free from any title retention device, security agreement or other encumbrance. Such replacement of personal property will be deemed subject to the security interest created by this Mortgage. Mortgagor shall not partition or subdivide the Property without Lender's prior written consent. Lender or Lender's agents may, at Lender's option, enter the Property at any reasonable time for the purpose of inspecting the Property. Any inspection of the Property shall be entirely for Lender's benefit and Mortgagor will in no way rely on Lender's inspection.

## EXHIBIT "A"

File Number 07113079

## TRACT ONE:

Situated in the State of Ohio, County of Fairfield, Walnut Township, and being a part of the Southeast Quarter of Section 19, Township 16, Range 18, and being more particularly described as follows:

Beginning at an iron pin found at the Southeast corner of said Section 19, said beginning point being the intersection of the centerline of State Route #37 and Route #256;

thence with section line and the center of said State Route #256, South 89° 44' West 550.00 feet to a point;

thence leaving said road, North 550.00 feet to an iron pipe (passing an iron pipe at 30.00 feet);

thence North 89° 44' East 550.00 feet to a point on section line and in the center of State Route #37 (passing an iron pipe at 520.00 feet);

thence with section line and the center of said State Route #37, South 550.00 to the place of beginning, containing 6.94 acres and subject to all legal rights of way and easements of record.

Parcel No. 049-02533-10

Property Address: 950 Baltimore Somerset Road, Baltimore, Ohio 43105

## TRACT TWO:

Situated in the State of Ohio, County of Fairfield, Walnut Township and being more particularly described as follows:

Known and distinguished by being a part of the North East Quarter of Section Thirty (30), Township No. Sixteen (16), Range No. Eighteen (18) and bounded and described as follows:

Beginning at a stone in the center of the crossroads at the North East corner of the said Section No. Thirty (30); thence North 85 ½

West 28 chains and 84 links to a stone in the road; thence South 4 ½

West 27 chains and 80 links to a stone; thence South 85 ½

East 28 chains and 78 links to a stone in the center of the road; thence North 4° and 36' East 27 chains and 80 links to the beginning, containing 80 and eleven one-hundredth acres.

## EXCEPTING THEREFROM THE FOLLOWING TWO TRACTS:

## Tract One:

Being a part of the Northeast Quarter of Section 30, Township 16 (Walnut), Range 18, Fairfield County, Ohio; bounded and beginning at a nail in the North line of said section also being the centerline of State Route 256 which bears West 817.8 feet from the Northeast corner of said quarter section; thence South 380.0 feet to an iron pipe, passing an iron pipe at 30.0 feet; thence West 300.0 feet to an iron pipe; thence North 380.0 feet to a nail in said section and centerline passing an iron pipe at 350.0 feet; thence East with said section and centerline 300.0 feet to the place of beginning; containing 2.62 acres, more or less.

## Tract Two:

Situated in the State of Ohio, Fairfield County, Walnut Township, Township 16, Range 18, Section 30;

Being part of the 80.11 acre tract described in a deed to George Sakas as recorded in Volume 498, Page 873 and being more fully described as follows:

Beginning in the intersection of Baltimore-Somerset Road (State Route 256) and Lancaster-Newark Road (State Route 37) and the Northeast corner of Section 30, said point being North 44° 46' 37" East a distance of 42.46 feet from a 5/8 inch rebar set; thence, South 00° 10' 46" East a distance of 632.00 feet to a point on the East line of Section 30; thence, South 89° 44' 00" West, passing a 5/8 inch rebar set at 30.00 feet, a distance of 690.00 feet to a 5/8 inch rebar set;

thence North 00° 10' 46" West, passing a 5/8 inch rebar set at 602.00 feet, a distance of 632.00 feet to a point on the North line of Section 30;

thence, North 89° 44' 00" East a distance of 690.00 feet to the point of beginning, containing 10.011 acres.

## EXHIBIT "A" CONTINUED

File Number 07113079

Bearings are based on the North line of the Northeast Quarter Section 30 being North 89° 44' 00" East by a previous survey of 6.94 acre tract described in Deed Volume 572, Page 140, and are used to denote angles only. Rebars set are 5/8 inch by 36 inches and have a yellow plastic identification cap stamped "Tobin-McFarland". This description is based on a survey made in August, 2000 by Tobin-McFarland Surveying, Inc., and was prepared by Rodney McFarland, Registered Professional Surveyor No. 6416.

Leaving in said parcel herein to be conveyed 67.48 acres.

Parcel Number 049-02634-00

Property Address: 835 Baltimore Somerset Road, Baltimore, Ohio 43105

TRACT THREE:

Situated in the State of Ohio, Fairfield County, Walnut Township, Township 16, Range 18, Section 30;

Being part of the 80.11 acre tract described in a deed to George Sakas as recorded in Volume 498, Page 873 and being more fully described as follows:

Beginning in the intersection of Baltimore-Somerset Road (State Route 256) and Lancaster-Newark Road (State Route 37) and the Northeast corner of Section 30, said point being North 44° 46' 37" East a distance of 42.46 feet from a 5/8 inch rebar set;

thence, South 00° 10' 46" East a distance of 632.00 feet to a point on the East line of Section 30;

thence, South 89° 44' 00" West, passing a 5/8 inch rebar set at 30.00 feet, a distance of 690.00 feet to a 5/8 inch rebar set;

thence North 00° 10' 46" West, passing a 5/8 inch rebar set at 602.00 feet, a distance of 632.00 feet to a point on the North line of Section 30;

thence, North 89° 44' 00" East a distance of 690.00 feet to the point of beginning, containing 10.011 acres.

Bearings are based on the North line of the Northeast Quarter Section 30 being North 89° 44' 00" East by a previous survey of 6.94 acre tract described in Deed Volume 572, Page 140, and are used to denote angles only. Rebars set are 5/8 inch by 36 inches and have a yellow plastic identification cap stamped "Tobin-McFarland". This description is based on a survey made in August, 2000 by Tobin-McFarland Surveying, Inc., and was prepared by Rodney McFarland, Registered Professional Surveyor No. 6416.

- 12. AUTHORITY TO PERFORM.** If Mortgagor fails to perform any of Mortgagor's duties under this Mortgage, or any other mortgage, deed of trust, security agreement or other lien document that has priority over this Mortgage, Lender may, without notice, perform the duties or cause them to be performed. Mortgagor appoints Lender as attorney in fact to sign Mortgagor's name or pay any amount necessary for performance. If any construction on the Property is discontinued or not carried on in a reasonable manner, Lender may do whatever is necessary to protect Lender's security interest in the Property. This may include completing the construction.

Lender's right to perform for Mortgagor shall not create an obligation to perform, and Lender's failure to perform will not preclude Lender from exercising any of Lender's other rights under the law or this Mortgage. Any amounts paid by Lender for insuring, preserving or otherwise protecting the Property and Lender's security interest will be due on demand and will bear interest from the date of the payment until paid in full at the interest rate in effect from time to time according to the terms of the Evidence of Debt.

- 13. ASSIGNMENT OF LEASES AND RENTS.** Mortgagor grants, bargains, and conveys to Lender as additional security all the right, title and interest in and to any and all:
- A. Existing or future leases, subleases, licenses, guaranties and any other written or verbal agreements for the use and occupancy of any portion of the Property, including any extensions, renewals, modifications or substitutions of such agreements (all referred to as "Leases").
  - B. Rents, issues and profits (all referred to as "Rents"), including but not limited to security deposits, minimum rent, percentage rent, additional rent, common area maintenance charges, parking charges, real estate taxes, other applicable taxes, insurance premium contributions, liquidated damages following default, cancellation premiums, "loss of rents" insurance, guest receipts, revenues, royalties, proceeds, bonuses, accounts, contract rights, general intangibles, and all rights and claims which Mortgagor may have that in any way pertain to or are on account of the use or occupancy of the whole or any part of the Property.

Mortgagor will promptly provide Lender with true and correct copies of all existing and future Leases. Mortgagor may collect, receive, enjoy and use the Rents so long as Mortgagor is not in default. Except for one month's rent, Mortgagor will not collect in advance any Rents due in future lease periods, unless Mortgagor first obtains Lender's written consent. Upon default, Mortgagor will receive any Rents in trust for Lender and Mortgagor will not commingle the Rents with any other funds. Any amounts collected shall be applied at Lender's discretion to payments on the Secured Debt as therein provided, to costs of managing the Property, including, but not limited to, all taxes, assessments, insurance premiums, repairs, and commissions to rental agents, and to any other necessary related expenses including Lender's attorneys' fees and court costs.

Mortgagor agrees that this assignment is immediately effective between the parties to this assignment and effective as to third parties on Mortgagor's default when Lender takes actual possession of the Property, when a receiver is appointed, when Lender commences a foreclosure on the property or as the law otherwise provides, and this assignment will remain effective during any redemption period until the Secured Debt is satisfied. Mortgagor agrees that Lender may take actual possession of the Property without the necessity of commencing any legal action or proceeding and Mortgagor agrees that actual possession of the Property is deemed to occur when Lender notifies Mortgagor of the default and demands that Mortgagor and Mortgagor's tenants pay all Rents due and to become due directly to Lender. On receiving the notice of default, Mortgagor will endorse and deliver to Lender any payments of Rents.

Mortgagor warrants that no default exists under the Leases or any applicable landlord law. Mortgagor also warrants and agrees to maintain, and to require the tenants to comply with, the Leases and any applicable law. Mortgagor will promptly notify Lender of any noncompliance. If Mortgagor neglects or refuses to enforce compliance with the terms of the Leases, then Lender may, at Lender's option, enforce compliance. Mortgagor will obtain Lender's written authorization before Mortgagor consents to sublet, modify, cancel, or otherwise alter the Leases, to accept the surrender of the Property covered by such Leases (unless the Leases so require), or to assign, compromise or encumber the Leases or any future Rents. Mortgagor will hold Lender harmless and indemnify Lender for any and all liability, loss or damage that Lender may incur as a consequence of the assignment under this section.

- 14. CONDOMINIUMS; PLANNED UNIT DEVELOPMENTS.** If the Property includes a unit in a condominium or a planned unit development, Mortgagor will perform all of Mortgagor's duties under the covenants, by-laws, or regulations of the condominium or planned unit development.
- 15. DEFAULT.** Mortgagor will be in default if any of the following occur:
- A. Any party obligated on the Secured Debt fails to make payment when due;
  - B. A breach of any term or covenant in this Mortgage, any prior mortgage or any construction loan agreement, security agreement or any other document evidencing, guarantying, securing or otherwise relating to the Secured Debt;
  - C. The making or furnishing of any verbal or written representation, statement or warranty to Lender that is false or incorrect in any material respect by Mortgagor or any person or entity obligated on the Secured Debt;
  - D. The death, dissolution, or insolvency of, appointment of a receiver for, or application of any debtor relief law to, Mortgagor or any person or entity obligated on the Secured Debt;
  - E. A good faith belief by Lender at any time that Lender is insecure with respect to any person or entity obligated on the Secured Debt or that the prospect of any payment is impaired or the value of the Property is impaired;
  - F. A material adverse change in Mortgagor's business including ownership, management, and financial conditions, which Lender in its opinion believes impairs the value of the Property or repayment of the Secured Debt; or
  - G. Any loan proceeds are used for a purpose that will contribute to excessive erosion of highly erodible land or to the conversion of wetlands to produce an agricultural commodity, as further explained in 7 C.F.R. Part 1940, Subpart G, Exhibit M.
- 16. REMEDIES ON DEFAULT.** In some instances, federal and state law will require Lender to provide Mortgagor with notice of the right to cure, mediation notices or other notices and may establish time schedules for foreclosure actions. Subject to these limitations, if any, Lender may accelerate the Secured Debt and foreclose this Mortgage in a manner provided by law if this Mortgagor is in default.

At the option of Lender, all or any part of the agreed fees and charges, accrued interest and principal shall become immediately due and payable, after giving notice if required by law, upon the occurrence of a default or anytime thereafter. In addition, Lender shall be entitled to all the remedies provided by law, the Evidence of Debt, other evidences

of debt, this Mortgage and any related documents. All remedies are distinct, cumulative and not exclusive, and the Lender is entitled to all remedies provided at law or equity, whether expressly set forth or not. The acceptance by Lender of any sum in payment or partial payment on the Secured Debt after the balance is due or is accelerated or after foreclosure proceedings are filed shall not constitute a waiver of Lender's right to require full and complete cure of any existing default. By not exercising any remedy on Mortgagor's default, Lender does not waive Lender's right to later consider the event a default if it continues or happens again.

17. **CONFESSION OF JUDGMENT.** In addition to Lender's remedies listed herein, Mortgagor authorizes any attorney to appear in a court of record and confess judgment, without process, against Mortgagor, in favor of Lender, for any sum unpaid and due on the Secured Debt, together with costs of suit.
18. **EXPENSES; ADVANCES ON COVENANTS; ATTORNEYS' FEES, COLLECTION COSTS.** Except when prohibited by law, Mortgagor agrees to pay all of Lender's expenses if Mortgagor breaches any covenant in this Mortgage. Mortgagor will also pay on demand all of Lender's expenses incurred in collecting, insuring, preserving or protecting the Property or in any inventories, audits, inspections or other examination by Lender in respect to the Property. Mortgagor agrees to pay all costs and expenses incurred by Lender in enforcing or protecting Lender's rights and remedies under this Mortgage, including, but not limited to, attorneys' fees, court costs, and other legal expenses. Once the Secured Debt is fully and finally paid, Lender agrees to release this Mortgage and Mortgagor agrees to pay for any recordation costs. All such amounts are due on demand and will bear interest from the time of the advance at the highest rate in effect, from time to time, as provided in the Evidence of Debt and as permitted by law.
19. **ENVIRONMENTAL LAWS AND HAZARDOUS SUBSTANCES.** As used in this section, (1) "Environmental Law" means, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA, 42 U.S.C. 9601 et seq.), all other federal, state and local laws, regulations, ordinances, court orders, attorney general opinions or interpretive letters concerning the public health, safety, welfare, environment or a hazardous substance; and (2) "Hazardous Substance" means any toxic, radioactive or hazardous material, waste, pollutant or contaminant which has characteristics which render the substance dangerous or potentially dangerous to the public health, safety, welfare or environment. The term includes, without limitation, any substances defined as "hazardous material," "toxic substances," "hazardous waste" or "hazardous substance" under any Environmental Law. Mortgagor represents, warrants and agrees that, except as previously disclosed and acknowledged in writing:
- A. No Hazardous Substance has been, is, or will be located, transported, manufactured, treated, refined, or handled by any person on, under or about the Property, except in the ordinary course of business and in strict compliance with all applicable Environmental Law.
  - B. Mortgagor has not and will not cause, contribute to, or permit the release of any Hazardous Substance on the Property.
  - C. Mortgagor will immediately notify Lender if (1) a release or threatened release of Hazardous Substance occurs on, under or about the Property or migrates or threatens to migrate from nearby property; or (2) there is a violation of any Environmental Law concerning the Property. In such an event, Mortgagor will take all necessary remedial action in accordance with Environmental Law.
  - D. Mortgagor has no knowledge of or reason to believe there is any pending or threatened investigation, claim, or proceeding of any kind relating to (1) any Hazardous Substance located on, under or about the Property; or (2) any violation by Mortgagor or any tenant of any Environmental Law. Mortgagor will immediately notify Lender in writing as soon as Mortgagor has reason to believe there is any such pending or threatened investigation, claim, or proceeding. In such an event, Lender has the right, but not the obligation, to participate in any such proceeding including the right to receive copies of any documents relating to such proceedings.
  - E. Mortgagor and every tenant have been, are and shall remain in full compliance with any applicable Environmental Law.
  - F. There are no underground storage tanks, private dumps or open wells located on or under the Property and no such tank, dump or well will be added unless Lender first consents in writing.
  - G. Mortgagor will regularly inspect the Property, monitor the activities and operations on the Property, and confirm that all permits, licenses or approvals required by any applicable Environmental Law are obtained and complied with.
  - H. Mortgagor will permit, or cause any tenant to permit, Lender or Lender's agent to enter and inspect the Property and review all records at any reasonable time to determine (1) the existence, location and nature of any Hazardous Substance on, under or about the Property; (2) the existence, location, nature, and magnitude of any Hazardous Substance that has been released on, under or about the Property; or (3) whether or not Mortgagor and any tenant are in compliance with applicable Environmental Law.
  - I. Upon Lender's request and at any time, Mortgagor agrees, at Mortgagor's expense, to engage a qualified environmental engineer to prepare an environmental audit of the Property and to submit the results of such audit to Lender. The choice of the environmental engineer who will perform such audit is subject to Lender's approval.
  - J. Lender has the right, but not the obligation, to perform any of Mortgagor's obligations under this section at Mortgagor's expense.
  - K. As a consequence of any breach of any representation, warranty or promise made in this section, (1) Mortgagor will indemnify and hold Lender and Lender's successors or assigns harmless from and against all losses, claims, demands, liabilities, damages, cleanup, response and remediation costs, penalties and expenses, including without limitation all costs of litigation and attorneys' fees, which Lender and Lender's successors or assigns may sustain; and (2) at Lender's discretion, Lender may release this Mortgage and in return Mortgagor will provide Lender with collateral of at least equal value to the Property secured by this Mortgage without prejudice to any of Lender's rights under this Mortgage.
  - L. Notwithstanding any of the language contained in this Mortgage to the contrary, the terms of this section shall survive any foreclosure or satisfaction of this Mortgage regardless of any passage of title to Lender or any disposition by Lender of any or all of the Property. Any claims and defenses to the contrary are hereby waived.
20. **CONDEMNATION.** Mortgagor will give Lender prompt notice of any action, real or threatened, by private or public entities to purchase or take any or all of the Property, including any easements, through condemnation, eminent domain, or any other means. Mortgagor further agrees to notify Lender of any proceedings instituted for the establishment of any sewer, water, conservation, ditch, drainage, or other district relating to or binding upon the Property or any part of it. Mortgagor authorizes Lender to intervene in Mortgagor's name in any of the above described actions or claims and to collect and receive all sums resulting from the action or claim. Mortgagor assigns to Lender the proceeds of any award or claim for damages connected with a condemnation or other taking of all or any part of the Property. Such proceeds shall be considered payments and will be applied as provided in this Mortgage. This assignment of proceeds is subject to the terms of any prior mortgage, deed of trust, security agreement or other lien document.

**21. INSURANCE.** Mortgagor agrees to maintain insurance as follows:

Mortgagor shall keep the Property insured against loss by fire, flood, theft and other hazards and risks reasonably associated with the Property due to its type and location. This insurance shall be maintained in the amounts and for the periods that Lender requires. What Lender requires pursuant to the preceding two sentences can change during the term of the loan. The insurance carrier providing the insurance shall be chosen by Mortgagor subject to Lender's approval, which shall not be unreasonably withheld. If Mortgagor fails to maintain the coverage described above, Lender may, at Lender's option, obtain coverage to protect Lender's rights in the Property according to the terms of this Mortgage.

All insurance policies and renewals shall be acceptable to Lender and shall include a standard "mortgage clause" and, where applicable, "lender loss payee clause." Lender shall have the right to hold the policies and renewals. If Lender requires, Mortgagor shall immediately give to Lender all receipts of paid premiums and renewal notices. Upon loss, Mortgagor shall give immediate notice to the insurance carrier and Lender. Lender may make proof of loss if not made immediately by Mortgagor.

Unless Lender and Mortgagor otherwise agree in writing, insurance proceeds shall be applied to restoration or repair of the Property damaged if the restoration or repair is economically feasible and Lender's security is not lessened. If the restoration or repair is not economically feasible or Lender's security would be lessened, the insurance proceeds shall be applied to the Secured Debt, whether or not then due, with any excess paid to Mortgagor. If Mortgagor abandons the Property, or does not answer within 30 days a notice from Lender that the insurance carrier has offered to settle a claim, then Lender may collect the insurance proceeds. Lender may use the proceeds to repair or restore the Property or to pay the Secured Debt whether or not then due. The 30-day period will begin when the notice is given.

Unless Lender and Mortgagor otherwise agree in writing, any application of proceeds to principal shall not extend or postpone the due date of scheduled payments or change the amount of the payments. If the Property is acquired by Lender, Mortgagor's right to any insurance policies and proceeds resulting from damage to the Property before the acquisition shall pass to Lender to the extent of the Secured Debt immediately before the acquisition.

- B. Mortgagor agrees to maintain comprehensive general liability insurance naming Lender as an additional insured in an amount acceptable to Lender, insuring against claims arising from any accident or occurrence in or on the Property.
- C. Mortgagor agrees to maintain rental loss or business interruption insurance, as required by Lender, in an amount equal to at least coverage of one year's debt service, and required escrow account deposits (if agreed to separately in writing), under a form of policy acceptable to Lender.

**22. NO ESCROW FOR TAXES AND INSURANCE.** Unless otherwise provided in a separate agreement, Mortgagor will not be required to pay to Lender funds for taxes and insurance in escrow.**23. FINANCIAL REPORTS AND ADDITIONAL DOCUMENTS.** Mortgagor will provide to Lender upon request, any financial statement or information Lender may deem necessary. Mortgagor warrants that all financial statements and information Mortgagor provides to Lender are, or will be, accurate, correct, and complete. Mortgagor agrees to sign, deliver, and file as Lender may reasonably request any additional documents or certifications that Lender may consider necessary to perfect, continue, and preserve Mortgagor's obligations under this Mortgage and Lender's lien status on the Property. If Mortgagor fails to do so, Lender may sign, deliver, and file such documents or certificates in Mortgagor's name and Mortgagor hereby irrevocably appoints Lender or Lender's agent as attorney in fact to do the things necessary to comply with this section.**24. JOINT AND INDIVIDUAL LIABILITY; CO-SIGNERS; SUCCESSORS AND ASSIGNS BOUND.** All duties under this Mortgage are joint and individual. If Mortgagor signs this Mortgage but does not sign the Evidence of Debt, Mortgagor does so only to mortgage Mortgagor's interest in the Property to secure payment of the Secured Debt and Mortgagor does not agree to be personally liable on the Secured Debt. Mortgagor agrees that Lender and any party to this Mortgage may extend, modify or make any change in the terms of this Mortgage or the Evidence of Debt without Mortgagor's consent. Such a change will not release Mortgagor from the terms of this Mortgage. The duties and benefits of this Mortgage shall bind and benefit the successors and assigns of Mortgagor and Lender.

If this Mortgage secures a guaranty between Lender and Mortgagor and does not directly secure the obligation which is guaranteed, Mortgagor agrees to waive any rights that may prevent Lender from bringing any action or claim against Mortgagor or any party indebted under the obligation including, but not limited to, anti-deficiency or one-action laws.

**25. APPLICABLE LAW; SEVERABILITY; INTERPRETATION.** This Mortgage is governed by the laws of the jurisdiction in which Lender is located, except to the extent otherwise required by the laws of the jurisdiction where the Property is located. This Mortgage is complete and fully integrated. This Mortgage may not be amended or modified by oral agreement. Any section or clause in this Mortgage, attachments, or any agreement related to the Secured Debt that conflicts with applicable law will not be effective, unless that law expressly or impliedly permits the variations by written agreement. If any section or clause of this Mortgage cannot be enforced according to its terms, that section or clause will be severed and will not affect the enforceability of the remainder of this Mortgage. Whenever used, the singular shall include the plural and the plural the singular. The captions and headings of the sections of this Mortgage are for convenience only and are not to be used to interpret or define the terms of this Mortgage. Time is of the essence in this Mortgage.**26. NOTICE.** Unless otherwise required by law, any notice shall be given by delivering it or by mailing it by first class mail to the appropriate party's address on page 1 of this Mortgage, or to any other address designated in writing. Notice to one mortgagor will be deemed to be notice to all mortgagors.**27. OTHER WAIVERS.** Except to the extent prohibited by law, Mortgagor waives any rights of appraisal, marshalling of liens and assets, and homestead exemption rights relating to the Property. Mortgagor does hereby remise, release, and forever quitclaim all their right and title of dower in the Property to Lender.

28. U.C.C. PROVISIONS. If checked, the following are applicable to, but do not limit, this Mortgage:

- Construction Loan.** This Mortgage secures an obligation incurred for the construction of an improvement on the Property.
- Fixture Filing.** Mortgagor grants to Lender a security interest in all goods that Mortgagor owns now or in the future and that are or will become fixtures related to the Property.
- Crops; Timber; Minerals; Rents, Issues, and Profits.** Mortgagor grants to Lender a security interest in all crops, timber, and minerals located on the Property as well as all rents, issues, and profits of them including, but not limited to, all Conservation Reserve Program (CRP) and Payment in Kind (PIK) payments and similar governmental programs (all of which shall also be included in the term "Property").
- Personal Property.** Mortgagor grants to Lender a security interest in all personal property located on or connected with the Property. This security interest includes all farm products, inventory, equipment, accounts, documents, instruments, chattel paper, general intangibles, and all other items of personal property Mortgagor owns now or in the future and that are used or useful in the construction, ownership, operation, management, or maintenance of the Property. The term "personal property" specifically excludes that property described as "household goods" secured in connection with a "consumer" loan as those terms are defined in applicable federal regulations governing unfair and deceptive credit practices.
- Filing As Financing Statement.** Mortgagor agrees and acknowledges that this Mortgage also suffices as a financing statement and as such, may be filed of record as a financing statement for purposes of Article 9 of the Uniform Commercial Code. A carbon, photographic, image or other reproduction of this Mortgage is sufficient as a financing statement.

29. OTHER TERMS. If checked, the following are applicable to this Mortgage:

- Line of Credit.** The Secured Debt includes a revolving line of credit provision. Although the Secured Debt may be reduced to a zero balance, this Mortgage will remain in effect until released.
- Additional Terms.**

30. WAIVER OF JURY TRIAL. To the extent not prohibited by law, Mortgagor and Lender knowingly and intentionally waive the right, which the party may have, to a trial by jury with respect to any litigation arising from the Secured Debt, or any other agreement executed in conjunction with the Evidence of Debt and this Mortgage. Mortgagor and Lender each acknowledge that this section has either been brought to the attention of each party's legal counsel or that each part had the opportunity to do so.

SIGNATURES: By signing below, Mortgagor agrees to the terms and covenants contained in this Mortgage and in any attachments. Mortgagor also acknowledges receipt of a copy of this Mortgage on the date stated above on Page 1.

Actual authority was granted to the parties signing below by resolution signed and dated \_\_\_\_\_

**IN THIS NOTICE "YOU" MEANS THE MORTGAGOR.  
WARNING: BY SIGNING THIS PAPER YOU GIVE UP YOUR RIGHT TO NOTICE AND COURT TRIAL. IF YOU DO NOT PAY ON TIME A COURT JUDGMENT MAY BE TAKEN AGAINST YOU WITHOUT YOUR PRIOR KNOWLEDGE AND THE POWERS OF A COURT CAN BE USED TO COLLECT FROM YOU REGARDLESS OF ANY CLAIMS YOU MAY HAVE AGAINST THE CREDITOR WHETHER FOR RETURNED GOODS, FAULTY GOODS, FAILURE ON HIS PART TO COMPLY WITH THE AGREEMENT, OR ANY OTHER CAUSE.**

Entity Name: <u>Wagner Rentals LLC, An Ohio Limited Liability Company</u>	Entity Name: _____
<i>Electa Darlene Wagner</i> (Signature) <u>Electa Darlene Wagner, Member</u> (Date) _____	(Signature) _____ (Date) _____
<i>Paul M Wagner</i> (Signature) <u>Paul M Wagner, Member</u> (Date) _____	(Signature) _____ (Date) _____

Refer to the Addendum which is attached and incorporated herein for additional Mortgagors, signatures and acknowledgments.

ACKNOWLEDGMENT:

(Individual) STATE OF \_\_\_\_\_, COUNTY OF \_\_\_\_\_ } ss.  
 This instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_  
 by \_\_\_\_\_  
 My commission expires: \_\_\_\_\_  
 (Seal)

(Notary Public)

(Business or Entity Acknowledgment) STATE OF Ohio, COUNTY OF Fairfield } ss.  
 This instrument was acknowledged before me this 15th day of January 2008  
 by Electa Darlene Wagner Member, Paul M Wagner Member  
 of Wagner Rentals LLC  
 a Limited Liability  
 My commission expires: \_\_\_\_\_  
 (Seal) \_\_\_\_\_ on behalf of the business or entity.



*Julie M. Reynolds*  
Notary Public, State of Ohio  
My Commission Expires December 16, 2008

(Notary Public)

This instrument was prepared by First State Bank  
119 Main St., Bremen, OH 43107

200800001492  
CBI TITLE AGENCY  
PIK-UP