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Cook County Recorder 59.50

ENVIRONMENTAL/ADA INDEMNITY AGREEMENT

00028318

It is hereby certified to PURITAN FINANCE CORPORATION ("Lender") by ALEXANDER TSAMIS and HELEN TSAMIS ("Beneficial Owners"), and agreed that:

I.

1. As used below, and in any of the other loan documents and instruments evidencing or securing Lender's loan of even date herewith extended to Alexander's Ice Cream Company, Inc., an Illinois corporation ("Borrower") in the principal sum of $250,000.00 (such loan, including all extensions, renewals, modifications, and refinancings thereof or thereto, the "Loan"), "Hazardous Substance" shall mean and include all hazardous and toxic substances, wastes or materials, any pollutants or contaminants (including, without limitation, asbestos and raw materials which include hazardous constituents), or other similar substances, or materials which are included under or regulated by any local, state or federal law, rule or regulation pertaining to environmental regulation, contamination or cleanup, including without limitation, the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA") as amended, Resource Conservation and Recovery Act ("RCRA"), the Illinois Environmental Protection Act, the Illinois Responsible Property Transfer Act of 1988 as amended, or state superlien or environmental cleanup statutes (all such laws, rules and regulations being referred to singularly as an "Environmental Law" and collectively as "Environmental Laws").

Any other terms maintained or used in the following subsections which are defined in state or federal statutes and/or regulations promulgated in relation thereto shall have the meaning given to such terms by said statutes and regulations.

2. To the best of Beneficial Owners' knowledge, after due inquiry and investigation, the premises beneficially owned by Beneficial Owners and commonly known as 12340 and 12355 S. Kedvale, Alsip, Illinois (the "Property"), has never been used by previous owners, the current operators and/or Beneficial Owners or Borrower to generate, manufacture, refine, transport, treat, store, handle or dispose of any Hazardous Substance; and Beneficial Owners do not intend to, nor shall they, use the Property for such purposes. Beneficial Owners will keep and maintain the Property in compliance with, and will not cause or permit the Property to be in violation of, any Environmental Law.

3. To the best of Beneficial Owners' knowledge, after due inquiry and investigation, the Property has never contained, by previous owners and/or operators or Beneficial Owners or Borrower, either asbestos, PCB or other toxic materials, whether used in construction or stored on the Property.

4. Beneficial Owners have not received a summons, citation, notice, order, directive, letter or other communication, written or oral, from any agency or department of the county

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in which the Property is located, the State of Illinois or the U.S. Government concerning any intentional or unintentional action or omission on Beneficial Owners' part which had resulted in the releasing, spilling, leaking, pumping, pouring, emitting, emptying or dumping (hereafter collectively "release") of any Hazardous Substance into waters or onto lands of the State of Illinois, or into waters outside the jurisdiction of the State of Illinois where damage may have resulted in the lands, waters, fish, shellfish, wildlife, biota, air and other resources owned, managed, held in trust or otherwise controlled by the State of Illinois.

5. Beneficial Owners shall not cause or permit to exist, as a result of an intentional or unintentional act or omission on its part, a release of a Hazardous Substance into waters or onto lands of the State of Illinois, or into waters outside the jurisdiction of the State of Illinois where damage may result to the lands, waters, fish, shellfish, wildlife, biota, air and other resources owned, managed, held in trust or otherwise controlled by the State of Illinois, unless said release is pursuant to and in compliance with the conditions of a permit issued by the appropriate federal or state governmental authorities.

6. Beneficial Owners shall immediately notify Lender should Beneficial Owners become aware of (i) any Hazardous Substance or other environmental problem or liability with respect to the Property, or (ii) any lien, action, or notice of the nature described in Paragraph 4 above.

In the event that any investigation, site monitoring, containment, cleanup, removal, restoration, or other remedial work of any kind or nature ("Remedial Work") is necessary or required under any applicable local, state or federal law or regulation, any judicial order, or by any governmental or non-governmental entity or person because of, or in connection with the current or future presence, suspected presence, release or suspected release of a "hazardous substance" in or into the air, soil, ground water, surface water or soil vapor at, on, about, under or within the Property (or any portion thereof), Beneficial Owners shall within thirty (30) days after written demand for performance thereof by Lender (or such shorter period of time as may be required under any applicable law, regulation, order or agreement), commence and thereafter diligently prosecute to completion, all such Remedial Work. All Remedial Work shall be performed by contractors approved in advance by Lender, and under the supervision of a consulting engineer approved by Lender. All costs and expenses of such Remedial Work shall be paid by Beneficial Owners, including, without limitation, Lender's reasonable attorneys' fees and costs incurred in connection with monitoring or review of such Remedial Work. In the event Beneficial Owners fail to timely commence, or cause to be commenced, or fail to diligently prosecute to completion, such Remedial Work, Lender may, but shall not be required to, cause such Remedial Work to be performed and all costs and expenses thereof, or incurred in connection therewith, shall be paid by Beneficial Owners forthwith upon invoicing by Lender.

Notwithstanding the foregoing, Beneficial Owners may, in good faith and with reasonable diligence, contest the requirement of Remedial Work, provided (a) that such contest shall not cause an impairment of the security afforded to Lender by the mortgage, assignment of leases and security agreement of even date herewith granted by First Midwest Trust Company, N.A.

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as Trustee under Trust Agreement dated September 15, 1983 and known as Trust No. H2443 (the "Mortgage"), and/or any other loan document executed in connection therewith, and (b) that Lender shall not incur any liability as a result of, or pending the resolution of, such contest. Beneficial Owners shall provide the Lender with such other security and assurances that Lender may require in its sole discretion in connection with such contest.

Lender shall have the right to join and participate in, as a party if it so elects, any legal proceedings or actions initiated with respect to the Property in connection with any Environmental Law and have its reasonable attorneys' fees in connection therewith paid by Beneficial Owners.

7. Beneficial Owners have executed and delivered to Lender an Environmental Disclosure Document for Transfer of Real Property required by the Illinois Responsible Property Transfer Act of 1988, as amended; and Beneficial Owners hereby represent and warrant to Lender that (a) all information, facts and disclosures made by Borrower therein were true and correct as of the date of the execution thereof and shall remain true and correct as of the date hereof, and (b) Beneficial Owners have no knowledge of any fact, condition or event which renders or may render the said Disclosure document untrue or inaccurate in any respect.

8. The representations, warranties and covenants of Beneficial Owners set forth in this Section I shall continue in effect and shall remain true and correct in all material respects until the Loan and all other liabilities and indebtedness now existing or hereafter owing by Beneficial Owners to Lender are indefeasibly paid in full, at which time such representations, warranties and covenants shall expire and be of no further force or effect, unless title to the Property or any interest therein or portion thereof is transferred pursuant to foreclosure proceedings or by deed in lieu of foreclosure or otherwise in connection with any Event of Default. If such a transfer occurs before the Loan and other indebtedness and liabilities are indefeasibly paid in full, then the representations, warranties and covenants of Beneficial Owners set forth in this Section I shall continue after such transfer, even if the Loan and other liabilities and indebtedness are so paid or otherwise satisfied, for so long as a valid claim may be lawfully asserted against Lender with respect to matters for which Lender is indemnified under Section II.

II.

I. Beneficial Owners are fully aware that Lender is relying on this certification in making the Loan to Borrower, and Beneficial Owners hereby agree to indemnify, hold harmless and defend Lender, and its officers, directors, partners, employees, agents, successors and assigns, against any liability, loss, claim, penalty, damage or expense (including attorneys' fees and disbursements) to which any of the foregoing parties may become subject insofar as they may arise out of or are based upon any of the following:

(a) any violation of Environmental Laws with respect to the Property, or any governmental or judicial claim, order or judgment with respect to the repair, cleanup or detoxification of any

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Hazardous Substance at or with respect to the Property, and the preparation and implementation of any closure, remedial or other required plans;

(b) any Environmental Action (as hereinafter defined);

(c) any breach of any of the warranties, representations and covenants contained in Section I hereof.

As used herein, an "Environmental Action" shall mean any notice of violation, complaint, claim, citation, demand, inquiry, report, action, assertion of potential responsibility, lien, encumbrance, or proceeding regarding the Property, whether formal or informal, absolute or contingent, matured or unmatured, brought or issued by any governmental unit, agency, or body, or any person or entity, with respect to (i) any Environmental Laws, (ii) the environmental condition of the Property, or any portion thereof, or any property near the Property, including actual or alleged damage or injury to humans, public health, wildlife, biota, air, surface or subsurface soil or water, or other natural resources, (iii) the use, exposure, release, emission, discharge, generation, manufacture, sale, transport, handling, storage, treatment, reuse, presence, disposal or recycling of any Hazardous Substance either on the Property or off-site; (iv) any violation or claim of violation by Beneficial Owners of any Environmental Laws with regard to the Property; (v) any lien for damages caused by, or the recovery of any costs incurred by any person or governmental entity for the investigation, remediation or cleanup of any release or threatened release of any Hazardous Substance; or (vi) the destruction or loss of use of property, or the injury, illness, or death of any officer, director, employee, agent, representative, tenant or invitee of Beneficial Owners or any other person alleged to be or possibly to be, arising from or caused by the environmental condition of the Property or the release, emission or discharge of any Hazardous Substance from the Property.

2. Beneficial Owners further agree to indemnify, hold harmless and defend Lender, and its officers, directors, partners, employees, agents, successors and assigns, against any liability, loss, claim, penalty, damage or expense (including attorneys' fees and disbursements) to which any of the foregoing parties may incur: (i) as a result of the Property not being in full compliance with the Americans with Disabilities Act of 1990 (as amended from time to time) including the Rules and Regulations and Guidelines thereunder (collectively hereafter, the "ADA"), or (ii) to bring the Property into compliance with the ADA. Beneficial Owners represent and warrant to Lender that they have not received (and have no knowledge that any prior owner or any prior or current occupant has received) a summons, citation, notice, order, directive, letter or other communication, written or oral, from any agency or department of the State of Illinois or the U.S. Government concerning the Property's non-compliance with the ADA.

3. Those liabilities, losses, claims, damages or expenses for which Lender is indemnified under this Section II shall be reimbursable to Lender as Lender's obligations to make payments with respect thereto are incurred, without any requirement of waiting for ultimate outcome

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of any litigation, claim or other proceeding; and Beneficial Owners shall pay such liability, losses, claims, damages and expenses to Lender as so incurred within thirty (30) days after notice from Lender itemizing the amounts incurred to the date of such notice. In addition to any remedy available for failure to periodically pay such amounts, such amounts shall thereafter bear interest at the default rate stated in the note evidencing the Loan.

4. Beneficial Owners waive any acceptance of this Environmental/ADA Indemnity Agreement (herein, "this Indemnity") by Lender. The failure of Lender to enforce any right or remedy hereunder, or to promptly enforce any such right or remedy, shall not constitute a waiver thereof nor give rise to any estoppel against Lender, nor excuse Beneficial Owners from their obligations hereunder. Any waiver of such right or remedy must be in writing and signed by Lender. This indemnity is subject to enforcement at law and/or equity, including actions for damages and/or specific performance. Time is of the essence hereof.

5. This Indemnity is executed in order to induce the Lender to make the Loan to Borrower. Beneficial Owners' obligations under this Indemnity shall not be subject to any non-recourse or other limitation of liability provisions, if any, in any of the loan documents and instruments, and Beneficial Owners acknowledge that their obligations under this Indemnity are in all respects unconditional, joint and several, and are not limited by any such non-recourse or similar limitation of liability provisions.

6. Whenever possible, each provision of this Indemnity shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Indemnity is prohibited by or invalid under applicable law, such provision will be ineffective only to the extent of such prohibition or invalidity, without invalidating the remainder of such provisions or the remaining provisions of this Indemnity.

7. This Indemnity shall be binding upon the heirs and personal representatives of Beneficial Owners, and shall inure to the benefit of the successors and assigns of Lender.

IN WITNESS WHEREOF, and intending to be legally bound hereby, Beneficial Owners have executed this Indemnity this 17th day of December, 1999.

Alexander Tsamis

Helen Tsamis

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TICOR TITLE INSURANCE COMPANY

ORDER NUMBER: 2000 000455237 OC
STREET ADDRESS: 12340-12355 SOUTH KEDVALE
CITY: ALSIP, IL 60658 **COUNTY:** COOK COUNTY
TAX NUMBER:

LEGAL DESCRIPTION: 24-27-411-001-0000 24-27-411-014-0000
24-27-411-002-0000 24-27-411-019-0000

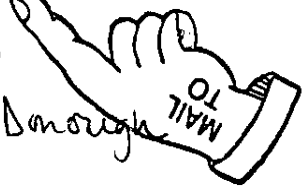
PARCEL 1:

LOT 1 IN LOMBARD'S RESUBDIVISION, BEING A RESUBDIVISION OF PARTS OF LOTS 8, 9 AND 10 IN 1ST ADDITION TO ALSIP INDUSTRIAL HIGHLANDS, BEING A SUBDIVISION OF THE EAST 1/2 OF THE SOUTH EAST 1/4 OF SECTION 27, TOWNSHIP 37 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS

PARCEL 2:

THE NORTH 28.19 FEET OF LOT 10, ALL OF LOT 11 AND LOT 12 (EXCEPT THE NORTH 158.73 FEET THEREOF ALL AS MEASURED ALONG THE WEST PROPERTY LINES OF LOTS 10, 11 AND 12) IN LOMBARD'S RESUBDIVISION, BEING A RESUBDIVISION OF PARTS OF LOTS 8, 9 AND 10 IN 1ST ADDITION TO ALSIP INDUSTRIAL HIGHLANDS, BEING A SUBDIVISION OF THE EAST 1/2 OF THE SOUTH EAST 1/4 OF SECTION 27, TOWNSHIP 37 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS

Prepared By and
Mail To:
Puritan Finance Corp.
55 W. Monroe St.
Chicago, IL 60603
ATTN: James J. McDonough



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