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Doc#: 0604645056 Fee: \$74.00  
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Cook County Recorder of Deeds  
Date: 02/15/2006 10:55 AM Pg: 1 of 26

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## MORTGAGE, ASSIGNMENT OF LEASES AND RENTS, SECURITY AGREEMENT AND FIXTURE FILING

BY

**JUICE TYME, INC.**  
4401 South Oakley Avenue  
Chicago, Illinois 60609

FOR THE BENEFIT OF

**LASALLE BANK NATIONAL ASSOCIATION, as Administrative Agent**  
135 South LaSalle Street  
Chicago, Illinois 60607

### PROPERTY LOCATION:

4401 South Oakley Avenue  
Chicago, Illinois 60609

DATED AS OF: December 19, 2005

Being RE-recorded To Amend Legal Parcel 2 Exhibit A-1

THIS DOCUMENT PREPARED BY  
AND AFTER RECORDING RETURN TO:

WINSTON & STRAWN LLP  
35 WEST WACKER DRIVE  
CHICAGO, ILLINOIS 60601  
ATTENTION: JAMES P. HEALY, JR.

**Box 400-CTCC**

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## MORTGAGE, ASSIGNMENT OF LEASES AND RENTS, SECURITY AGREEMENT AND FIXTURE FILING

THIS MORTGAGE, ASSIGNMENT OF LEASES AND RENTS, SECURITY AGREEMENT AND FIXTURE FILING (as from time to time amended, modified, restated, supplemented and in effect, this "Mortgage") is made as of this 19th day of December, 2005, by JUICE TYME, INC., a Wisconsin corporation ("Mortgagor"), for the benefit of LASALLE BANK NATIONAL ASSOCIATION in its capacity as administrative agent for and on behalf of the Lenders referred to below (in such capacity, "Mortgagee").

### RECITALS

WHEREAS, Mortgagor is the owner of that certain real property situated in Cook County in the State of Illinois (the "State"), more fully described in Exhibit A attached hereto and made a part hereof (the "Real Estate");

WHEREAS, Mortgagee, certain financial institutions (collectively and together with Mortgagee and each of their respective successors and assigns, the "Lenders") from time to time party to that certain Credit Agreement (as hereinafter defined) and Mortgagor have entered into that certain Credit Agreement dated as of the date hereof (together with any and all renewals, amendments, modifications, supplements, restatements, extensions for any period, or increases or rearrangements thereof, the "Credit Agreement") and pursuant to such Credit Agreement, the Lenders have made and may in the future make certain term loans, revolving loans, advances and other financial accommodations (including letters of credit) to Mortgagor (collectively, "Loans"; each a "Loan") in the aggregate principal amount of Eleven Million and No/100 Dollars (\$11,000,000.00), upon the terms and subject to the conditions set forth in the Credit Agreement, from which Mortgagor acknowledges that it shall derive a direct benefit;

WHEREAS, capitalized terms used herein without definitions shall have the meaning assigned to such terms in the Credit Agreement;

WHEREAS, the Loans are evidenced by certain promissory notes executed by Mortgagor (the "Notes"), which Notes may bear interest at variable rates in accordance with the terms and provisions thereof and of the Credit Agreement, which are incorporated herein by reference.

WHEREAS, Mortgagor wishes to provide further assurance and security to Mortgagee and the other Lenders, and, as a condition to Mortgagee and the other Lenders entering into the Credit Agreement, Mortgagee and the Lenders are requiring that Mortgagor grant to Mortgagee, for the benefit of the Lenders, a mortgage lien on and security interest in the Premises (as defined below) to secure the Obligations (as defined below);

WHEREAS, the Loan Documents (as defined in the Credit Agreement), whether now or hereafter existing, as may be amended, restated, supplemented or otherwise modified from time to time, are collectively hereinafter referred to as the "Loan Documents";

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WHEREAS, this Mortgage is being given by Mortgagor to secure Mortgagor's obligations under the Loan Documents and the performance of all terms, covenants, conditions, agreements, liabilities and Obligations of Mortgagor contained in this Mortgage;

WHEREAS, Mortgagor derives substantial direct and indirect economic benefit from the making of the Loans and other benefits to be provided to Mortgagor under the Credit Agreement, and other valuable consideration, the receipt and adequacy of which are hereby acknowledged;

WHEREAS, this Mortgage also secures the payment of and includes all amounts owing in respect of all future or further advances of the Loans as shall be made at all times, regardless of whether proceeds of the Loans have or shall be disbursed by the Lenders herein or their respective successors or assigns, to and for the benefit of Mortgagor, its successors or assigns, to the same extent as if such future or further advances were made on the date of execution of this Mortgage. Such further or future advances shall be considered obligatory advances and the same shall bear interest at the same rate as specified in the Credit Agreement unless such interest rate shall be modified by subsequent agreement. The parties hereby acknowledge and intend that all advances, including future advances whenever hereafter made, shall be secured by this Mortgage; and

WHEREAS, the total amount of indebtedness secured by this Mortgage may decrease or increase from time to time, but the total unpaid principal balance so secured at any one time shall not exceed the lesser of: (i) the maximum principal sum permitted by the laws of the State; or (ii) Twenty Two Million and No/100 Dollars (\$22,000,000.00).

## AGREEMENT

NOW, THEREFORE, for and in consideration of: (i) the Loans, (ii) other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and (iii) the Recitals set forth above (such Recitals being incorporated herein and made a part hereof by this reference) and to secure the Obligations, Mortgagor agrees as follows:

1. Grant. Mortgagor does hereby WARRANT, MORTGAGE, GRANT A SECURITY INTEREST, REMISE, ASSIGN, TRANSFER AND CONVEY unto Mortgagee, its successors and assigns, for the benefit of the Lenders, its fee simple interest in the Real Estate, together with all right, title and interest of Mortgagor (including, but not limited to, after acquired title or reversion) in and to the following property (collectively, with the Real Estate, the "Premises"):

(a) all buildings and other improvements of every kind and description now or hereafter erected or placed on the Real Estate and all materials intended for construction, reconstruction, alteration and repair of all such buildings and improvements;

(b) all tenements, easements, fixtures and appurtenances pertaining or belonging to the Real Estate whether now held or hereafter acquired, including, but not limited to, all easements, licenses, privileges and appurtenances created pursuant to any reciprocal

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easement agreement or declaration of covenants, conditions and restrictions now existing or hereafter created;

(c) all leases, lettings, subleases, agreements for use and occupancy, concessions, licenses and contracts of or with respect to any or all of the Real Estate, whether written or oral (individually a "Lease" and collectively, the "Leases"), and (i) all rents, issues and profits thereof accruing and to accrue from the Real Estate and the avails thereof (which are pledged primarily and on a parity with said Real Estate and not secondarily), (ii) any and all guarantees of any and all covenants, agreements and obligations of tenants under each Lease, (iii) all sums which may be due and payable under any guaranty of any Lease, including, but not limited to, all such rents, issues, profits which are or may become due and payable (including those which are or may accrue or be paid during or after the pendency of any bankruptcy, insolvency, receivership or other similar proceeding, regardless of whether allowed or allowable in such proceeding) and (iv) any and all security and other deposits made pursuant to or contemplated by the terms and provisions of each Lease (the matters referred to in clauses (i), (ii), (iii) and (iv) above hereinafter referred to as the "Rents"); it being the intention hereby to establish an absolute, unconditional and presently effective transfer and assignment of all Leases and all Rents thereunder (and not merely a security interest) and it shall not be necessary for Mortgagee to institute any type of legal proceedings or take any other legal action whatsoever to enforce the assignment provisions of this paragraph;

(d) all fixtures, apparatus, machinery, equipment, goods, inventory, systems and articles now or hereafter in or on the Real Estate and used or useful in connection with the Real Estate, and any replacements thereof, accessions thereto and all proceeds thereof, but expressly excluding any interest of Mortgagor in any vehicles, trucks or rolling stock located in or on the Real Estate from time to time;

(e) all general intangibles, accounts, fees, booking deposits, accounts receivable, instruments, contract rights, licenses, chattel paper, deposit accounts, securities, unearned premiums accrued, accruing or to accrue under insurance policies, insurance policies, advertising material, guaranties, warranties, plans and specifications, permits, licenses, soil tests, environmental reports, appraisals and any other documents, materials and other property of any kind now or hereafter existing in connection with the use of the Premises or the operation and maintenance of the Premises or the business of Mortgagor (including, but not limited to, all cash, accounts, deposits and other property now or hereafter in possession of Mortgagee);

(f) all other property and assets of Mortgagor of whatever nature whether real, fixtures, personal and intangible, including, but not limited to, all right, title and interest of Mortgagor in and to any and all property in which Mortgagor has an interest pursuant to any Lease;

(g) all other estates, interests, rights, titles, claims or demands which Mortgagor now has or may hereinafter acquire in the Premises, including, but not limited to, any and all claims, awards, proceeds or payments, including interest thereon, and the right to receive the same, which may be made to or for the account of Mortgagor with respect to the Premises as

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a result of (i) the exercise of the right of eminent domain, (ii) the alteration of the grade of any street, (iii) any casualty or loss of or damage to any building or other improvement included in or on the Premises, or (iv) any refund due on account of the payment of real estate taxes, assessments or other charges levied against or imposed upon the Premises; and

(h) all appurtenances and additions to and substitutions or replacements for, and proceeds and products of, the foregoing clauses (a) through (g), whether currently owned or hereafter acquired, together with all books and records (including computer records) relating to or employed in any business now or hereafter operated on the Premises.

The above enumeration of any specific articles of property shall in no way result in or be held to exclude any items of property not specifically mentioned.

TO HAVE AND TO HOLD the Premises unto Mortgagee, its successors and assigns, forever, for the purposes and uses herein set forth, subject only to the Permitted Liens.

## 2. Security Agreement and Fixture Filing.

(a) *Security Agreement.* To the extent that the Premises includes personal property or items of personal property which are or are to become fixtures upon the Real Estate under applicable law, this Mortgage shall also be construed as a security agreement under the Uniform Commercial Code in effect or as amended from time to time in the jurisdiction where the Real Estate is located (the "Code"); and for valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and for the purpose of further securing payment and performance of the Obligations, Mortgagor hereby grants to Mortgagee a security interest and lien in all rights, titles, and interest now owned or hereafter acquired by Mortgagee in such personal property and fixtures and, upon and during the continuance of an Event of Default, the Mortgagee shall be entitled with respect to such personal property and fixtures to exercise all remedies hereunder, all remedies available under the Code, and all other remedies available under applicable law.

(b) *Fixture Filing.* To the extent that the Premises includes items of personal property which are or are to become fixtures upon the Real Estate under applicable law, and to the extent permitted under applicable law, the recording hereof in the official records of the recorder's office of Cook County, Illinois shall also operate from the time of recording as a fixture filing with respect to such Premises, and the following information is applicable for the purpose of such fixture filing, to wit:

Name and Address of the debtor:	Name and Address of the secured party:
The Mortgagor having the address set forth on the cover page hereof.	The Mortgagee having the address set forth on the cover page hereof.

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**This Financing Statement covers the following types or items of property:**

The Premises.

This instrument covers goods or items of personal property which are or are to become fixtures upon the Real Estate.

The name of the record owner of the Real Estate on which such fixtures are or are to be located is the Mortgagor.

In addition, Mortgagor authorizes the Mortgagee to file appropriate financing and continuation statements under the Code as may be required by law in order to establish, preserve and protect the liens and security interests intended to be granted to the Mortgagee pursuant to this Mortgage in the Premises.

3. Warranty of Title. Mortgagor represents and warrants (a) that Mortgagor is lawfully seized of fee simple title to the Real Estate and the improvements thereon, (b) that the Premises is unencumbered, except for the Permitted Liens and (c) that it has good right, full power and lawful authority to convey and mortgage the Premises. Mortgagor agrees to forever defend the Premises and the quiet and peaceful possession of the Premises, subject to the Permitted Liens, against the lawful claims of all persons whomsoever.

4. Obligations Secured. This Mortgage is to secure:

(a) the due and punctual payment of all indebtedness evidenced by the Notes, including any future and revolving credit advances, plus all interest accruing thereon (including, but not limited to, all interest which may accrue or be paid during or after the pendency of any bankruptcy, insolvency, receivership or other similar proceeding, regardless of whether allowed or allowable in such proceeding), and all fees due and payable in connection therewith, and all other Loan Documents, and amounts due thereunder and otherwise secured hereby under law when and as due, whether at maturity, acceleration, upon one or more dates set for payment or otherwise;

(b) the due and punctual payment of all other monetary obligations of Mortgagor to Mortgagee and the other Lenders under this Mortgage, the Credit Agreement, the Notes and the other Loan Documents, whether now existing or hereafter arising;

(c) the due and punctual performance by Mortgagor of all other covenants, agreements and obligations on the part of Mortgagor under this Mortgage, the Credit Agreement, the Notes, and the other Loan Documents, whether now existing or hereafter arising;

(d) any renewals, extensions, restatements, supplements, amendments or modifications of this Mortgage, the Credit Agreement, the Notes, and the other Loan Documents.

The foregoing items set forth in clauses (a) through (d) of this Section 4 of this Mortgage are hereinafter collectively called the "Obligations."

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Mortgagor shall pay and perform promptly and when due all of the Obligations in the manner provided in the Credit Agreement, the Notes, this Mortgage and the other Loan Documents. The outside maturity date of the Obligations under the Loan Documents is December 31, 2010.

5. Maintenance, Repair and Restoration of Improvements; Payment of Liens.

(a) Except as may otherwise be expressly provided or permitted under the Credit Agreement, Mortgagor shall (i) keep the Premises in good condition and repair, ordinary wear and tear excepted, and free from mechanics' liens or other Liens of any kind or nature whatsoever except Permitted Liens; (ii) complete any other improvements at any time in the process of erection upon the Premises; (iii) substantially comply, in all material respects, with all requirements of law, municipal ordinances, or Permitted Liens with respect to the Premises and the use thereof; (iv) make no material alterations adverse to the Premises or its functionality except as required by law or municipal ordinance or as may otherwise be permitted under the Credit Agreement; (v) suffer or permit no change in the general nature of the occupancy or use of the Premises; and (vi) initiate or acquiesce in no adverse zoning variation or reclassification without Mortgagee's prior written consent.

(b) Notwithstanding anything in Section 5(a)(ii) or Section 6 of this Mortgage to the contrary, Mortgagor may, in good faith and with due diligence, contest the validity or amount of any Lien or Imposition, and defer payment and discharge thereof during the pendency of such contest in accordance with the applicable provisions of the Credit Agreement.

6. Payment of Impositions. Mortgagor shall pay or cause to be paid, before the due date thereof, all general real estate taxes, special taxes, special assessments, water charges, sewer service charges, and other charges against the Premises (collectively, "Impositions"), and shall, upon written request, promptly furnish to Mortgagee duplicate receipts evidencing such payment.

7. Insurance.

(a) Mortgagor shall, at its sole cost and expense, continuously keep and maintain insurance in respect to the Premises and Mortgagor's operations thereat, of the type and in the form and with insurers, all as provided in the Credit Agreement. All insurance proceeds to which Mortgagor may be entitled resulting from damage to or destruction of the Premises or any part thereof by a casualty shall be distributed and applied in accordance with the Credit Agreement. Mortgagor shall pay as they become due all required insurance premiums for the insurance required hereunder.

(b) Pursuant to the terms of the Collateral Protection Act (815 ILCS 180/1 et seq.), Mortgagor is hereby notified that unless Mortgagor provides Mortgagee with evidence of the insurance coverage required by this Mortgage, Mortgagee may purchase insurance at Mortgagor's expense to protect Mortgagor's interests in the Premises, which insurance may, but need not, protect the interests of Mortgagor. The coverage purchased by Mortgagee may not pay any claim made by Mortgagor or any claim made against Mortgagor in connection with the

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Premises. Mortgagor may later cancel any insurance purchased by Mortgagee, but only after providing Mortgagee with evidence that Mortgagor has obtained the insurance as required hereunder. If Mortgagee purchases insurance, Mortgagor will be responsible for the costs of such insurance, including interest and any other charges imposed in connection with the placement of the insurance, until the effective date of the cancellation or expiration of the insurance. The costs of the insurance may be added to the Obligations secured hereby. The costs of such insurance may be greater than the cost of insurance Mortgagor may be able to obtain for itself.

(d) Mortgagor promptly shall comply with, and shall cause the Premises to comply with, in all material respects, (i) all of the provisions of each such insurance policy, and (ii) all of the requirements of the insurers thereunder applicable to Mortgagor or to any of the buildings or the fixtures located on the Premises or to the use, manner of use, occupancy, possession, operation, maintenance, alteration, repair or restoration of any of the buildings or the fixtures located on the Premises. If Mortgagor shall use the Premises or any portion thereof in any manner which would permit the insurer to cancel any insurance required to be provided hereunder, Mortgagor immediately shall obtain a substitute policy which shall be in compliance with this Mortgage and the Credit Agreement and which shall be effective on or prior to the date on which any such other insurance policy shall be canceled.

(e) Mortgagor shall give prompt notice to Mortgagee of any material casualty, ordinary or extraordinary, foreseen or unforeseen (including any casualty for which insurance was not obtainable), resulting in damage to or destruction of the Real Estate or the buildings or other improvements thereon or any part thereof.

(f) Subject to Section 7(g), any transfer of the Premises, in accordance with the provisions hereof, including a transfer by foreclosure or deed in lieu of foreclosure, shall transfer therewith all of Mortgagor's interest in all insurance policies then covering the buildings and the fixtures located on the Premises or the operations conducted at the Premises, including, but not limited to, any unearned premiums.

(g) Wherever provision is made in this Mortgage or the Credit Agreement for insurance policies to bear mortgagee clauses or other loss payable clauses or endorsements in favor of Mortgagee, or to confer authority upon Mortgagee to settle or participate in the settlement of losses under policies of insurance or to hold and disburse or otherwise control use of insurance proceeds, from and after the entry of judgment of foreclosure, all such rights and powers of the Mortgagee shall continue in the Mortgagee as judgment creditor or mortgagee until confirmation of sale.

8. Stamp Tax. If, by the laws of the United States of America, or of any state having jurisdiction over Mortgagor, any stamp tax or similar tax is due or becomes due in respect of any of the Obligations or the recording of this Mortgage, Mortgagor covenants and agrees to pay such tax in the manner required by any such law. Mortgagor further covenants to hold harmless and agrees to indemnify Mortgagee and the other Lenders, their respective successors or assigns,



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against any liability incurred by reason of the imposition of any stamp tax or similar tax on the issuance of the Obligations or the recording of this Mortgage.

9. [Intentionally Omitted]

10. Effect of Extensions of Time. If the payment of any of the Obligations or any part thereof is extended or varied or if any part of the security is released, all persons or entities now or at any time hereafter liable therefor, or interested in the Premises, shall be held to assent to such extension, variation or release, and their liability and the lien and all provisions hereof shall continue in full force, the right of recourse against all such persons being expressly reserved by Mortgagee, notwithstanding such extension, variation or release.

11. Effect of Changes in Laws Regarding Taxation. In the event of the enactment after the date hereof of any law of the State deducting from the value of land for the purpose of taxation any Lien thereon, and imposing upon Mortgagee and/or any other Lender the payment of the whole or any part of the taxes or assessments or charges or liens herein required to be paid by Mortgagor, or changing in any way the laws relating to the taxation of mortgages or debts secured by mortgages or the mortgagee's interest in the property, or the manner of collection of taxes so as to affect this Mortgage or the indebtedness secured hereby, then, and in any such event, Mortgagor, upon demand by Mortgagee, shall pay such taxes or assessments, or reimburse Mortgagee therefor in the event Mortgagor fails to pay such taxes after demand by Mortgagee and Mortgagee thereafter pays such taxes; provided, however, that if in the opinion of counsel for Mortgagee (a) it shall be unlawful to require Mortgagor to make such payment, or (b) the making of such payment shall result in the imposition of interest beyond the maximum amount permitted by law, then, and in such event, an Event of Default shall be deemed to have occurred hereunder and under the Credit Agreement.

12. Mortgagee's Performance of Defaulted Acts; Subrogation. In case of default on the part of Mortgagor under this Mortgage and the failure of Mortgagor to cure such default within the applicable cure period, if any, Mortgagee shall have the right, but not the obligation, to make any payment or perform any act herein or in or with respect to any of the Obligations required of Mortgagor, in any form and manner deemed expedient, and may, but need not, make full or partial payments of principal or interest on prior encumbrances, if any, and purchase, discharge, compromise or settle any tax lien or other prior lien on title or claim thereof, or redeem from any tax sale or forfeiture affecting the Premises or contest any tax or assessment. All moneys paid for any of the purposes herein authorized and all reasonable expenses paid or incurred in connection therewith, including, but not limited to, attorneys' fees and expenses, and any other moneys advanced by Mortgagee to protect the Premises and the lien hereof, shall be added to the Obligations secured hereby, and shall become immediately due and payable without notice and with interest thereon at the default rate provided for in Section 4.1 of the Credit Agreement (the "Default Rate"). Inaction of Mortgagee shall never be considered as a waiver of any right accruing to it on account of any default on the part of Mortgagor under this Mortgage. Should the proceeds of the Loans or any part thereof, or any amount paid out or advanced hereunder by Mortgagee, be used directly or indirectly to pay off, discharge or satisfy, in whole or in part, any lien or encumbrance upon the Premises or any part thereof on a parity with or

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prior or superior to the lien hereof, then as additional security hereunder, Mortgagee shall be subrogated to any and all rights, equal or superior titles, liens and equities, owned or claimed by any owner or holder of said outstanding liens, charges and indebtedness, however remote, regardless of whether said liens, charges and indebtedness are acquired by assignment or have been released of record by the holder thereof upon payment. The provisions of this Section 12 are subject to the provisions of Section 15.

13. Mortgagee's Reliance on Tax Bills, Etc. Mortgagee in making any payment hereby authorized: (a) relating to taxes and assessments, may do so according to any bill, statement or estimate procured from the appropriate public office without inquiry into the accuracy of such bill, statement or estimate or into the validity of any tax, assessment, sale, forfeiture, tax lien or title or claim thereof; or (b) for the purchase, discharge, compromise or settlement of any Lien, may do so without inquiry as to the validity or amount of such Lien or any claim for Lien which may be asserted.

14. Event of Default. The occurrence of an Event of Default as that term is defined in the Credit Agreement shall constitute an event of default ("Event of Default") hereunder.

15. Foreclosure; Expense of Litigation; Protective Advances.

(a) If an Event of Default shall have occurred and be continuing, subject to and in accordance with all applicable laws, Mortgagee shall have the right upon Mortgagee's notice to Mortgagor to accelerate the maturity of all of the Obligations (or take any other action provided in the Credit Agreement, the other Loan Documents or at law or equity) to Mortgagee or any other person or entity and to foreclose the lien hereof by judicial action in accordance with applicable law or in any other manner permitted by applicable law. In any suit to foreclose the lien hereof or in any other action to enforce any other remedy of Mortgagee under this Mortgage or with respect to any of the other Obligations, there shall be allowed and included as part of the Obligations secured hereby in the decree for sale, judgment of foreclosure or other judgment or decree all expenditures and expenses which may be paid or incurred by or on behalf of Mortgagee for attorneys' fees, paralegals' fees, appraiser's fees, outlays for documentary and expert evidence, stenographers' charges, publication costs, and costs (which may be estimated as to items to be expended after entry of the decree) of procuring all such abstracts of title, title searches and examinations, title insurance policies, and similar data and assurances with respect to title and value as Mortgagee may deem reasonably necessary either to prosecute such suit or to evidence to bidders at any sale pursuant to such decree the true condition of the title to or the value of the Premises. All expenditures and expenses of the nature in this Section mentioned and such expenses and fees as may be incurred in the protection of the Premises and the maintenance of the lien of this Mortgage, including, but not limited to, the fees and expenses of any attorneys employed by Mortgagee in any litigation or proceeding affecting this Mortgage, the Obligations or the Premises, including bankruptcy or probate proceedings, or in the preparation for the commencement or defense of any proceeding or threatened suit or proceeding, shall be immediately due and payable by Mortgagor, with interest thereon at the Default Rate, and shall be secured by this Mortgage.

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(b) Without limitation on the foregoing, all advances, disbursements and expenditures made by Mortgagee before and during a foreclosure, and before and after judgment of foreclosure, and at any time prior to sale, and, where applicable, after sale, and during the pendency of any related proceedings, for the following purposes, in addition to those otherwise authorized by this Mortgage or by the Illinois Mortgage Foreclosure Act, 735 ILCS 5/15 1101 *et seq.* (the "Act"), shall have the benefit of all applicable provisions of the Act, including those provisions of the Act referred to below (all such advances, disbursements and expenditures heretofore and hereafter referred to in this Section 15 and elsewhere in this Mortgage, collectively, "Protective Advances"):

(i) all advances by Mortgagee in accordance with the terms of this Mortgage to: (A) preserve or maintain, repair, restore or rebuild the Premises or other improvements upon the Premises; (B) preserve the lien of this Mortgage or the priority thereof; or (C) enforce this Mortgage, as referred to in Subsection (b)(5) of Section 15-1302 of the Act;

(ii) payments by Mortgagee of: (A) when due installments of principal, interest or other obligation in accordance with the terms of any senior mortgage or other prior lien or encumbrance; (B) when due installments of real estate taxes and assessments, general and special and all other taxes and assessments of any kind or nature whatsoever which are assessed or imposed upon the Premises or any part thereof; (C) other obligations authorized by this Mortgage; or (D) with court approval, any other amounts in connection with other liens, encumbrances or interests reasonably necessary to preserve the status of title, as referred to in Section 15-1505 of the Act;

(iii) advances by Mortgagee in settlement or compromise of any claims asserted by claimants under senior mortgages or any other prior liens;

(iv) reasonable attorneys' fees and other expenses incurred: (A) in connection with the foreclosure of this Mortgage as referred to in Sections 15-1504 (d)(2) and 15-1510 of the Act; (B) in connection with any action, suit or proceeding brought by or against the Mortgagee for the enforcement of this Mortgage or arising from the interest of the Mortgagee hereunder; or (C) in the preparation for the commencement or defense of any such foreclosure or other action;

(v) reasonable Mortgagee's fees and costs, including attorneys' fees, arising between the entry of judgment of foreclosure and confirmation hearing as referred to in Subsection (b)(1) of Section 15-1508 of the Act;

(vi) reasonable expenses deductible from proceeds of sale as referred to in subsections (a) and (b) of Section 15-1512 of the Act;

(vii) reasonable expenses incurred and expenditures made by Mortgagee for any one or more of the following (if applicable): (A) if any interest in the Premises is a leasehold estate under a lease or sublease, rentals or other payments required to be made

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by the lessee under the terms of the lease or sublease; (B) premiums for casualty and liability insurance paid by Mortgagee whether or not Mortgagee or a receiver is in possession, if reasonably required, in reasonable amounts, and all renewals thereof, without regard to the limitation to maintaining of existing insurance in effect at the time any receiver or mortgagee takes possession of the Premises imposed by subsection (c)(1) of Section 15-1704 of the Act; (C) repair or restoration of damage or destruction in excess of available insurance proceeds or condemnation awards; (D) payments required or deemed by Mortgagee to be for the benefit of the Premises or required to be made by the owner of the Premises under any grant or declaration of easement, easement agreement, agreement with any adjoining land owners or instruments creating covenants or restrictions for the benefit of or affecting the Premises; (E) shared or common expense assessments payable to any association or corporation in which the owner of the Premises is a member in any way affecting the Premises; and (F) pursuant to any lease or other agreement for occupancy of the Premises.

(c) All Protective Advances shall be so much additional indebtedness secured by this Mortgage, and shall become immediately due and payable without notice and with interest thereon from the date of the advance until paid at the Default Rate. This Mortgage shall be a lien for all Protective Advances as to subsequent purchasers and judgment creditors from the time this Mortgage is recorded pursuant to subsection (b)(1) of Section 15-1302 of the Act. All Protective Advances shall, except to the extent, if any, that any of the same is contrary to or inconsistent with the provisions of the Act, apply to and be included in: (i) determination of the amount of Obligations secured by this Mortgage at any time; (ii) the indebtedness found due and owing to the Mortgagee in the judgment of foreclosure and any subsequent supplemental judgments, orders, adjudications or findings by the court of any additional indebtedness becoming due after such entry of judgment, it being agreed that in any foreclosure judgment, the court may reserve jurisdiction for such purpose; (iii) determination of amounts deductible from sale proceeds pursuant to Section 15-1512 of the Act; (iv) application of income in the hands of any receiver or mortgagee in possession; and (v) computation of any deficiency judgment pursuant to subsections (b)(2) and (e) of Sections 15-1508 and Section 15-1511 of the Act.

(d) Upon any sale made under or by virtue of this Section or by virtue of judicial proceedings or of a judgment or decree of foreclosure and sale, Mortgagee may bid for and acquire the Premises or any part thereof and in lieu of paying cash therefor may make settlement for the purchase price by crediting upon the Obligations of Mortgagor secured by this Mortgage the sale price, after deducting therefrom the expenses of the sale and the cost of the action and any other sums which Mortgagor is required to pay or that Mortgagee is authorized to deduct under this Mortgage.

(e) Mortgagor understands and agrees that in the event of an Event of Default, Mortgagee, to the extent this Mortgage constitutes a security agreement under the Code, may exercise any and all rights and remedies of a secured party under the Code, including, but not limited to, the taking possession of any personal property covered by this Mortgage and disposing of the same by sale or otherwise; provided, however, that at least twenty (20) days prior notice of such disposition must be given to the Mortgagor, all as provided for by the Code,

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it being agreed that such twenty (20) days notice shall constitute fair and reasonable notice to Mortgagor of such disposition.

16. Application of Proceeds of Foreclosure Sale. Unless Mortgagee otherwise directs pursuant to any of the other Loan Documents, to the extent permitted by and subject to the Act and any other applicable laws, proceeds of any sale or foreclosure sale pursuant to this Mortgage, as well as any collateral consisting of cash, shall be applied after receipt by Mortgagee as follows:

First, to the payment of or reimbursement for all Protective Advances, including all costs, fees and expenses of Mortgagee and its agents, representatives and attorneys incurred in connection with such sale or with the retaking, holding, handling, preparing for sale (or other disposition) of the Premises or collateral or otherwise in connection with the Credit Agreement, the Notes, any other Loan Document or any of the Obligations;

Second, to pay all other amounts payable by Mortgagor under the Loan Documents;

Third, to the payment of the outstanding principal balance and accrued interest and fees on the Obligations; and

Fourth, to Mortgagor or to such other Person as a court may direct.

17. Appointment of Receiver. Upon, or at any time after, the filing of a complaint to foreclose this Mortgage, the court in which such complaint is filed may appoint a receiver of the Premises ("Third Party Receiver"). Such appointment may be made either before or after sale, without regard to the solvency or insolvency of Mortgagor at the time of application for such receiver and without regard to the then value of the Premises, and Mortgagee hereunder may be appointed as such receiver ("Mortgagee in Possession," collectively the Third Party Receiver and Mortgagee in Possession shall be known as the "Receiver"). The Receiver shall have power: (a) to collect the Rents during the pendency of such foreclosure suit and, in case of a sale and a deficiency, during the full statutory period of redemption, if any, whether there be redemption or not, as well as during any further times when Mortgagor, except for the intervention of such Receiver, would be entitled to collect such Rents; (b) to extend or modify any leases and to make new leases, which extensions, modifications and new leases may provide for terms to expire, or for options to lessees to extend or renewal terms to expire, beyond the maturity date of the indebtedness hereunder and beyond the date of the issuance of a deed or deeds to a purchaser or purchasers at a foreclosure sale, it being understood and agreed that any such leases, and the options or other such provisions to be contained therein, shall be binding upon Mortgagor and all persons whose interests in the Premises are subject to the lien hereof and upon the purchaser or purchasers at any foreclosure sale, notwithstanding any redemption from any judgment or decree of foreclosure, discharge of the mortgage indebtedness, satisfaction of any foreclosure decree, or issuance of any certificate of sale or deed to any purchaser; and (c) all other powers which may be necessary or are usual in such cases for the protection, possession, control, management and operation of the Premises during the whole of said period. The court from time to time may authorize the Receiver to apply the net income in his hands in payment in whole or in part to: (x)

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the Obligations or any tax, special assessment or other lien which may be or become superior to the lien hereof or of such decree, provided such application is made prior to any foreclosure sale; and (y) the deficiency in case of a sale and deficiency.

## 18. Assignment of Leases and Rents.

(a) To further secure the Obligations, Mortgagor hereby sells, assigns and transfers unto Mortgagee, for the benefit of the Lenders, all Leases and all Rents (whether before or after foreclosure or during the period of redemption) under or by virtue of, and to the extent payable pursuant to, any Leases, which may have been heretofore or may be hereafter made or agreed to or which may be made or agreed to by Mortgagee under the powers herein granted, it being the intention hereby to establish an absolute transfer and assignment of all such Leases and Rents, and all the avails thereunder to Mortgagee. Mortgagor hereby irrevocably appoints Mortgagee, its true and lawful attorney in its name and stead (with or without taking possession of the Premises as provided in Section 19 hereof) to rent, lease or let all or any portion of the Premises to any party or parties at such rental and upon such terms as Mortgagee shall, in its sole discretion, determine, with the same rights and powers and subject to the same immunities, exoneration of liability and rights of recourse and indemnity as Mortgagee would have upon taking possession pursuant to the provisions of Section 19 hereof.

(b) Mortgagor agrees that no Rents will hereafter be paid by any person in possession of any portion of the Premises for more than one month in advance, and Mortgagor further agrees that the payment of the Rents to accrue for any portion of the Premises will not be waived, released, reduced, discounted or otherwise discharged or compromised by Mortgagor, without Mortgagee's prior written consent. Mortgagor agrees that it will not hereafter assign any Leases or Rents of the Premises to other persons or entity.

(c) Nothing herein contained shall be construed as constituting Mortgagee a mortgagee in possession of the Premises in the absence of the taking of actual possession of the Premises by Mortgagee pursuant to Section 17 and/or 19 hereof. In the exercise of the powers herein granted Mortgagee, no liability shall be asserted or enforced against Mortgagee, all such liability being expressly waived and released by Mortgagor.

(d) Mortgagor further agrees to assign and transfer to Mortgagee all future Leases upon all or any part of the Premises and to execute and deliver, at the request of Mortgagee, all such further assurances and assignments in the Premises as Mortgagee shall from time to time require.

(e) Although it is the intention of the parties that the assignment contained in this Section 18 shall be a present and absolute assignment, it is expressly understood and agreed, anything herein contained to the contrary notwithstanding, that Mortgagee shall not exercise any of the rights or powers conferred upon it by this Section 18 until an Event of Default occurs and Mortgagor shall retain such rights and powers until such time. The rights of Mortgagee under this Section 18 shall continue and remain in full force and effect both before and after commencement of any action or proceeding to foreclose this Mortgage, after the foreclosure sale

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in connection with the foreclosure of this Mortgage, and until expiration of the period of redemption from any such foreclosure sale, whether or not any deficiency from the unpaid balance of the indebtedness secured hereby exists after such foreclosure sale.

(f) This Section 18 is subject to the rights of Mortgagor set forth in the Credit Agreement relating to financing of accounts receivable.

## 19. Mortgagee's Right of Possession in Case of an Event of Default.

(a) In any case in which under the provisions of this Mortgage, following and during the continuance of an Event of Default, Mortgagee has a right to foreclose the lien hereof, Mortgagor shall, forthwith, upon demand by Mortgagee, surrender to Mortgagee, and Mortgagee shall be entitled to take actual possession of, the Premises or any part thereof personally or by its agent or attorneys all subject to, and to the extent permitted by and in accordance with, the laws of the State. In such event, Mortgagee in its discretion may, in accordance with law, enter upon and take and maintain possession of all or any part of the Premises together with all documents, books, records, papers and accruals of Mortgagor or the then owner of the Premises relating thereto and may exclude Mortgagor, its agents or servants wholly therefrom and may, as attorney in fact, as agent for Mortgagor or in its own name as Mortgagee, and under the powers herein granted, hold, operate, manage and control the Premises and conduct the business, if any, thereof, either personally or by its agents, and with full power to use such measures, legal or equitable, as in its discretion or in the discretion of its successors or assigns may be deemed proper or necessary to enforce the payment or security of the Rents of the Premises, including actions for the recovery of Rent, actions in forcible detainer and actions in distress for rent, and with full power: (a) to cancel or terminate any Leases for any cause or on any ground which would entitle Mortgagor to cancel the same; (b) to elect to disaffirm any Leases which are then subordinate to the lien hereof, unless such Leases are covered by a nondisturbance agreement signed by Mortgagee; (c) to extend or modify any then existing Leases and to make new Leases which extensions, modifications and new Leases may provide for terms to expire, or for options to lessees to extend or renew terms to expire, beyond the maturity date of the indebtedness hereunder and beyond the date of the issuance of a deed or deeds to a purchaser or purchasers at a foreclosure sale, it being understood and agreed that any such Leases, and the options or other such provisions to be contained therein, shall be binding upon Mortgagor and all persons whose interests in the Premises are subject to the lien hereof and upon the purchaser or purchasers at any foreclosure sale, notwithstanding any redemption from sale, discharge of the mortgage indebtedness, satisfaction of any foreclosure decree, or issuance of any certificate of sale or deed to any purchaser; (d) to make all necessary or proper repairs, decorating, renewals, replacements, alterations, additions, betterments and improvements to the Premises as shall be commercially reasonable and judicious; (e) to insure and reinsure the Premises and all risks incidental to Mortgagee's possession, operation and management thereof; and (f) to receive all of such Rents; Mortgagor hereby granting full power and authority to exercise each and every of the rights, privileges and powers herein granted at any and all times from and during the continuance of an Event of Default, without notice to Mortgagor. Without limitation on the foregoing, in addition to any rights granted Mortgagee hereunder or under applicable law, Mortgagee shall have all powers, rights and duties as provided for in the Act.

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(b) Mortgagor shall be deemed to have constituted and appointed Mortgagee its true and lawful attorney-in-fact with full power of substitution either in the name of Mortgagee or in the name of Mortgagor, to exercise any of the powers granted to Mortgagee pursuant to this Section 19. Unless Mortgagee is acting as a Mortgagee in Possession, Mortgagee shall not be obligated to perform or discharge, nor does it hereby undertake to perform or discharge, any obligation, duty or liability under any Leases. Unless Mortgagee is acting as a Mortgagee in Possession, Mortgagor shall and does hereby agree to indemnify and hold Mortgagee harmless pursuant to Section 15.17 of the Credit Agreement in connection with Mortgagee's performance of any action authorized under this Section 19 and any alleged obligations or undertakings on Mortgagee's part to perform or discharge any of the terms, covenants or agreements of Mortgagor.

20. Application of Income Received by Mortgagee. Mortgagee, in the exercise of the rights and powers hereinabove conferred upon it by Section 18 and Section 19 hereof, shall have full power to use and apply the Rents of the Premises to the payment of or on account of the following, in such order as Mortgagee may determine in its sole discretion:

(a) to the payment of the operating expenses of the Premises, including, but not limited to, the cost of the management and leasing thereof (which shall include compensation to Mortgagee or its assignee or assignees, if management is delegated to an assignee or assignees, and shall include lease commissions and other compensation and expenses of seeking and providing tenants and entering into leases), established claims for damages, if any, and premiums on insurance hereinabove authorized;

(b) to the payment of taxes and special assessments now due or which may hereafter become due on the Premises;

(c) to the payment of all repairs, decorating, renewals, replacements, alterations, additions, betterments, and improvements to the Premises and of placing the Premises in such condition as which, in the judgment of Mortgagee, make it readily rentable; and

(d) to the payment of any Obligations or any deficiency which may result from any foreclosure sale in accordance with the provisions of Section 16.

21. Mortgagee's Right of Inspection. Subject to the provisions of the Credit Agreement and the other Loan Documents, Mortgagee shall have the right to inspect the Premises at all reasonable times upon reasonable prior notice and access thereto shall be permitted for that purpose.

22. Condemnation. All proceeds to which Mortgagor may be entitled resulting from the condemnation of the Premises or any part thereof or interest therein or injury to the Premises or any part thereof in connection with any such condemnation shall be distributed and applied in accordance with the Credit Agreement.



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23. Release upon Payment and Discharge of Mortgage. If Mortgagor shall fully pay and perform all Obligations and all commitments under the Credit Agreement shall have terminated or cease to exist, then this Mortgage and the estate, right and interest of Mortgagee in and to the Premises shall cease and Mortgagee shall execute and deliver to Mortgagor a release of this Mortgage in recordable form.

24. Giving of Notice. Any notice, demand, request or other communication that Mortgagee or Mortgagor may desire or be required to give to the other shall be in writing and shall be mailed or delivered in the manner set forth in the Credit Agreement.

25. Waiver of Defense; Remedies Not Exclusive; Time is of the Essence. No action for the enforcement of the lien hereof shall be subject to any defense which would not be good and available to the party interposing the same in an action at law upon the Obligations. Mortgagee shall be entitled to enforce payment and performance of any indebtedness secured hereby and to exercise all rights and powers under this Mortgage or under or with respect to any other Obligations or any laws now or hereafter in force, notwithstanding that some or all of the said indebtedness secured hereby may now or hereafter be otherwise secured, whether by mortgage, deed of trust, pledge, lien, assignment or otherwise. Neither the acceptance of this Mortgage nor its enforcement, whether by court action or other powers herein contained, shall prejudice or in any manner affect Mortgagee's right to realize upon or enforce any other security now or hereafter held by Mortgagee, it being agreed that Mortgagee shall be entitled to enforce this Mortgage and any other remedy herein or by law provided or permitted, but each shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute. Every power or remedy given hereby to Mortgagee or to which it may be otherwise entitled, may be exercised, concurrently or independently, from time to time, and as often as it may be deemed expedient by Mortgagee, and Mortgagee may pursue inconsistent remedies. No waiver of any Event of Default shall be implied from any omission by the Mortgagee to take any action on account of such default if such default persists or be repeated, and no express waiver shall affect any such default other than the default specified in the express waiver and then only for the time and to the extent therein stated. No acceptance of any payment of any one or more delinquent installments which does not include interest at the Default Rate from the date of delinquency shall constitute a waiver of the right of Mortgagee at any time thereafter to demand and collect payment of interest at such Default Rate.

26. [Intentionally Omitted]

27. Binding on Successors and Assigns. The provisions of this Mortgage shall apply to, inure to the benefit of, and bind Mortgagor and Mortgagee and their respective successors and assigns.

28. Definitions of "Mortgagor," and "Mortgagee". The word "Mortgagor," when used herein shall include: (a) the original Mortgagor, as the case may be, named in the preambles hereof; (b) the original Mortgagor's successors and assigns; and (c) all owners from time to time of the Premises. The word "Mortgagee" when used herein shall include all successors and assigns of the Mortgagee identified in the preambles hereof.

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29. Captions. The captions and headings of various paragraphs of this Mortgage are for convenience only and are not to be construed as defining or limiting, in any way, the scope or intent of the provisions hereof.

30. Filing and Recording Fees. Mortgagor shall pay all title insurance premiums, escrow charges, filing, registration or recording fees, and all expenses incident to the execution and acknowledgment of this Mortgage and all federal, state, county and municipal taxes, and other taxes, duties, imposts, assessments and charges arising out of or in connection with the execution and delivery of this Mortgage and the other Loan Documents.

31. Execution of Separate Security Agreement, Financing Statements, Etc. Mortgagor, upon request by Mortgagee from time to time, shall forthwith on demand execute, acknowledge and deliver to Mortgagee, a security agreement, financing statement or other similar security instruments, in form reasonably satisfactory to Mortgagee, covering all property of any kind whatsoever which Mortgagor may hereafter acquire, which in the opinion of Mortgagee is essential to the operation of the Premises and which constitutes goods within the meaning of the Code, and Mortgagor will further execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, any financing statement, affidavit, continuation statement or certificate or other document as Mortgagee may reasonably request in order to perfect, preserve, maintain, continue and extend the security interest under and the priority of this Mortgage and such security instrument. Mortgagor further agrees to pay to Mortgagee promptly after demand all reasonable costs and expenses incurred by Mortgagee in connection with the preparation, execution, recording, filing and re-filing of any such document.

32. Credit Agreement and Notes. The Notes and the Credit Agreement and all provisions thereof are incorporated herein by express reference. All advances and indebtedness arising and accruing under the Notes and the Credit Agreement from time to time shall be secured hereby to the full extent of the amount stated to be secured hereby according to law. Except as otherwise specifically provided herein, in the event of any conflict or inconsistency between the terms and provisions of this Mortgage and those of the Notes, the Credit Agreement or any other Loan Document, the terms and provisions of such Loan Document shall in each instance govern and control over this Mortgage to the extent of such conflict or inconsistency, and the Credit Agreement shall control over all such other Loan Documents.

33. Mortgagee's Lien for Service Charge and Expenses; Maximum Obligations Secured. At all times, regardless of whether any proceeds have been disbursed, this Mortgage secures (in addition to the Obligations disbursed from time to time) the payment of any Protective Advances and all other expenses and advances due to or incurred by Mortgagee in connection with the Obligations and which are to be reimbursed by Mortgagor under the terms of this Mortgage, the Credit Agreement or the other Loan Documents; provided, however, that in no event shall the total amount of the Obligations plus such additional amounts exceed Twenty Two Million and No/100 Dollars (\$22,000,000.00).

34. [Intentionally Omitted]

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35. Future Advances and Revolving Credit Advances. This Mortgage is given, in part, to secure a "revolving credit" loan, as defined and authorized under 205 ILCS 5/5d, 205 ILCS 105/1-6(b), 815 ILCS 205/4.1 and 735 ILCS 5/15-1207(b), and it secures all future advances, revolving credit advances and letters of credit provided by Mortgagee made within twenty (20) years from the date hereof made or to be made under the Notes and/or Credit Agreement, which future advances, revolving credit advances and letters of credit shall have the same priority as if all such future advances, revolving credit advances and letters of credit were made or issued on the date of execution hereof. Nothing in this Section 35 or in any other provision of this Mortgage shall be deemed an obligation on the part of Mortgagee to make any future advances, revolving credit advances or to issue any letters of credit other than in accordance with the terms and provisions of the Credit Agreement.

36. Indemnity. Mortgagor shall indemnify, defend and hold harmless Mortgagee and the other Lender Parties from and against the Indemnified Liabilities incurred by Mortgagee and/or any other Lender Party by reason of: (i) any capital improvements, other work or thing done in, on or about the Premises or any portion thereof; (ii) any use, non-use, misuse, possession, occupation, alteration, repair, condition, operation, maintenance or management of the Premises or any street, drive, sidewalk, curb, passageway or space comprising a part thereof or adjacent thereto; (iii) any negligence or willful act or omission of Mortgagor, any lessee, any other occupant of the Premises or any agent, contractor, servant, employee, licensee or invitee of any of them; (iv) the claims of any lessee or any party acting through or under any such lessee or otherwise arising under or as a consequence of any lease; (v) any accident, injury (including death) or damage to any person or property occurring in, on or about the Premises or in, on or about any sidewalks, drives, curbs, passageways, streets, spaces or alleys adjacent thereto; (vi) any lien or claim which may be alleged to have arisen on or against the Premises under any law or any liability asserted against Mortgagee and/or any Lender Party with respect thereto; (vii) any tax or other imposition, including, but not limited to, any imposition attributable to the execution, delivery, filing or recording of any document evidencing the Obligations or memorandum thereof; (viii) any contest permitted pursuant to the provisions of this Mortgage; or (ix) any claim for any premium or other charge or any brokerage commission or other compensation that may be made by any real estate broker or any person acting as such with respect to (A) the Obligations or (B) any leasing brokerage commission arising from any lease; or (x) breach of any laws, rules or regulations, except for any Indemnified Liabilities arising on account of Mortgagee's and/or any other Lender Party's gross negligence or willful misconduct as determined by a final, nonappealable judgment by a court of competent jurisdiction.

37. No Usury. In no event shall the amount paid or agreed to be paid hereunder or with respect to the Obligations exceed the highest lawful rate permissible under applicable law; and if under any circumstances whatsoever, fulfillment of any provision of this Mortgage or any Loan Document, at the time performance of such provision shall be due, shall involve transcending the limit of validity prescribed by applicable law, then *ipso facto*, the obligation to be fulfilled shall be reduced to the limit of such validity, and if from any circumstance Mortgagee should receive as interest an amount which would exceed the highest lawful rate allowable under law, such amount which would be excessive interest shall be applied to the reduction of the unpaid principal balance due under the Obligations and not to the payment of

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interest, or if such excess interest exceeds the unpaid balance of principal, the excess shall be refunded to the Mortgagor. Without limitation on the foregoing, all sums paid, or agreed to be paid, for the use, forbearance, detention, taking, charging, receiving or reserving on all Obligations shall, to the extent permitted by law, be amortized, prorated, allocated and spread throughout the term of such Obligations until payment in full so that the rate or amount of interest on account of such Obligations does not exceed the usury ceiling limit from time to time in effect and applicable thereto, if any, for so long as Obligations are outstanding.

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

39. WAIVER OF STATUTORY RIGHTS. TO THE FULLEST EXTENT PERMITTED UNDER APPLICABLE LAW, AT ALL TIMES FOLLOWING AND DURING THE CONTINUANCE OF AN EVENT OF DEFAULT, MORTGAGOR SHALL NOT AND WILL NOT APPLY FOR OR AVAIL ITSELF OF ANY HOMESTEAD, APPRAISEMENT, VALUATION, STAY, EXTENSION OR EXEMPTION LAWS, OR ANY SO-CALLED "MORATORIUM LAWS," NOW EXISTING OR HEREAFTER ENACTED, IN ORDER TO PREVENT OR HINDER THE ENFORCEMENT OR FORECLOSURE OF THIS MORTGAGE, BUT HEREBY WAIVES THE BENEFIT OF SUCH LAWS. MORTGAGOR FOR ITSELF AND ALL WHO MAY CLAIM THROUGH OR UNDER IT WAIVES ANY AND ALL RIGHT TO HAVE THE PROPERTY AND ESTATES COMPRISING THE PREMISES MARSHALLED UPON ANY FORECLOSURE OF THE LIEN HEREOF AND AGREES THAT ANY COURT HAVING JURISDICTION TO FORECLOSE SUCH LIEN MAY ORDER THE PREMISES SOLD AS AN ENTIRETY. MORTGAGOR HEREBY WAIVES AND ANY ALL RIGHTS OF REINSTATEMENT AND REDEMPTION FROM SALE UNDER ANY ORDER OR DECREE OF FORECLOSURE OF THIS MORTGAGE ON ITS BEHALF AND ON BEHALF OF EACH AND EVERY PERSON ACQUIRING ANY INTEREST IN OR TITLE TO THE PREMISES SUBSEQUENT TO THE DATE OF THIS MORTGAGE. THE FOREGOING WAIVER OF THE RIGHTS OF REINSTATEMENT AND REDEMPTION ARE MADE PURSUANT TO SECTIONS 15-1601 AND 15-1602 OF THE ACT. TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, MORTGAGOR FURTHER WAIVES DILIGENCE, DEMAND, PRESENTMENT, PROTEST AND NOTICE OF EVERY KIND IN CONNECTION WITH THE DELIVERY, ACCEPTANCE, PERFORMANCE, DEFAULT OR ENFORCEMENT OF THIS MORTGAGE AND THE OBLIGATIONS, EXCEPT FOR SUCH NOTICES AS ARE EXPRESSLY PROVIDED IN THIS MORTGAGE OR THE OTHER LOAN DOCUMENTS.

40. BUSINESS LOAN RECITAL; STATUTORY EXEMPTIONS.

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(a) MORTGAGOR ACKNOWLEDGES AND AGREES THAT THE LOANS CONSTITUTE A BUSINESS LOAN WHICH COMES WITHIN THE PURVIEW OF SUBPARAGRAPH (1)(c) OF SECTION 4 OF THE INTEREST ACT (815 ILCS 205/0.01 *et seq.*).

(b) MORTGAGOR ACKNOWLEDGES AND AGREES THAT THE PREMISES DOES NOT CONSTITUTE EITHER AGRICULTURAL REAL ESTATE (AS DEFINED IN SECTION 15-1201 OF THE ACT) OR RESIDENTIAL REAL ESTATE (AS DEFINED IN SECTION 15-1219 OF THE ACT).

41. APPLICABLE LAW. THIS MORTGAGE SHALL BE CONSTRUED, INTERPRETED AND GOVERNED BY THE INTERNAL LAWS OF THE STATE OF ILLINOIS (WITHOUT GIVING EFFECT TO ILLINOIS CONFLICTS OF LAW PRINCIPLES).

42. WAIVER OF JURY TRIAL. THE WAIVER OF JURY TRIAL SET FORTH IN SECTION 15.20 OF THE CREDIT AGREEMENT IS INCORPORATED HEREIN AS IF FULLY SET FORTH HEREIN.

43. Inconsistency with Applicable Law. In the event that any provision in this Mortgage shall be inconsistent with any provision of applicable law, including, without limitation, the Act, the provisions of applicable law shall take precedence over the provisions of this Mortgage, but shall not invalidate or render unenforceable any other provision of this Mortgage that can be construed in a manner consistent with applicable law. If any provision of this Mortgage shall grant to Mortgagee any rights or remedies upon default of Mortgagor which are more limited than the rights that would otherwise be vested in Mortgagee under applicable law in the absence of said provision, Mortgagee shall be vested with the rights granted under applicable law to the full extent permitted by law.

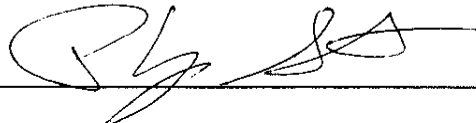
[Signature Page Follows]

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IN WITNESS WHEREOF, Mortgagor has caused these presents to be signed and delivered by its duly authorized officers as of the day and year first above written.

MORTGAGOR:

JUICE TYME, INC., a Wisconsin corporation

By: 

Name: Phillip Scott

Its: President and CEO

THIS INSTRUMENT WAS PREPARED BY  
AND AFTER RECORDING RETURN TO:

WINSTON & STRAWN LLP  
35 WEST WACKER DRIVE  
CHICAGO, ILLINOIS 60601  
ATTENTION: JAMES P. HEALY, JR.

Property of Cook County Clerk's Office

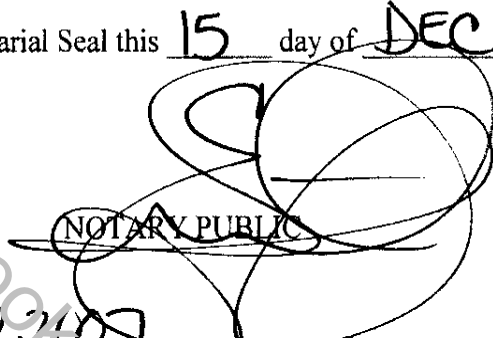
[Signature Page to Mortgage]

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STATE OF ILLINOIS )  
 ) SS  
COUNTY OF COOK )

I, ELSA MATA, a Notary Public in and for said County, in the State aforesaid DO HEREBY CERTIFY that PHILIP L. SCOTT the PRESIDENT & CEO of JUICE TYME, INC., a Wisconsin corporation, personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he signed and delivered said instrument as such officer of such corporation, as his own free and voluntary act and as the free and voluntary act of such corporation for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 15 day of DEC, 2005

  
NOTARY PUBLIC

My Commission Expires: SEPT 12, 2007



**UNOFFICIAL COPY**EXHIBIT A**CHICAGO TITLE INSURANCE COMPANY**

ORDER NUMBER: 1401 008323215 D1  
 STREET ADDRESS: 4401 S. OAKLEY  
 CITY: CHICAGO COUNTY: COOK  
 TAX NUMBER: 20-06-300-029-0000

## LEGAL DESCRIPTION:

## PARCEL 1:

THE SOUTH 361.21 FEET OF THE NORTH 853.50 FEET (EXCEPT THE EAST 150 FEET THEREOF) OF THE EAST 1/2 OF THE NORTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 6, TOWNSHIP 38 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN,

(EXCEPTING THEREFROM THAT PART THEREOF WHICH LIES SOUTH OF A LINE DRAWN PARALLEL WITH THE SOUTH LINE OF SAID EAST 1/2 OF THE NORTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SAID SECTION 6, THROUGH A POINT ON THE WEST LINE OF SAID EAST 1/2 OF THE NORTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SAID SECTION 6, WHICH POINT IS 823.53 FEET SOUTH FROM THE NORTH LINE OF SAID SOUTHWEST 1/4 OF SAID SECTION 6; AND ALSO EXCEPTING THEREFROM THE WEST 253.00 FEET OF THE SOUTH 156.00 FEET OF THE NORTH 678.29 FEET OF THE EAST 1/2 OF THE NORTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SAID SECTION 6);

## PARCEL 2:

EASEMENT FOR THE BENEFIT OF PARCEL 1 OVER AND ACROSS THE WEST 17 FEET OF THE NORTH 492.29 FEET (EXCEPT THE NORTH 33 FEET THEREOF) OF THE EAST 1/2 OF THE NORTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 6, TOWNSHIP 38 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, FOR ROADWAY PURPOSES FOR INGRESS & EGRESS, AS RESERVED IN THE WARRANTY DEED FROM PENNOYER MERCHANTS TRANSFER COMPANY, A CORPORATION OF ILLINOIS, TO BERNARD S. MADORIN AND LUCILLE SIRK DATED NOVEMBER 2, 1964 AND RECORDED NOVEMBER 24, 1964 AS DOCUMENT NO. 15313050, ALL IN COOK COUNTY, ILLINOIS.

## PARCEL 3:

EASEMENT FOR THE BENEFIT OF PARCEL 1 IN, UNDER, OVER AND ACROSS FOR THE INSTALLATION, MAINTENANCE AND REPAIR OF AND OPERATION OF UNDERGROUND WATER MAIN, SEWER AND OTHER LINES AND UTILITIES AND INCLUDING THE RIGHT OF ACCESS RECORDED NOVEMBER 1, 2005 AS DOCUMENT NUMBER 0530519080, DESCRIBED AS FOLLOWS:

A STRIP OF LAND 8.0 FEET WIDE, BEING 4.0 FEET ON EACH SIDE OF THE FOLLOWING DESCRIBED LINE: BEGINNING AT A POINT ON THE SOUTH LINE OF WEST 43RD STREET, BEING 33 FEET SOUTH OF THE NORTH LINE OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 6, TOWNSHIP 38 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, SAID POINT BEING 1,114.00 FEET EAST OF THE WEST LINE OF SAID NORTHWEST QUARTER OF THE SOUTHWEST QUARTER; THENCE SOUTH, AT RIGHT ANGLES TO THE SOUTH LINE OF WEST 43RD STREET, 120.00 FEET; THENCE EAST, AT RIGHT ANGLES TO THE LAST DESCRIBED LINE, 7.00 FEET; THENCE SOUTH, AT RIGHT ANGLES TO THE LAST DESCRIBED

(CONTINUED)



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EXHIBIT A



## CHICAGO TITLE INSURANCE COMPANY

ORDER NUMBER: 1401 008323215 D1  
STREET ADDRESS: 4401 S. OAKLEY  
CITY: CHICAGO COUNTY: COOK  
TAX NUMBER: 20-06-300-029-0000

LEGAL DESCRIPTION:

LINE, 188.00 FEET; THENCE WEST AT RIGHT ANGLES TO THE LAST DESCRIBED LINE, 6.00 FEET; THENCE SOUTH, AT RIGHT ANGLES TO THE LAST DESCRIBED LINE, 204.77 FEET TO THE NORTH FACE OF A CONCRETE BLOCK BUILDING, ALL IN COOK COUNTY, ILLINOIS.

**UNOFFICIAL COPY****EXHIBIT A -1  
Legal Description**

STREET ADDRESS: 4401 S. OAKLEY  
 CITY: CHICAGO COUNTY: COOK  
 TAX NUMBER: 20-06-300-029-0000

**LEGAL DESCRIPTION:****PARCEL 1:**

THE SOUTH 361.21 FEET OF THE NORTH 853.50 FEET (EXCEPT THE EAST 150 FEET THEREOF) OF THE EAST 1/2 OF THE NORTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 6, TOWNSHIP 38 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN.

(EXCEPTING THEREFROM THAT PART THEREOF WHICH LIES SOUTH OF A LINE DRAWN PARALLEL WITH THE SOUTH LINE OF SAID EAST 1/2 OF THE NORTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SAID SECTION 6, THROUGH A POINT ON THE WEST LINE OF SAID EAST 1/2 OF THE NORTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SAID SECTION 6, WHICH POINT IS 823.53 FEET SOUTH FROM THE NORTH LINE OF SAID SOUTHWEST 1/4 OF SAID SECTION 6; AND ALSO EXCEPTING THEREFROM THE WEST 253.00 FEET OF THE SOUTH 156.00 FEET OF THE NORTH 678.29 FEET OF THE EAST 1/2 OF THE NORTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SAID SECTION 6);

**PARCEL 2:**

EASEMENT FOR THE BENEFIT OF PARCEL 1 OVER AND ACROSS THE WEST 17 FEET OF THE NORTH 492.29 FEET (EXCEPT THE NORTH 33 FEET THEREOF) ALSO THE WEST 17 FEET OF THE SOUTH 156.00 FEET OF THE NORTH 678.29 FEET OF THE EAST 1/2 OF THE NORTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 6, TOWNSHIP 38 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, FOR ROADWAY PURPOSES FOR INGRESS & EGRESS AND FOR SEWER AND OTHER UNDERGROUND UTILITIES AS RESERVED IN THE WARRANTY DEED FROM PENNOYER MERCHANTS TRANSFER COMPANY, A CORPORATION OF ILLINOIS, TO BERNARD S. MADORIN AND LUCILLE SIRK DATED NOVEMBER 2, 1964 AND RECORDED NOVEMBER 24, 1964 AS DOCUMENT NO. 19313050, ALL IN COOK COUNTY, ILLINOIS.

**PARCEL 3:**

EASEMENT FOR THE BENEFIT OF PARCEL 1 IN, UNDER, OVER AND ACROSS FOR THE INSTALLATION, MAINTENANCE AND REPAIR OF AND OPERATION OF UNDERGROUND WATER MAIN, SEWER AND OTHER LINES AND UTILITIES AND INCLUDING THE RIGHT OF ACCESS RECORDED NOVEMBER 1, 2005 AS DOCUMENT NUMBER 0530519080, DESCRIBED AS FOLLOWS:

A STRIP OF LAND 8.0 FEET WIDE, BEING 4.0 FEET ON EACH SIDE OF THE FOLLOWING DESCRIBED LINE: BEGINNING AT A POINT ON THE SOUTH LINE OF WEST 43RD STREET, BEING 33 FEET SOUTH OF THE NORTH LINE OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 6, TOWNSHIP 38 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, SAID POINT BEING 1,114.00 FEET EAST OF THE WEST LINE OF SAID NORTHWEST QUARTER OF THE SOUTHWEST QUARTER; THENCE SOUTH, AT RIGHT ANGLES TO THE SOUTH LINE OF WEST 43RD STREET, 120.00 FEET; THENCE EAST, AT RIGHT ANGLES TO THE LAST DESCRIBED LINE, 7.00 FEET; THENCE SOUTH, AT RIGHT ANGLES TO THE LAST DESCRIBED LINE, 188.00 FEET; THENCE WEST AT RIGHT ANGLES TO THE LAST DESCRIBED LINE, 6.00 FEET; THENCE SOUTH, AT RIGHT ANGLES TO THE LAST DESCRIBED LINE, 204.77 FEET TO THE NORTH FACE OF A CONCRETE BLOCK BUILDING, ALL IN COOK COUNTY, ILLINOIS.