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Eugene "Gene" Moore RHSP Fee:\$10.00  
Cook County Recorder of Deeds  
Date: 03/17/2006 03:35 PM Pg: 1 of 36

**THIS INSTRUMENT PREPARED BY  
AND UPON RECORDING SHOULD BE  
RETURNED TO:**

Mark A. Carter, Esq.  
Adelman & Gettleman, Ltd.  
53 West Jackson Boulevard, Suite 1050  
Chicago, IL 60604

Reserved for Recorder's use only

## **SUBORDINATION, ATTORNMENT AND NON-DISTURBANCE AGREEMENT**

This Subordination, Attornment and Non-Disturbance Agreement (the "Agreement") is made and entered into as of the 9<sup>th</sup> day of March, 2006, by and among THE PRIVATEBANK AND TRUST COMPANY, a state banking association ("Lender"), STANDARD BANK AND TRUST COMPANY, f/k/a East Side Bank and Trust Company, not personally but as Trustee, on behalf of Trust No. 1716, pursuant to that certain Trust Agreement, dated January 3, 1996 (the "Landlord"), STELIOS S. SAKOUTIS, the one hundred percent beneficial interest holder of Land Trust No. 1716 (the "Beneficiary") and MAY STREET GROCERY COMPANY, an Illinois corporation ("Tenant").

### **RECITALS**

WHEREAS, Landlord and Beneficiary (sometimes collectively referred to herein as the "Landlord Parties") currently own and hold the legal and equitable ownership interests, respectively, in that certain real estate that is legally described on Exhibit A attached hereto and incorporated herein and the buildings and improvements located thereon (collectively referred to herein as the "Mortgaged Premises");

WHEREAS, Tenant is a tenant of the Mortgaged Premises pursuant to a Lease Agreement, dated as of January 1, 2006, between the Landlord Parties and Tenant, a copy of which is attached hereto as Exhibit B and incorporated herein (said agreement, and all extensions, modifications, replacements and renewals thereof, and all of Tenant's other rights to use and occupy the Mortgaged Premises, whether memorialized in a lease or agreement or otherwise, shall be collectively referred to herein as the "Lease");

WHEREAS, Beneficiary owns fifty (50%) of the voting shares of Tenant;

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WHEREAS, the Landlord Parties and Tenant have requested Lender to advance funds and otherwise extend financial accommodations to the Landlord, Beneficiary and Tenant pursuant to (a) that certain Term Note (Secured) dated of even date herewith, in the principal amount of \$2,800,000.00, and all amendments thereto and all replacements, renewals and extensions thereof (the "Term Note") of the Landlord Parties, (b) that certain Line of Credit Note (Secured), dated of even date herewith, in the principal amount of \$1,500,000.00, and all amendments thereto and all replacements, renewals and extensions thereof (collectively, the "Beneficiary Line Note") of Beneficiary, (c) that certain Line of Credit Note (Secured), dated of even date herewith, in the principal amount of \$1,500,000.00, and all amendments thereto and all replacements, renewals and extensions thereof (collectively, the "Tenant Line Note") of Tenant and others, and (d) other agreements, instruments, guaranties and other documents between or among the Landlord Parties, Tenant and Lender (the Term Note, the Beneficiary Line Note, the Tenant Line Note, the other agreements, instruments, guaranties and any other document executed or delivered in connection therewith, including the "Mortgage Documents" (as hereinafter defined) shall be collectively referred to herein as the "Loan Documents");

WHEREAS, to induce Lender to extend financial accommodations in favor of the Landlord Parties and Tenant pursuant to the Loan Documents (all indebtedness and other obligations of any kind or nature owed to, or in favor of, Lender pursuant to the Loan Documents shall be collectively referred to herein as the "Secured Obligations") the Landlord Parties have agreed to grant Lender the rights, claims and interests provided in the Mortgage Documents; and

WHEREAS, to further induce Lender to extend financial accommodations in favor of the Landlord Parties and Tenant pursuant to the Loan Documents, the Landlord Parties and Tenant each agree to the execution, delivery and performance of this Agreement.

**NOW, THEREFORE**, in consideration of the foregoing and of other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto each agree as follows:

## I. RECITALS

1. The recitals hereinbefore set forth constitute an integral part of this Agreement, evidencing the intent of the parties in executing this Agreement and describing the circumstances surrounding its execution. Accordingly, said recitals are, by express reference, made a part of the covenants hereof, and this Agreement shall be construed in the light thereof.

## II. WARRANTIES, COVENANTS AND AGREEMENTS

2.1 The Landlord Parties and Tenant each hereby agree that the Lease and all rights, options, liens or charges created thereunder or thereby, are hereby made and shall continue and

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remain to be, subordinate, later in time and in all respects fully subject to: (a) that certain Mortgage, Assignment of Rents and Security Agreement, dated of even date herewith, and all amendments thereto and modifications thereof, (collectively, the "Mortgage"); (b) that certain Assignment of Rents and Leases, dated of even date herewith, and all amendments thereto and modifications thereof (collectively, the "Assignment") (the Mortgage and the Assignment shall be collectively referred to herein as the "Mortgage Documents"); (c) all rights, liens and charges created pursuant to the Mortgaged Documents or the other Loan Documents; (d) all advances, made and indebtedness incurred pursuant to or in accordance with the Mortgage Documents and the other Loan Documents, and (e) any amendments, restatements, consolidations or renewals of the Mortgage Documents and the other Loan Documents. The provisions of this Section 2.1 shall be effective notwithstanding any provisions to the contrary contained in the Lease.

2.2 In addition to the terms of Section 2.1 above, any acquisition of title to the Mortgaged Premises made by Tenant during the term of the Loan Documents shall be made subordinate and expressly subject to the Mortgage Documents and the other Loan Documents. Any right of Tenant to purchase the Mortgaged Premises, including any right of first refusal, right of first offer, or similar provisions, shall not apply to a foreclosure sale, or conveyance by deed in lieu of foreclosure, of the Mortgaged Premises by or to Lender (or by or to any successor Landlord (as hereinafter defined)) and shall be deemed fully extinguished upon the foreclosure of the Mortgage or the conveyance of the Mortgaged Premises by deed in lieu of foreclosure.

2.3 Without limiting the generality of Sections 2.1 and 2.2 above, Tenant hereby subordinates to the interests of Lender granted or conveyed pursuant to the Mortgage Documents and the other Loan Documents all of Tenant's right, title and interest under the Lease in any insurance proceeds, award of condemnation or eminent domain. Tenant does assign and transfer to Lender the right and privilege to receive any interest of Tenant in and to the full extent of any insurance proceeds, award of condemnation or eminent domain with respect to the Mortgaged Premises to the extent necessary to pay in full the Secured Obligations and any and all other sums secured by the Mortgage Documents. Tenant does further hereby authorize Lender to apply any such funds so received in satisfaction of all or any portion of the Secured Obligations. In addition, notwithstanding any term or provision of the Lease, Tenant and the Landlord Parties each agree that the provisions of the Loan Documents shall control the use and disbursement of insurance proceeds and awards of condemnation or eminent domain with respect to the Mortgaged Premises.

2.4 The Landlord Parties and Tenant shall promptly notify Lender of all defaults by the Landlord Parties or Tenant under the Lease.

2.5 The Lease shall not, after the date hereof, be terminated, surrendered, renewed, modified or assigned without first obtaining the prior written consent of Lender. Rent shall not be paid more than one month in advance and in the event that any advance payment of rent (minimum, base, percentage, additional or otherwise) is paid more than one month in advance, Lender or any Successor Landlord shall not be bound by any such payment.

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2.6 Tenant and the Landlord Parties each hereby acknowledge and agree that, pursuant to the Mortgage Documents and the other Loan Documents, the interest of Landlord under the Lease shall be assigned to Lender solely as security for the Secured Obligations and Lender: (a) shall not be liable for any claims for damages, setoffs or defenses which the Tenant might have against any prior landlord (including Landlord) arising out of Landlord's interest in the Mortgaged Premises, for the return of any security deposit unless it has specifically been received by Lender, for any act or omission committed by the Landlord Parties (or any of them) or any breach or failure to perform by the Landlord Parties (or any of them); and (b) shall not be obligated by reason of such assignment or the exercise of any rights granted therein to perform any obligation of Landlord. The Landlord Parties and Tenant each hereby agree that immediately upon notice by Lender to Tenant or the Landlord or the Beneficiary that a default, "Default" or "Event of Default" has occurred under the Loan Documents, each such recipient of said notice shall, if Lender so requests and until further notice and direction from Lender, make all future payments of rent and other amounts becoming due under the Lease directly to Lender. The Landlord Parties each acknowledge that any payment made to Lender will be credited against any rent owed to the Landlord by the respective Tenant.

2.7 Upon the occurrence of any default, any "Default" or any "Event of Default" as defined in the Mortgage Documents or the other Loan Documents, Lender may, at its option, at any time while any Secured Obligations remain, elect to terminate the Lease by the sending of notice to such Tenant upon which such Lease shall be terminated without any obligation to Tenant or the Landlord Parties.

2.8 Upon any termination or extinguishment of the Lease, Tenant may seek recourse against the Landlord, subject to the subordination contained herein, but Tenant shall have no lien or charge upon the Mortgaged Premises or income from the Mortgaged Premises.

2.9 Subject to the terms of Section 2.7 herein, in the event that Lender, any of Lender's successors or assigns, any other purchaser at a foreclosure sale under the Mortgage (or transferee by deed in lieu of foreclosure or otherwise) and any transferee of Lender, purchaser or transferee (each and all of the foregoing persons and entities shall be referred to herein as a "Successor Landlord") succeed to the rights of the Landlord in the Mortgaged Premise, whether through foreclosure, the acceptance of a deed in lieu of foreclosure or any possession, surrender, assignment, judicial action or any other action taken by Lender, then in such event, and provided that Successor Landlord then agrees in its sole and absolute discretion: (a) Tenant hereby attorns to, and shall be liable to and recognize Successor Landlord as the lessor under, the Lease for the balance of the term of said Lease upon and subject to all the terms and conditions of this Agreement and of the Lease without any additional documentation to effect such attornment; (b) Tenant shall make all payments of rent (minimum, base, percentage, additional or otherwise) to Successor Landlord, and otherwise perform all of Tenant's obligations set forth in the Lease; and (c) Successor Landlord shall be responsible only for the performance of those of Landlord's obligations to be performed during the period of its ownership.

2.10 Tenant waives presentment, demand, protest, and notice and agrees that Lender, without notice to or consent of Tenant, upon such terms as Lender may deem advisable, without

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releasing or discharging Tenant from this Agreement or affecting the lien or priority of the Mortgage Documents and the rights, claims, and interests of Lender thereunder, may: (a) extend, in whole or in part, by renewal or otherwise, the time of payment or performance of any obligation secured by the Mortgage Documents; (b) release, surrender, exchange, or modify any obligation secured by the Mortgage Documents, or any security for such obligation; and/or (c) settle or compromise any claim with respect to any obligation secured by the Mortgage Documents or any claim against any person who has given security for any such obligation. The Landlord Parties and Tenant each hereby ratify any such extension, renewal, release, surrender, exchange, modification, settlement, or compromise and waives all defenses, counterclaims, or offsets which it might have by reason thereof.

### III. ADDITIONAL REPRESENTATIONS AND WARRANTIES OF THE LANDLORD PARTIES AND TENANT

Tenant and Beneficiary each represent and warrant to Lender, with the intent and understanding that Lender is relying thereon as a material inducement to enter into this agreement, as follows:

3.1 Tenant owns or holds no leases, licenses or any other agreements regarding the use and occupancy of, or interests in, the Mortgaged Premises other than the Lease.

3.2 All rights, claims and interests of any person or entity in or with respect to the Mortgage Premises are subordinate and junior in priority to the rights, claims and interest of Lender pursuant to the Mortgage Documents and the other Loan Documents.

3.3 The exercise by Lender of Lender's rights and remedies under the Mortgage Documents or the other Loan Documents, including without limitation, Lender's rights of foreclosure, shall not constitute a default, "Default" or an "Event of Default" under the Lease.

### IV. MISCELLANEOUS

4.1 Whenever any of the parties hereto desires to give any notice to any of the others under this Agreement, it shall be sufficient for all purposes if such notice is hand delivered or sent by registered or certified U.S. mail, postage prepaid, return receipt requested addressed to the intended recipient at the following addresses:

To Beneficiary and/or Tenant: Mr. Stelios S. Sakoutis  
1325 Inverness Lane  
Schererville, IN 46375

To Landlord: Standard Bank and Trust Company  
7800 West 95<sup>th</sup> Street,  
Hickory Hills, IL 60457  
Attn: Land Trust Department

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To Lender: The PrivateBank and Trust Company  
Ten North Dearborn St.  
Chicago, IL 60602  
Attn: Thomas J. Olivieri

4.2 This Agreement shall inure to the benefit of and shall be binding upon each of the Tenants, each of the Landlord Parties, Lender and their respective heirs, personal representatives, successors and assigns. In the event any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not effect any of the provisions of this Agreement, but this Agreement shall be construed as if such invalid, illegal or unenforceable provision was not contained herein. This Agreement shall be governed by and construed according to the laws of the State of Illinois.

4.3 Nothing contained in this Agreement shall in any way limit or narrow the lien created by the Mortgage Documents. The Landlord Parties and Tenant each hereby agree for themselves and their successors and assigns, that: (a) this Agreement shall not constitute a waiver by Lender of any rights, benefits or interests of Lender under any of the Mortgage Documents or the other Loan Documents; and (b) each of the Landlord Parties and Tenant must satisfy and perform under each of their respective obligations pursuant to the Mortgage Documents and the other Loan Documents, which remain in full force and effect.

4.4 This Agreement constitutes the entire agreement between the parties relating to the subject matter hereof and is the final and complete expression of their intent. No prior or contemporaneous negotiations, promises, agreements, covenants, representations of any kind or nature, whether made orally or in writing, have been made or relied upon by the parties, or any of them, in negotiations leading to this Agreement or relating to the subject matter hereof, which are not expressly contained herein, or which have not become merged and finally integrated herein; it being the intention of the parties hereto that in the event of any subsequent litigation, controversy, or dispute concerning the terms and provisions of this Agreement, no party shall be permitted to offer to introduce oral or extrinsic evidence concerning the terms and conditions hereof that are not included or referred to herein and not reflected in writing. This Agreement may be changed, modified or amended only by a writing executed by the parties hereto. No conditions of any kind or nature exist to the legal effectiveness hereof, which shall be in full force and effect immediately upon execution and delivery by all parties hereto.

4.5 The failure of Lender to insist upon strict compliance with any of the terms, covenants, or conditions hereof or of one or more of the Loan Documents shall not be deemed a waiver of such term, covenant, or condition, nor shall any waiver or relinquishment of any right or power hereunder at any one time or more times be deemed a waiver or relinquishment of such right or power at any time or times.

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4.6 This Agreement may be executed in one or more counterparts all of which taken together constitute one and the same instrument.

4.7 All parties hereto agree that this Agreement has been thoroughly reviewed by counsel of their respective choice and, in the event of an ambiguity or conflict in the terms hereof, this Agreement shall be deemed and construed for all purposes as having been drafted by all parties hereto.

4.8 The captions incorporated herein are for convenience only, and do not in any way limit, amplify, or affect the terms or conditions hereof.

4.9 The invalidity or enforceability of any provision in this Agreement shall in no way affect the validity or enforceability of any other provision.

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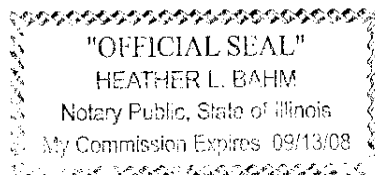
This DOCUMENT is executed by STANDARD BANK & TRUST COMPANY, not personally but as Trustee under Trust No. 1716 as aforesaid, in the exercise of power and authority conferred upon and vested in said Trustee as such, and it is expressly understood and agreed that nothing in said document contained shall be construed as creating any liability on said Trustee personally to pay any indebtedness accruing thereunder, or to perform any covenants, either expressed or implied, including but not limited to warranties, indemnifications, and hold harmless representations in said Document (all such liability if any, being expressly waived by the parties hereto and their respective successors and assigns) and that so far as said Trustee is concerned, the owner of any indebtedness or right accruing under said Document shall look solely to the premises described therein for the payment or enforcement thereof, it being understood that said Trustee merely hold legal title to the premises described therein and has no control over the management thereof or the income therefrom, and has no knowledge respecting any factual matter with respect to said premises, except as represented to it by the beneficiary or beneficiaries of said trust. Inevent of conflict between the terms of this rider and of the agreement to which it is attached, on any questions of apparent liability or obligation resting upon said Trustee, the provisions of this rider shall be controlling.

**STATE OF ILLINOIS**  
**COUNTY OF COOK**

I, the undersigned, a Notary Public in and for said County, in the state aforesaid, DO HEREBY CERTIFY, THAT Patricia Ralphson, of STANDARD BANK & TRUST COMPANY and \_\_\_\_\_ of said Bank, personally known to me to be the same persons whose names are subscribed to the foregoing instrument as such A. V. P. and \_\_\_\_\_ respectively, appeared before me this day in person and acknowledged that they signed and delivered the said instrument as their own free and voluntary act, and as the free and voluntary act of said Bank, for the uses and purposes therein set forth; and the said A. V. P. did also then and there acknowledge that he/she, as custodian of the corporate seal of said Bank, did affix the said corporate seal of said Bank to said instrument as his/her own free and voluntary act, and as the free and voluntary act of said Bank for the uses and purposed therein set forth.

Given under my hand and Notarial Seal this 9th day of March, 2006.

Heather L. Bahm  
Notary Public



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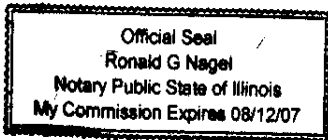
BENEFICIARY:

Stelios S. Sakoutis  
STELIOS S. SAKOUTIS, individually

STATE OF Illinois )  
 )  
COUNTY OF Cook ) SS.

I, Ronald Nagel, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY, that STELIOS SAKOUTIS, the BENEFICIARY of TRUST # 1716 personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he signed and delivered the said instrument as his free and voluntary act and as the free and voluntary act of said corporation for the uses and purposes therein set forth.

Witness my hand and seal this 9<sup>th</sup> day of March, 2006



Ronald Nagel  
Notary Public

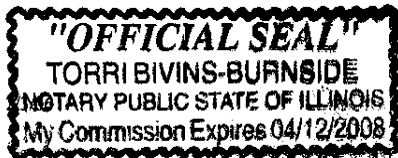
LENDER:  
THE PRIVATEBANK AND TRUST COMPANY  
a state banking association

By: [Signature]  
Title: MANAGING DIRECTOR

STATE OF ILLINOIS )  
 )  
COUNTY OF Ill ) SS.

I, Torri Bivins-Burnside, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY, that Tom Slivicki, the Managing Director of THE PRIVATEBANK AND TRUST COMPANY, a state banking association, personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he signed and delivered the said instrument as his free and voluntary act and as the free and voluntary act of said corporation for the uses and purposes therein set forth.

Witness my hand and seal this 9<sup>th</sup> day of March, 2006  
Torri Bivins-Burnside  
Notary Public



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## EXHIBIT A

### (LEGAL DESCRIPTION)

PARCEL 1: THE SOUTH 15 FEET OF LOT 19 AND ALL OF LOTS 20, 21 AND 22 IN BROWN'S SUBDIVISION OF BLOCK 44 IN CARPENTER'S ADDITION TO CHICAGO IN SOUTHEAST 1/4 OF SECTION 8, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS, ALSO KNOWN AS LOTS 4 AND 5 IN ASSESSOR'S DIVISION OF LOTS 17 TO 20 IN SUBDIVISION OF BLOCK 44 AND LOTS 21 AND 22 IN SUBDIVISION OF BLOCKS 44 AND 45 ALL OF CARPENTER'S ADDITION TO CHICAGO IN THE SOUTHEAST 1/4 OF SECTION 9, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

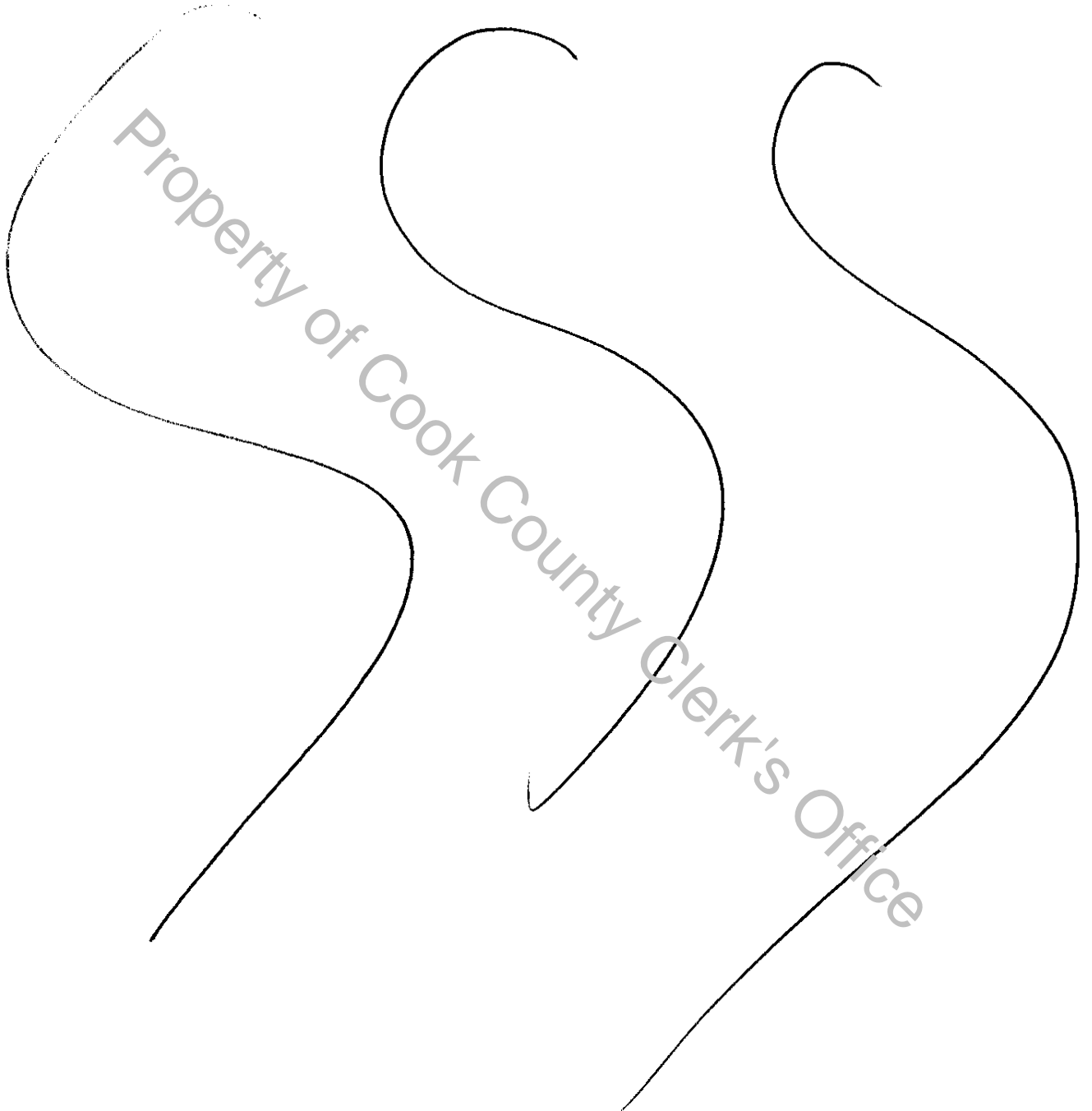
(AFFECTS 112 N. MAY, CHICAGO, IL 60607)

PARCEL 2: LOTS 1, 2 AND 3 IN ASSESSOR'S SUBDIVISION OF LOTS 17 TO 20 IN BROWN'S SUBDIVISION OF BLOCK 44 IN CARPENTER'S ADDITION TO CHICAGO IN THE SOUTHEAST 1/4 OF SECTION 8, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

(AFFECTS 120 N. MAY, CHICAGO, IL 60607)

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## EXHIBIT B (Lease Agreement)



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## LEASE AGREEMENT

This LEASE AGREEMENT is hereby entered into on the date below subscribed by and between STANDARD BANK AND TRUST COMPANY, not individually but as Trustee under a Trust Agreement dated January 3, 1996 and known as Trust Number 1716 (hereinafter referred to as "Lessor") and MAY STREET GROCERY COMPANY, an Illinois Corporation, d/b/a GOURMET 47 (hereinafter referred to as "Lessee").

## RECITALS

WHEREAS, Lessor is the owner of the legal and equitable title of certain improved real property commonly known as 112 N. May Street, Chicago, Illinois, and Lessor's beneficiary is the owner and holder of the entire beneficial interest of the land trust of which the lessor is trustee, said property being improved by a commercial building containing three floors available for lease, concession, and/or license for the purpose of operating therein retail establishments, and;

WHEREAS, Lessor and Lessee have agreed that Lessee shall lease the premises identified as the first floor within said demised premises as identified above (hereinafter identified as the "leasing premises"); and

WHEREAS, the parties desire to have their understanding in respect to said lease reduced to writing and executed by them respectively.

NOW, THEREFORE, in consideration of the premises and the mutual promises hereinafter set forth, the parties hereto covenant and agree as follows:

## ARTICLE I

### USE AND POSSESSION

1.01 Demise of Leased Premises: Lessor hereby leases and permits the use of to Lessee and Lessee hereby leases from Lessor, the leased premises, upon and subject to the terms and conditions set out in this lease, and to all dedications, easements, rights of way, reservations, encumbrances, liens, covenants, conditions, restrictions and other matters of record.

1.02 Permitted Use. During the term hereof, the leased premises shall be used by Lessee only and solely and continuously for the conduct and operation thereon of a grocery store, restaurant and establishment selling and purveying packaged liquors and tobacco, and in conjunction with such operation to offer the general public, services and sales of goods customarily prevailing and available in businesses of said type, or for such other purpose or

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purposes as Lessor may approve in writing, and for no other purpose or purposes whatsoever. Unless otherwise amended in writing, the terms of this lease shall specifically prohibit any and all sales of any other items, the sale of which could directly or indirectly serve to increase the Lessor's insurance premium costs

1.03 Lawful Use or Uses. Said use or uses shall be subject to and in compliance with the laws, ordinances, rules and regulations which are or may be imposed by any federal, state, municipal, or other local governmental or regulatory authority. Lessee shall conduct its business at all times in a high grade and reputable manner. It shall be Lessee's sole responsibility to apply for and acquire any and all licenses and permits required by any government authority for the purpose of carrying on Lessee's business and any ancillary activities thereto.

1.04 Prohibited Uses. Lessee shall not: (a) use or permit use of the leased premises for any purpose which is offensive, improper, or prohibited by state, county or municipal law, regulation or rule, or any other restriction imposed by any governmental or quasi-governmental body; (b) commit or suffer to be committed any nuisance or waste of any kind whatsoever in, on, or about or with respect to the leased premises; (c) injure, overload, deface or otherwise harm the leased premises; (d) commit any nuisance; (e) unreasonably annoy owners occupants of neighboring property; (f) use the leased premises in any manner that will suspend, void, or make inoperative any policy or policies of insurance of the kind generally in use in the State of Illinois at any time carried on any improvement on the premises, (g) burn any trash or refuse on the premises; (h) sell, distribute or give away any product which tends to create a nuisance; (i) conduct or permit any going-out -of- business, bankruptcy, fire or auction sales on the leased premises; (j) use any advertising medium in and about the premises which might be annoying or otherwise create a nuisance; (k) use any sidewalks or walkways, for the storage or disposal of trash or refuse or the selling or displaying of any merchandise or other objects, and (l) use or permit the use of any portion of the leased premises as living quarters, sleeping apartments or lodging rooms.

1.05 Conduct and Name of Business. Lessee shall continuously during the entire terms hereof, and any renewal term hereunder, conduct and carry on its business on the leased premises under the name and style of Gourmet 47, or under any other name or names which Lessee may choose. Lessee shall keep the leased premises open for business and shall (a) conduct business on the entire premises (b) keep the premises and the exterior and interior portions of the walks, windows, doors and all glass plate fixtures in a neat, clean sanitary and safe condition; (c) store, stock or warehouse only such goods, wares and merchandise as Lessee intends to and does utilize in the performance of business services or offers for sale ancillary to the performance of said services in and upon the premises; and (d) provide rodent and fly-free containers for refuse and waste generated from the operation

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of the Lessee's business activities.

## ARTICLE II

### CONDITION ON POSSESSION

Lessee and/ or Lessee's agents have examined and know the condition of the leased premises and Lessee has agreed to accept possession of same in said condition . Lessee acknowledges that no representation as to the condition and repair of the leased premises, or any portion of the property in which same is located, has been made by Lessor and there have been no promises or representations made by Lessor prior to the execution of this lease to decorate, alter, repair or improve the leased premises other than those which have been set out in this lease, ( if any).

## ARTICLE III

### LEASE TERM: OPTION TO RENEW

3.01 Term of Lease. The commencement date of this lease shall be January 1, 2006. The initial term of this lease shall be divided into two periods, the first period of six (6) months shall commence on January 1, 2006 and said term shall end at midnight on May 31, 2006, with the second period of six (6) month commencing on June 1, 2006 and ending at midnight on December 31, 2006, unless sooner terminated pursuant to the provisions contained herein.

3.02 Option to renew lease. Provided that Lessee shall first have performed all of Lessee's obligations hereunder and have complied with all of the provisions, terms, covenants, and conditions hereof, at the expiration of the initial term of this lease, Lessee is hereby granted the right and option to renew this lease for five (5) additional and consecutive terms of one (1) year each, such renewal terms to commence on January 1, 2007 and on each succeeding January 1st in the years 2008, 2009, 2010 and 2011 respectively and to end on December 31, 2007 and on each succeeding December 31st in the years 2008, 2009, 2010 and 2011, respectively. In the event that Lessee exercises any or all of said options to renew, all of the terms and provisions of this lease, except for the terms relating to rents due and payable, shall remain in full force and effect during such renewal term or terms. Rents and/or other charges to be paid during said renewal term or terms are set out in ARTICLE IV, below. In the event Lessee elects to exercise any of the renewal options granted herein, written notice of such election shall be tendered by Lessee to Lessor in

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conformity with the provisions of ARTICLE XXIII below. Said notice or notices shall be delivered not less than ninety (90) days prior to the expiration of the initial term of this lease or of any renewal term immediately preceding any term for which Lessee exercises its renewal option as granted herein.

## ARTICLE IV

### RENT AND OTHER CHARGES

4.01 Payment. All rent and other charges payable by Lessee hereunder shall be paid to Lessor's beneficiary, at Lessor's beneficiary mailing address, or to such other person or entity at such other address as Lessor's beneficiary may designate in writing from time to time, in lawful money of the United States, without (except as may be otherwise herein expressly provided) any set-off or deduction whatsoever and without any prior demand for such payment.

4.02 Monthly Rent and Charges. During the first six months of the initial term of this lease, Lessee shall pay to Lessor on the first of each month thereof Ten Thousand Dollars (\$10,000.00). The rental due for the second six (6) months of the initial term of this lease shall be adjusted to reflect the fair market value of the demised premises.

4.03 Late charges; interest. Any payment of rent due hereunder which is not made on or before the tenth (10th) day of the month on which it is due shall be subject to a late charge of five percent (5 %) of the amount of rent past due and owing which, along with the rent amount so due and unpaid, shall immediately become due and owing, said late charge being deemed as additional rent hereunder. In addition thereto, all the amounts of rent overdue and unpaid hereunder shall bear interest thereon at the rate of ten percent (10%) per annum from the date such payment was due until the date paid. If any payment of rent or other amounts due for any reason whatsoever by Lessor's depository to Lessor, Lessee shall pay to Lessor, in addition to any other amounts due, a service charge in the amount of \$25.00, said amount being Lessor's cost and expense incurred in the processing and return of such dishonored check or draft.

4.04 Monthly rent during renewal period. In the event Lessee exercises any of the options to renew granted in this lease, then the rents payable during any of the said renewal terms shall be adjusted to reflect the fair rental value for the demised premises for the first day of the second period of the lease (January 1, 2007 to December 31, 2007) and for the first day of each succeeding renewal period. If the parties cannot agree upon what the fair rental value shall be, then the matter shall be determined by arbitration. Thereafter, rent shall be increased or decreased as provided in this paragraph for each of the renewal periods.



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All of the provisions relating to late charges and interest set out in paragraph 4.03 hereof shall remain in full force and effect during any renewal term hereunder.

4.05 Taxes. In addition to the fixed net rental provided for herein, Lessee shall pay as additional rent thirty-three and one-third percent (33 1/3%) of all general real estate taxes and special assessments levied or assessed upon the leased property, including the parking area, and upon the buildings and improvements thereon, during the lease term and any extension thereof, from and after January 1, 2006; provided, however, that any such taxes due from Lessee shall be prorated for the year 2005 and the last year of this lease or any extension thereof, based upon the actual months Lessee shall be in possession hereunder during each of said years. Lessee shall pay such additional rent with ten (10) days of Lessee's receipt of Lessor's invoice therefor, together with supporting documents setting forth Lessee's pro rata share from the assessor's records. In the event Lessor's mortgagee shall at any time require Lessor to make monthly tax escrow deposits, then Lessee shall make monthly deposits with Lessor each and every month, in an amount equal to one-twelfth (1/12th) of one-third (1/3rd) of the previous year's general real estate tax bill, and said monthly deposits shall, in turn, be deposited by Lessor into the mortgagee's tax escrow account, with no obligation on the part of Lessor to pay interest thereon.

## ARTICLE V

### SECURITY DEPOSIT

It is agreed by and between the parties that Lessee shall not be required to deposit with Lessor's beneficiary any funds for and as a security deposit at the time of execution of this lease. Provided, however, that Lessor's beneficiary reserves the right to demand a security deposit from Lessee, said deposit not to exceed a sum equal to two (2) months rentals due hereunder, in the event of default by Lessee with respect to any provision of this Lease involving the payment of sums due or of any provision which subjects Lessor's beneficiary to any financial responsibility. Provided, further, however, that nothing herein shall preclude Lessor from demanding security deposit from any of Lessee's successors, transferees, or assigns if, in Lessor's beneficiary's sole business judgement and discretion, Lessor's beneficiary deems such deposit necessary or advisable in light of the credit worthiness and/or financial status of successor, transferee, or assigns, after appropriate investigation and ascertaining of same. If such security deposit is made by Lessee or by any of Lessee's successors, transferees, or assigns, pursuant to demand therefor by Lessor's beneficiary, then provided by Lessee, or any successor to Lessee, shall first faithfully perform all of Lessee's obligations hereunder, at the termination of this lease, Lessor's beneficiary shall refund said security deposit to Lessee or to any successor, transferee, or assignee, within thirty (30) days of the date of surrender of possession of the leased premises

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to Lessor's beneficiary. If Lessor or Lessor's beneficiary shall incur any expense as a consequence of Lessee's or its successor's breach or other failure to perform any obligations hereunder, Lessor's beneficiary shall have the right to deduct from the security deposit the actual amount of such expenses, refunding the balance remaining after such deductions are made; provide, however, that Lessor's beneficiary shall provide written notice of all itemized expenses so incurred and against which Lessor's beneficiary intends to apply all of any portion of said security deposit within thirty (30) days after the date of expiration or other termination of this lease or any renewal or extension thereof. It is expressly understood between the parties that any security deposit made hereunder shall not be deemed to be paid or applied as rent or other amounts due under this lease and same shall not be so applied.

## ARTICLE VI

### LESSEE'S IMPROVEMENTS OR ALTERATIONS

Remodeling, Liens, etc. Lessee may make such alterations, structural or otherwise, to the leased property as Lessee shall deem desirable for the proper conduct of Lessee's business; provided, however, that all such alterations and new construction shall be done in accordance with the provisions of this lease and pursuant to the applicable Building Code regulations and municipal ordinances; and provided further, that no structural alterations shall be made or commenced by Lessee without the prior written consent by Lessor's beneficiary of architectural drawings and specifications relating to the proposed remodeling or alterations. Lessor's beneficiary's consent and approval shall not be unreasonably withheld. In the event any alteration would require the consent and approval of the municipality in which the leased premises are situated, Lessee shall procure such consent before undertaking such alteration. Lessee shall indemnify Lessor's beneficiary against any all mechanic's liens or other lien arising out of the making of any alteration, repair, addition, or improvement by Lessee. In the case of the filing of any such liens, Lessee shall have the right to defend any and all actions or suits filed in connection therewith, upon depositing a sum of money in escrow equal to 110% of the amount of any such lien, or upon providing some other form of indemnification or security acceptable to Lessor's beneficiary. In the event Lessee shall fail to defend such suits or claims, or shall fail to provide such escrowed funds or other security in timely fashion, so as to protect Lessor's property as against such liens, then, Lessor's beneficiary may remove the lien by paying the full amount thereof or otherwise, and without investigation or contest of the validity thereof, whereupon Lessee shall pay Lessor's beneficiary upon demand the amount paid out by Lessor's beneficiary in such behalf, including Lessor's beneficiary costs, expenses and legal fees.

It is further specifically agreed as follows, in connection with any and all alterations,

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construction, and/or remodeling to wit:

A. All structural alterations and/or new construction, shall be done in a good, substantial, and workmanlike manner pursuant to valid building permits issued upon plans and specifications to be submitted by Lessee to and approved by Lessor's beneficiary and by the City of Chicago, Illinois, in accordance with the provisions of this lease and in full compliance with all applicable building code regulations and municipal ordinances ;

B. All work to be done shall be pursuant to written contracts, and, whenever possible, all contracts entered into by Lessee with any contractors or subcontractors engaged to do any remodeling or construction work affecting the leased premises shall contain an express waiver of lien rights by such contractors and/or subcontractors;

C. Prior to commencing any work in connection with any structural remodeling or construction, Lessee shall furnish Lessor's beneficiary with copies of all contracts entered into in connection therewith, setting forth the cost of the work to be done, and in addition thereto, Lessee shall furnish Lessor with evidence reasonably acceptable to Lessor's beneficiary of Lessee's ability to pay for the entire cost of the of the contemplated alterations , remodeling, and construction work;

D. Lessee hereby covenants and agrees to protect, save and keep the Lessor (and Lessor's title holding trust, beneficiary and agents thereof) forever harmless and indemnified against and from any and all claims , costs, damages, actions, suits, or other legal action arising out of the remodeling or construction work being done by Lessee and/or as a result of Lessee's failure to comply with and perform all of the requirements of this paragraph

E. Prior to commencing any work in connection with any remodeling or construction, Lessee shall require any and all contractors and subcontractors' performing any of the work to provide Lessor's beneficiary with certificates of insurance evidencing the existence of adequate insurance coverage with an insurance company acceptable to Lessor's beneficiary, with regard to public liability for damages for personal injury, including death, which may arise from such remodeling or construction, and with regard to the contractor's and subcontractors' employees under the Workmen's Compensation and Scaffold Acts of the State of Illinois, and Lessee shall provide Lessor's beneficiary with certificates of insurance, naming the contractor, the subcontractors, Lessor's beneficiary and his Trustee under Trust #1716, and all beneficiaries thereunder, as additional parties insured. In addition, the contractor and/or Lessee shall place and maintain so-called "Builder's Risk" insurance, covering Lessor, Lessor's beneficiary, Lessee and contractor, as their respective interests may appear, against fire, theft and other casualty losses regarding the work in place and materials and chattels in and about the premises, to the extent of 100% of the value

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thereof, throughout the construction period.

## ARTICLE VII

### FIXTURES

Installation of Fixtures: Lien. Lessee shall, at its sole cost and expense, furnish any fixtures, appurtenances, and equipment necessary for the operation of the business to be conducted on the leased premises. Such fixtures, appurtenances, and equipment so installed by Lessee shall be clear and free of all liens and encumbrances. Subsequent to such installation, Lessee shall not suffer or otherwise cause any lien or encumbrance to be imposed on any of the fixtures, appurtenances, and equipment installed pursuant to this Article and shall promptly discharge, compromise and/or settle any lien or claim for lien made by any third party or parties against such fixtures, appurtenances and equipment. Upon termination of this lease, any fixtures, appurtenances, and equipment which are permanently affixed to or installed in the premises shall, at Lessor's beneficiary option, either become Lessor's property, without compensation therefor to Lessee, or shall be removed from the premises by Lessee, at Lessee's expense. For purpose of this Article, "permanently affixed" shall be defined as being installed in such manner so as to permanently and materially alter the appearance or structure of any wall, floor, ceiling, partition, window, entranceway, or any other component or structural feature of the demised premises, ordinary wear and tear excepted. In the event the Lessee removes and all such fixtures, appurtenances, or equipment, Lessee, at Lessee's sole expense, shall restore the premises to the same or substantially similar condition as existed prior to the installation of same by Lessee, normal wear and tear excepted.

## ARTICLE VIII

### MAINTENANCE AND REPAIR OF LEASED PREMISES

8.01 Maintenance by Lessee. Except to the extent that any required repair is covered under the terms of any existing guaranty or warranty issued by any manufacturer or contractor, Lessee shall at Lessee's sole expense at all times maintain and make all repairs and replacements and keep the leased premises (including but not limited to maintenance of all interior walls; floors; partitions; ceilings; plate glass; windows; doors; air conditioning systems; plumbing systems; fixtures and appurtenances; all other fixtures, equipment and appurtenances thereof) in good order, condition, repair and replacement if necessary. Provided, however, that if any portion of the premises which would otherwise be within the Lessor's beneficiary's responsibility to repair or maintain (as enumerated in paragraph

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below) is damaged or destroyed due to the negligence, acts, or omissions of Lessee or of Lessee's agents and employees, then Lessee shall be either (a) responsible to restore such damaged or destroyed item in the same condition as existed prior to the damage, or (b) pay the cost of such repair or replacement to Lessor's beneficiary within ten (10) days of receipt of demand for such payment, such amount to be deemed as additional rent hereunder.

8.02 Maintenance by Lessor. It shall be Lessor's beneficiary's responsibility to repair and maintain and maintain all exterior walls, roofs, parking lots and areas, exterior sidewalks and walkways, common areas, and all structural components of property in which leased premises are located. Provided, however, that Lessee shall be responsible to repair or to pay for the repair of (as per the provisions of paragraph 8.01 above) all items enumerated in this Section, if damage to or loss of same is occasioned by any negligent acts or omissions of Lessee or Lessee's agents or employees. With respect to any repairs which are Lessee's responsibility pursuant to this Article, if Lessee refuses or neglects to maintain, repair or replace any such property to the reasonable satisfaction of Lessor's beneficiary as soon as reasonably possible after written demand by Lessor's beneficiary, Lessor's beneficiary may after five (5) days written notice to Lessee make such repairs without liability to Lessee for any loss or damage that may accrue to Lessee's merchandise, fixtures or other property or Lessee's business by reason thereof, and upon completion thereof Lessee shall pay the cost of such repairs, upon presentation of a bill for such costs such amounts to be deemed as additional rent due hereunder.

## ARTICLE IX

### UTILITIES AND OPERATING EXPENSES

9.01 Utilities. It shall be Lessee's responsibility to in Lessee's name, contract and pay for all utility services to the leased premises including, but not limited to, water, steam, heat, gas, hot water, electricity, light, power and scavenger services, and any other services provided to the business premises. Lessee shall also be obligated hereunder to, in Lessee's name contract and pay for all water and sewer charges which are directly metered and/or attributable to the leased premises. Any such charges not paid for by Lessee, which become a lien against the property, shall be deemed as additional rent hereunder and collectable pursuant to the provisions of Section 4.03 hereof.

9.02 Operating expenses. All operating costs and expenses incurred in the operation and maintenance of the leased premises shall be the sole responsibility of the Lessee and Lessee shall hold Lessor harmless on account of any claims for such costs and expenses incurred in such operations. Lessee shall not suffer nor cause to be imposed any liens of any kind whatsoever on account of any costs, expenses, or debts incurred in the

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operation of the leased premises and shall be liable to Lessor's beneficiary for any expense incurred by Lessor's beneficiary in contesting, compromising, paying or settling any claim, whether pursuant to lien or otherwise, including reasonable attorney fees incurred by Lessor's beneficiary.

## ARTICLE X

### DAMAGE TO OR DESTRUCTION OF PROPERTY

In the event the leased premises are damaged by fire, explosion or any other casualty to an extent which is less than fifty percent (50%) of the cost of replacement of the leased premises, the damage shall promptly be repaired by Lessor's beneficiary at Lessor's beneficiary's expense, provided that Lessor's beneficiary shall not be obligated to expend for such repair an amount in excess of the insurance proceeds recovered or recoverable as a result of such damage and that in no event shall Lessor's beneficiary be required to repair or replace Lessee's stock in trade, fixtures, furniture, furnishings, floor coverings and equipment. In the event of any such damage and (a) Lessor's beneficiary is not required to repair as hereinabove provided or (b) the leased premises shall be damaged to the extent of fifty percent (50%) or more of the cost of replacement, or (c) the building of which the leased premises are a part is damaged to the extent of twenty-five percent (25%) or more of the cost of replacement, Lessor's beneficiary may elect either to repair or rebuild the leased premises or the building, or to terminate this lease upon giving notice of such election in writing to Lessee within ninety (90) days after the occurrence of the event causing the damage. If the casualty, repairing, or rebuilding shall render the leased premises untenantable, in whole or in part, and the damage shall not have been due to the default or neglect of Lessee, a proportionate abatement of rent shall be allowed from the date when the damage occurred until the date Lessor's beneficiary completes its work, said proportion to be computed on the basis of the relation which the gross square foot area of the space rendered untenantable bears to the floor space of the leased premises. If Lessor's beneficiary is required or elects to repair the leased premises as herein provided, Lessee shall repair or replace its stock in trade, fixtures, furniture, furnishings, floor coverings and equipment, and if Lessee has closed, Lessee shall promptly reopen for business.

## ARTICLE XI

### CONDEMNATION

11.01 Compensation to be paid as a result of appropriation. In the event of any taking of or damage to all or any part or estate of the leased premises by eminent domain, condemnation proceeding, or otherwise, or any transfer of all or any part of the leased

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premises, or any interest therein, in avoidance of the exercise of the right of eminent domain during the term thereof, Lessor's beneficiary shall be entitled to any and all compensation paid or award given, by virtue of such appropriation. Provided, however, any compensation or award given with respect to personal property in, or about the leased premises owned by Lessee shall inure to the benefit of Lessee, subject to any security interest of Lessor's beneficiary therein.

11.02 Appropriation of all the leased premises. In the event of an appropriation of all of the leased premises, this lease shall cease and terminate after such appropriation and adjustment of rental shall be made as of the date thereof.

11.03 Appropriation of less than all of the leased premises. In the event of an appropriation of less than all of the leased premises, if such appropriation shall substantially diminish the use of the leased premises, ("substantially" being defined as appropriation of more than 25 per cent (25%) of the property), Lessee shall have the right to terminate this lease, which election shall be made by written notice to Lessor's beneficiary not more than thirty (30) days after such appropriation. If this lease is not so terminated, Lessor's beneficiary shall promptly take steps to preserve that portion of the premises not so appropriated, provided, always that Lessor's beneficiary shall not be required to make any expenditures in excess of the amount of any award paid to either or both of them respectively as a consequence of such appropriation.

11.04 Proration of Rent. In the event of an appropriation of less than all of the leased premises which does result in an election to terminate this lease. The annual base rental shall be reduced in the proportion that the leased premises after appropriation bears to the area of the leased premises immediately prior to appropriation.

## ARTICLE XII

### INSURANCE

12.01 Insurance to be carried by Lessee. Lessee shall obtain and maintain at all times during the term of this lease, insurance policies with acceptable insurance carriers (defined as companies rated "B+9" or better by A.M. Best Company) which said policies shall provide coverage as follows:

A. Personal property and plate glass insurance. Lessee shall insure all plate glass and all of Lessee's improvements and alterations which may be erected or placed on the premises together with all inventory, stock, furnishings, fixtures and equipment, against loss or damage by fire and other hazards, casualties, contingencies, risks embraced within

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the coverage of the standard "extended Coverage" policies presently available in the State of Illinois in an amount equal to at least 80% of the full insurable value of such plate glass and such improvements, alterations, inventory, stock, furnishings, fixtures and equipment and in any event such policies of insurance shall be an aggregate amount of not less than Five Hundred Thousand Dollars (\$500,000.00). To the extent of the improvements and alterations installed by Lessee, Lessor or any of its beneficiaries, successors, assigns, and any of their agents shall be named as additional insured parties on such policy or policies.

B. **Liability Insurance.** Lessee shall carry comprehensive general liability insurance against any loss or liability for damages and any expense of defending against any claim for damages, which might result from the use or occupation or condition of the leased premises, such amount or amounts as shall not be less than is customary and usual for operations of the type, character and scope to be carried on by Lessee or any of Lessee's employees or agents in or at the leased premises, but in no event in an amount of less than Two Hundred Fifty Thousand Dollars (\$250,000.00) in respect of any injury or death occurring as a result or arising out of an injury to or death of one person and Two Million Dollars (\$2,000,000.00) in respect of personal injuries or deaths occurring as a result or arising out on any one accident or event. Lessor's beneficiary and Lessee and their respective agents shall be named as additional insured parties on such policies.

C. **Dramshop Insurance.** Lessee shall purchase and carry an appropriate and suitable policy or policies of dramshop insurance sufficient in face amount to cover any and all statutory liabilities imposed on Lessee or Lessor and Lessor's beneficiary under any statute or ordinance in effect in the State of Illinois or any subdivision thereof which imposes such liability, during the term of this lease or during any renewal term hereunder. Lessor and Lessor's beneficiary shall be named as an additional insured party on such policy or policies to the extent of Lessor's interests and potential legal liability.

12.02 **Policies not cancellable without notice.** All insurance policies required to be purchased by Lessee shall provide that same are not cancellable without giving Lessor's beneficiary at least thirty (30) days prior notice of such intended cancellation.

12.03 **Certificates of insurance to be produced.** Lessee shall provide to Lessor's beneficiary within thirty (30) days after execution of this lease, all certificates of insurance evidencing the coverage required to be obtained hereunder by Lessee and endorsed to provide thirty (30) days notice to Lessor's beneficiary of any change, cancellation or expiration thereof (by certified mail, return receipt requested). Lessee shall also provide Lessor's beneficiary with evidence of payment of the premiums for said insurance prior to the expiration of the policy renewal or replacement date. If, at the time of transfer of possession to Lessee, such certificate or certificates are not yet available, Lessee shall



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provide Lessor with written insurance policy binders supplied by Lessee's insurance carriers for any policy or policies required hereunder.

## ARTICLE XIII

### INDEMNIFICATION

13.01 Indemnification. Lessee shall indemnify and hold Lessor and Lessor's beneficiary harmless from and against any and all actions, liabilities, obligations, losses, damages, penalties, liens, claims, and demands whatsoever arising out of the use, occupancy, non-use or condition of the premises or any construction, repairs, installation, addition or restoration therein or thereon resulting from any act, omission or negligence of Lessee, its contractors, licensees, agents, servants, employees, or customers during the term of this lease, and any and all costs, expenses and fees, including attorney's fees, incurred by any of said indemnities incident thereto. Lessee shall give Lessor prompt written notice of an accident, fire or damages occurring anywhere on the entire premises of which Lessee has knowledge.

13.02 Waiver of Claims. Lessor, Lessor's beneficiary and Lessor's agents and employees shall not be liable for and Lessee waives all claims for, damage to person or property sustained by Lessee or any person claiming through Lessee resulting from any accident or occurrence in or upon the leased premises not caused by the fault or negligence of Lessor or Lessor's beneficiary, including, but not limited to, claims for damages resulting from (a) any equipment or appurtenances being or becoming out of repair; (b) injury caused by wind, water or other natural element; (c) any defect in or failure of plumbing, heating or air conditioning equipment, electric wiring or installation thereof, gas or water pipes, stairs, railings or walks; (d) broken glass; (e) the backing up of any sewer pipe or downspout; (f) the bursting, leaking or running of any tank, tub, washstand water closet, waste pipe, drain or any other pipe or tank in, upon or about the leased premises; (g) water being upon or coming through the roof, stairs, walks or any other place upon or near the leased premises or otherwise; (h) the falling of any fixture, plaster or structural component; (i) interruption of service of any utility not caused by Lessor's beneficiary failure to pay for same or other reason totally within the control of Lessor's beneficiary; and (j) any act, omission or negligence of Lessor's beneficiary's customers, co-tenants, subtenants, licensees, or of other persons or occupants of said building or of adjoining or contiguous buildings or of owners of adjacent or contiguous property.

## ARTICLE XIV

### SUBORDINATION, ASSIGNMENT OF LEASE

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14.01 Lender's Requirements. If any mortgagee or committed financier of Lessor's beneficiary shall require, as a condition precedent to issuing of any loan or the disbursement of any money under any loan, that this lease be amended or supplemented in any manner, Lessor's beneficiary shall give written notice thereof to Lessee, which notice shall be accompanied by a supplemental agreement embodying such amendments and supplements. Provided, however, that nothing contained in this Section shall be construed to permit any amendments or supplements to this lease which affect the term hereof, the amount of rent or other charges to be paid by Lessee during the term hereof, or any other material provision of the lease affecting any of Lessee's rights or remedies. If Lessee shall not, within ten (10) days after the effective date of Lessor's beneficiary's notice, consent to such amendments and supplements and execute the tendered lease amendments or supplements, such failure to exercise shall, at Lessor's option, be deemed to be an event of default under the terms of this lease and Lessor's beneficiary shall have the right to cancel and terminate the lease by serving thirty (30) days written notice on Lessee of its intent to cancel the lease.

14.02 Subordination of Lease to Mortgage. If any mortgage or committed financier of Lessor's beneficiary shall so require, Lessee's interest under this lease shall be subordinate to any mortgage or mortgages now or hereafter placed on the leased premises, or any part thereof, by Lessor's beneficiary (and to all renewals, modifications, consolidations, replacements or extensions thereof). Lessee agrees to execute and deliver, in suitable form for recording, such documents as may be necessary to subordinate this lease to the lien of any such mortgage. It is understood, however, that any such subordination shall be upon the express condition that the rights of Lessee remain in full force and effect throughout the term notwithstanding any default in the payment or performance of such mortgage, or the foreclosure of such mortgage, provided always that Lessee shall perform all of the terms, covenants and conditions of this lease. In the event Lessee fails to execute and deliver such instrument or instruments as may be necessary to accomplish any subordination contemplated under this Section within ten (10) days after demand in writing, Lessee does hereby make, constitute and irrevocably appoint Lessor's beneficiary and/or Lessor as attorney-in-fact in Lessee's name, place and stead so to do.

14.03 Transfer of Lessor's Interest. Lessor's beneficiary may assign this lease in connection with the sale or other disposition of all or any part of the premises of Lessor's beneficiary's interest therein, and upon notice of such assignment to Lessee, Lessor shall have no further obligations to Lessee under this lease. In the event of such a sale or disposition, or in the event of any proceedings brought for the foreclosure of, or in the event of exercise of the power of sale under any mortgage made by Lessor's beneficiary covering the leased premises, Lessee shall recognize such purchaser as Lessor's beneficiary under this lease.

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## ARTICLE XV

### DEFAULT

15.01 Events constituting default by Lessee. It shall be a default by Lessee under this lease, (a) if Lessee shall fail to pay the specified rent or other amounts due hereunder; (b) or if Lessee fails to observe or perform any of the other obligations of Lessee otherwise provided for in this lease; (c) or if Lessee makes any assignment for the benefit of creditors, commits any act of bankruptcy, or files a petition under any bankruptcy or insolvency law, or if such a petition is filed against Lessee and is not dismissed within ninety (90) days; (d) or if Lessee does not pay, after demand, any other liability to Lessor arising out of, or in connection with the construction or operation of the premises; (e) or if a receiver or similar officer is appointed and becomes entitled to this leasehold or any interest therein; (f) or if Lessee's interest in this lease is taken on execution or other process of law in any action against Lessee; (g) or if Lessee does, or permits to be done, any act which creates a mechanic's lien or claim on the premises; (h) or if Lessee abandons or vacates or does not do business in the premises for a continuous period of twenty-one (21) days; (i) or if the demised premises come into the possession of any person or entity other than one expressly permitted to have such possession pursuant to this lease.

15.02 No Waiver of Default. No delay or omission by Lessor's beneficiary to exercise any right or power accrued to it upon any noncompliance or default by Lessee with respect to any of the agreements in this lease shall impair any such right or power or be interpreted to be a waiver thereof or consent to any such non-compliance or default. No provision of this lease shall be waived or be construed to have been waived unless such waiver shall be in writing and signed by the party to be charged therewith. Furthermore, any waiver of any default, shall not be construed to be a waiver of any succeeding default.

## ARTICLE XVI

### LESSOR'S RIGHTS AND REMEDIES

16.01 Lessor's Rights. Lessor's beneficiary shall have the right at any time and upon

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ten (10) days written notice to Lessee to make any payment or perform any act required of Lessee under any provision of this lease, and, in exercising such right, to incur necessary and incidental costs and expenses, including reasonable attorney's fees. Nothing herein, however, shall imply any obligation on the part of Lessor's beneficiary to make any payment or perform any act required of Lessee, and the exercise of the right to do so shall not constitute a release of any obligation or a waiver of any default. All payments made and all costs and expenses incurred by Lessor's beneficiary in connection with any exercise of such right, together with interest thereon at the rate of ten percent (10 %) per annum from the respective dates of the making of such payments or the incurring of such costs and expenses, shall be reimbursed by Lessee immediately upon demand as additional rent. In the event Lessee fails to make reimbursement of any amount demanded as aforesaid, Lessor's beneficiary shall have in addition to all other rights and remedies available, the same rights and remedies as in the case of default by Lessee in the payment of rent.

16.02 Additional Rental. For the purposes of this lease agreement, all amounts which Lessee is responsible to pay hereunder shall be treated as additional rent and, in the event of non-payment, Lessor's beneficiary shall have all of the rights and remedies herein or by law provided in the case of non-payment of rent or breach of condition.

16.03 Lessor's Remedies. In addition to any other remedies available to Lessor's beneficiary pursuant to the provisions of this lease, or otherwise under applicable law, Lessor's beneficiary shall have the following specific remedies:

A. In the event of default by Lessee hereunder which shall remain uncured after thirty (30) days notice of the default (except any default involving merely the payments of a sum certain, including rent, in which case only five (5) days notice shall be required), in addition to all other remedies which may be available to Lessor's beneficiary in law or in equity, Lessor's beneficiary may, at once thereafter or at any time subsequent during the existence of such breach or default: (1) enter into and upon the leased premises or any part thereof and repossess the same, expelling and removing therefrom all persons and property (either holding any such property pursuant to lien or storing it at Lessee's risk and expense or otherwise disposing thereof), using such force as may be necessary as to which Lessee hereby waives any claim for damage or loss which may thereby occur, and (2) either (a) terminate this lease, holding Lessee liable for damages for its breach or (b) treating the lease as having been breached anticipatorily and the leased premises abandoned by Lessee without thereby altering Lessee's continuing obligations for the payments of rentals and the performance of covenants to be performed by Lessee under this lease during the full term hereof.

B. If Lessor's beneficiary elects to treat this lease as having been breached

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anticipatorily, without terminating this lease, Lessor's beneficiary may, but shall be under no obligation so to do, relet all or any part of leased premises for such rent and upon such terms as shall be satisfactory to Lessor (including the right to relet all leased premises for a term greater or lesser than that remaining under the lease term, and the right to relet the leased premises as a part of a larger area, and the right to change the character or use made of the leased premises). Lessor's beneficiary may, for the purpose of such reletting, decorate and make any repairs, changes, alterations and additions in or to the leased premises. If the leased premises are relet and a sufficient sum shall not be realized from such reletting after paying out all of the expenses of such decorations, repairs, changes, alterations, additions, the expenses of such reletting and the collection of the rent accruing therefrom to satisfy the total rent herein provided to be paid for the remainder of the lease term, Lessee shall pay to Lessor's beneficiary, on demand, any deficiency, and Lessee agrees that Lessor's beneficiary may, from time to time, file suit to recover any sums falling due under the terms of this Section.

16.04 Acceptance of monies by Lessor after termination or notice thereof. No receipt of monies by Lessor's beneficiary from Lessee after termination of this lease or after the giving of any notice of termination of same, shall constitute a reinstatement, continuation, or extension of this lease, of the lease term, or of any renewal term hereunder, nor shall such acceptance affect the validity or operation of any notice theretofore given to Lessee. Furthermore, such acceptance of monies shall not operate as a waiver of Lessor's beneficiary's right to enforce the payment of rents and other charges due or reserved hereunder which may then be due or which may become due after such acceptance. Furthermore, such acceptance shall not operate as a waiver of Lessor's beneficiary's right to recover possession of the leased premises pursuant to any remedy provided for in this lease or otherwise available under law. In conjunction with the foregoing, it is hereby expressly agreed by and between the parties that after the service of notice to terminate this lease, or the commencement of suit or other proceedings, or after a final order or judgment for possession in favor of Lessor's beneficiary, Lessor's beneficiary may demand, receive, collect and/or sue to collect any monies due or thereafter falling due without in any manner affecting such notice, proceeding, order, suit, or judgment, all such monies collected being deemed payments on account of the use and occupancy of the leased premises or, at Lessor's beneficiary's sole election, on account of Lessee's liability hereunder.

16.05 Payment of costs, attorney's fees. Lessee shall pay to Lessor's beneficiary upon demand all costs, expenses and fees, including reasonable attorney's fees, which Lessor's beneficiary may incur in connection with the exercising of any remedies hereunder or otherwise on account of or in connection with any breach or default of Lessee, and interest on all amounts due from Lessee to Lessor's beneficiary at the maximum rate of ten percent (10%) per annum.

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16.06 Remedies Cumulative. The remedies herein granted to Lessor's beneficiary shall not be exclusive or mutually exclusive and Lessor shall have such other and additional remedies against Lessee as may be permitted in law or in equity at any time. In particular, any exercise of a right of termination by Lessor's beneficiary shall not be construed to dispel or discharge any right of Lessor's beneficiary to damages on account of any default of Lessee.

16.07 No counterclaim. If Lessor's beneficiary commences any proceeding for non-payment of rent or other amounts due hereunder, whether deemed as "additional rent" or otherwise, Lessee will not interpose any counterclaim of any nature or description in such proceedings. Nothing herein shall be construed to be a waiver of Lessee's right to assert any such claims in a separate action brought by Lessee. The covenants to pay rent and other amounts hereunder are deemed independent covenants and Lessee shall have no right to hold back, offset, or fail to pay any such amounts on account of default by Lessor's beneficiary or any other reason whatsoever.

## ARTICLE XVII

### LESSOR'S RIGHT OF ENTRY AND INSPECTION

Lessor's beneficiary and its respective mortgagees, agents, employees, and representatives may enter the leased premises upon reasonable notice to Lessee at reasonable times during normal business hours for the purpose of inspecting the same, of making repairs therein, additions or alterations thereto, of erecting scaffolding and/or protective barricades around and about the leased premises, and of showing the leased premises to prospective purchasers, lenders and tenants. Provided, however, that nothing herein shall be construed as giving Lessor's beneficiary any right to hinder, interfere with, or otherwise disrupt Lessee's business operations.

## ARTICLE XVIII

### ASSIGNMENT AND SUBLETTING BY LESSEE

18.01 Lessee may assign or sublease all or any part of the premises, provided however, Lessee shall remain liable on all its covenants under this lease unless in Lessor's beneficiary's reasonable judgment, the assignee of Lessee's rights and obligations hereunder is at least as financially responsible as Lessor's beneficiary's other tenants located in the subject premises or if such proposed assignee can provide Lessor's beneficiary with

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acceptable collateral or other adequate security sufficient to induce Lessor's beneficiary to grant such release of Lessee. In the event Lessor's beneficiary elects to purchase Lessee's business or otherwise accept assignment of this Lease in Lessor's beneficiary or in Lessor's nominee's name, then Lessor's beneficiary shall grant Lessee a written release of Lessee's obligations hereunder.

18.02 Lessor's additional remedies. In the event of a violation of this Article, Lessor's may and is hereby empowered to collect rent from the assignee, subtenant, licensee, concessionee, or other occupant and any such collection shall not be deemed a waiver of the covenant of this Article nor an acceptance of the assignee, subtenant, licensee, concessionee, or other occupant as a tenant or a release of Lessee from further performance of its obligations under this lease.

## ARTICLE XIX

### SURRENDER ON POSSESSION UPON TERMINATION OF LEASE

Surrender of possession: removal of Lessee's property. Upon the expiration or sooner termination of this lease, Lessee, at Lessee's sole expense may remove from the premises all merchandise and other furnishings, and equipment not affixed or attached to any part of the premises and which belong to Lessee, and at Lessor's beneficiary's option and Lessee's sole expense, shall remove such items, together with all fixtures, floor coverings and exterior signs, shall repair any damages to the premises caused by such removal, and shall quietly and peaceably surrender possession of the premises in good order and repair and in a clean and sanitary condition, reasonable wear and tear and damage by fire and other casualty and the elements excepted (to the extent such damage is insured and Lessor's beneficiary has the benefit of the proceeds of such insurance); provided, that Lessee's right of removal under this Section shall be exercisable only if Lessee is not in default hereunder.

## ARTICLE XX

### NO HOLDOVER

There shall not be any holding over by Lessee or any assignee, subtenant, licensee, or concessionee beyond the expiration or sooner termination of the term of this lease or any renewal term hereunder. If nevertheless there occurs any holding over by Lessee or any assignee, subtenant, licensee, or concessionee, such hold over shall operate as and give rise to a tenancy at the sufferance of Lessor's beneficiary upon the same terms and conditions as are provided for herein with a monthly rental for the period of such holding over at a rate

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of \$700.00 per day for every day of such holdover.

## ARTICLE XXI

### QUIET ENJOYMENT

So long as Lessee is not in default under this Lease, the use, possession, and quiet enjoyment of the leased premises during the term of this lease for the purposes specified herein shall not be interfered with or disturbed by Lessor's beneficiary or any person claiming by, through or under Lessor, subject to any mortgage, ground lease, or agreement to which this lease is subordinated.

## ARTICLE XXII

### NO JOINT VENTURE

It is hereby agreed between the parties that nothing contained in this lease shall be deemed or construed to create a partnership or joint venture between Lessor's beneficiary and Lessee, or between Lessor's beneficiary and any other party, whether claiming through Lessee or otherwise, or cause Lessor's beneficiary to be responsible in any way for the debts or obligations of Lessee or any other party.

## ARTICLE XXIII

### MISCELLANEOUS PROVISIONS

23.01 Binding Effect. Each and all of the expressions, terms and provisions of this lease shall extend to and bind and inure to the benefit of not only the immediate parties, but to their successors and assigns, and whenever in this lease a reference to any other parties hereto is made, such reference whenever applicable, shall be deemed to include the successors and assigns of such party, the same as if they were in every case expressed, subject nevertheless to all agreement and restrictions herein contained with respect to the transfer of any of Lessee's rights and interest herein.

23.02 Designation of Parties. It is understood that the terms, Lessor's beneficiary and Lessee, used in the singular, shall be interpreted to mean Lessors and Lessees, if necessary, to construe this lease, and the necessary grammatical changes required to make the provisions hereof apply either to corporations or individuals, masculine or feminine, shall in all case by assumed as though fully expressed. The word "Lessor" as used in this



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lease means only the underlying leasehold holder for the time being. In the event of any assignment of Lessor's beneficiary's interest in the underlying lease or this lease, the assignors shall no longer be liable for the performance or observance of any agreements or conditions on the part of Lessor's beneficiary to be performed or observed.

23.03 Notices. Except as otherwise provided in other Sections of this Lease, any and all notices, requests or demands required hereunder shall be made in writing and shall be delivered in person or sent by certified mail, return receipt requested, with proper postage prepaid and affixed, addressed as follows:

To Lessor: Standard Bank and Trust Company  
Land Trust Division  
7800 West 95<sup>th</sup> Street  
Hickory Hills, IL 60457

To Lessor's Beneficiary: Mr. Steve Sakoutis  
1865 Fernice Road  
Lansing IL 60438

To Lessee: May Street Grocery Company  
112 North May Street  
Chicago, IL 60607

The address of any party as set out above may be changed from time to time by written notice in that regard. All payments required to be made hereunder to Lessee shall be made to Lessor's beneficiary at the address of Lessor's beneficiary as set out above, or to such other address as Lessor's beneficiary from time to time may specify.

23.04 Entire Agreement. This Lease includes the entire agreement between the parties hereto and it is agreed that neither Lessor's beneficiary nor anyone acting on its behalf has made any statement, promise, or agreement or taken upon itself any engagement whatever, verbally or in writing, in conflict with the terms of this lease, or that in any way modifies, varies, alters, enlarges, or invalidates any of the provisions hereof, and that no obligations of the Lessor's beneficiary shall be implied in addition to the obligations herein expressed.

23.05 No recording. Lessor's beneficiary and Lessee agree that neither party shall record nor attempt to record this lease or any short form or memorandum thereof.

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23.06 Certificate of Estoppel. Within ten (10) days after such request by Lessor's beneficiary, or in the event that upon any sale, assignment, or hypothecation of the leased premises and/or the land thereunder by Lessor's beneficiary, Lessee agrees to deliver in recordable form a certificate to any proposed mortgagee or purchaser or to Lessor's beneficiary certifying (if such be the case) that the lease is in full force and effect and that there are no defenses or offsets thereto (or, in the alternative, setting out with specificity any claims or offsets claimed by Lessee) and such other relevant facts as may be therein requested.

23.07 Time of the Essence. Time is and shall be deemed of the essence in respect of the performance of each covenant of this lease.

23.08 Mutual Waiver of Subrogation Rights. Whenever (a) any loss, cost, damage or expense resulting from fire, explosion or any other casualty or occurrence is incurred by either of the parties to this lease in connection with the leased premises, and (b) such party is then covered in whole or in part by insurance against such loss, cost, damage or expense, then the insured party so insured hereby releases the other party from any liability it may have on account of such loss, cost, damage or expense to the extent of any amount recovered by reason of such insurance and waives any right of subrogation which might otherwise exist in or accrue to any person on account thereof. Provided, however, that such release of liability and waiver of subrogation rights shall not apply in any case where the effect of such release is to invalidate such insurance coverage or increase the cost thereof. Provided further, however, that in the case of increased cost of such insurance, the other party shall have the right, within thirty (30) days following written notice, to pay such increased cost, thereupon keeping such release and waiver in full force and effect. Provided further, however that such release of liability and waiver of subrogation rights shall not apply in any case where the loss, cost, damage or expense shall have been caused by either of the parties.

23.09 Brokerage. Lessee warrants that Lessee has had no dealing with any broker or agent in connection with this lease and covenants to pay, hold harmless and indemnify Lessor's beneficiary from and against any and all cost, expense of liability for any compensation, commissions and charges claimed by any broker or agent with respect to this lease or the negotiation or execution thereof.

23.10 Applicable Law and Construction. The laws of the State of Illinois shall govern the validity, performance and enforcement of this lease. The invalidity or unenforceability of any provision of this lease shall not affect or impair any other provision.

23.11 Force majeure. If either party hereto shall be delayed or hindered in or prevented from the performance of any act required hereunder by reason of strikes, lockouts,

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labor disputes, inability to procure material, failure of power, restrictive governmental laws or regulations, riots, insurrection, war or other reason of a like nature not the fault of the party so delayed in performing work or doing acts required under this lease, the period for the performance of any such act shall be extended for a period equivalent to the period of such delay. Notwithstanding the foregoing, the provisions of this Section shall at no time operate to excuse Lessee from any obligations for payment for rent, additional rent, or any other payments required by the terms of this lease when same are due, and all such amounts shall be paid when due.

23.12 Further Instruments. Each party herein shall, promptly upon the request of the other, execute, have acknowledged and delivered to the other, any and all further instruments and assurances reasonably requested or appropriate to evidence or give effect to the provisions, or any of the provisions, of this lease.

23.13 Amendments. None of the covenants, terms or conditions of this lease to be kept and performed by either party shall in any manner be averted, waived, changed, or abandoned except by a written instrument duly executed by both parties, and not otherwise. Such written instrument shall be attached to and incorporated by reference in this lease.

23.14 Waiver. No waiver by Lessor's beneficiary or Lessee of any breach of any term, covenant, or condition hereof shall be deemed a waiver of the same or any subsequent breach of the same or any other term, covenant, or condition. The acceptance of rent by Lessor shall not be deemed a waiver of any earlier breach by Lessee of any term, covenant or condition hereof, regardless of Lessor's beneficiary's knowledge of such breach when such rent is accepted. Any waiver of any term, covenant or condition in this lease by either or both parties shall not be effective unless made in a written instrument and signed by the party or parties making such waiver.

23.15 Exculpatory Clause: This lease is executed by STANDARD BANK AND TRUST COMPANY, not personally but as Trustee as aforesaid, in the exercise of the power and authority conferred upon and vested in it as such Trustee, and under the express direction of the beneficiary of a certain Trust Agreement dated January 3, 1996. And known as Trust Number 1716, to all provisions of which Trust Agreement this Lease is expressly made subject. It is expressly understood and agreed that nothing in this Lease contained shall be construed as creating any liability whatsoever against said Trustee, and in particular, without limiting the generality of the foregoing, there shall be no personal liability to pay any indebtedness accruing hereunder or to perform any covenant, either express or implied, herein contained, or to keep, preserve or sequester any property of said Trust, and that all personal liability of said Trustee of every sort, if any, is hereby expressly waived by Tenant, and by every person now or hereafter claiming any right or security hereunder; and that so

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far as the parties hereto are concerned the owner of any indebtedness or liability accruing hereunder shall look solely to the Trust Estate from time to time subject to the provisions of said Trust Agreement for the payment thereof. It is further understood and agreed that the said Trustee has no agents or employees and merely holds legal title to the property herein described; that said Trustee has no control over, and under this Lease, assumes no responsibility for, (1) the management or control of such property, (2) the upkeep, inspection, maintenance or repair of such property, (3) the collection of rents or rental of such property, (4) the Security Deposit or (5) the conduct of any business which is carried on upon such property.

23.16 Headings. The headings as to contents of particular Articles and Sections herein are inserted only for convenience and are in no way to be construed as part of this lease or as a limitation on the scope of the particular Articles or Sections to which they refer.

23.17 Partial Invalidity. If any of the terms, covenants, conditions, or other provisions of this lease are held by any court of competent jurisdiction to be invalid or unenforceable for any reason, including, without limitation, because provision violates any statute, ordinance or other law, or is contrary to public policy, such invalidity shall not affect the remaining provisions of this lease, and insofar as is possible, the remaining portions of this lease shall be construed as if the portions found invalid were not a part of this lease in the first instance.

23.18 Riders. Any written riders to this lease shall be expressly incorporated by reference herein and made a part hereof.

IN WITNESS WHEREOF, the parties have duly executed this lease by signing their names and affixing their seals hereto as of the date and year below subscribed.

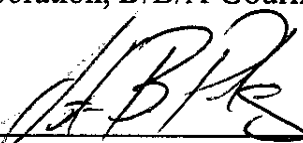
Dated this 9th day of March, 2006


Lessor: \*as Successor Trustee to Bank Chicago Lessee:  
f/k/a/ East Side Bank & Trust Company

\* STANDARD BANK AND TRUST COMPANY, not individually but as Trustee under Trust Agreement dated January 3, 1996, and known as Trust Number 1716, and not personally

By:   
Patricia Ralphson, A.V.P.

May Street Grocery Company, an Illinois Corporation, D/B/A Gourmet 47

By:   
Sotirios Pavlis, President

By:   
George Pavlis, Secretary

This instrument is signed, sealed and delivered by STANDARD BANK AND TRUST COMPANY, solely in its capacity as Trustee as aforesaid. Any and all duties, obligations and liabilities of the Trustee hereunder are to be performed by said STANDARD BANK AND TRUST COMPANY only as such Trustee. Any claims, demands and liabilities which may at any time be asserted against the Trustee hereunder shall be paid, collected or satisfied against only the property or assets in the possession of said STANDARD BANK AND TRUST COMPANY as Trustee as aforesaid, and the said STANDARD BANK AND TRUST COMPANY does not undertake, nor shall it have any personal or individual liability or obligation of any nature whatsoever by virtue of the execution and delivery hereof, nor shall STANDARD BANK AND TRUST COMPANY, either individually or as Trustee, be liable for the actions of any other party.