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1998-12-17 08:31:40

Cook County Recorder 65.00

LDN-5287

A

Property of Cook County Clerk's Office

LEASEHOLD MORTGAGE, ASSIGNMENT OF LEASES
AND SECURITY AGREEMENT

23

DATED as of December 3, 1998

between

FILENE'S BASEMENT, INC.

and

BANKBOSTON, N.A., as Agent

Skokie, Illinois

BOX 333-CTF

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MORTGAGE, ASSIGNMENT OF LEASES AND SECURITY AGREEMENT

THE MORTGAGOR, FILENE'S BASEMENT, INC., a Massachusetts corporation having offices at 40 Walnut Street, Wellesley, Massachusetts, 02181, Mortgages and Warrants to BankBoston, N.A., a national banking association, having a principal place of business at 100 Federal Street, Boston, Massachusetts 02110, as Agent for itself and the other Banks who are now or may become parties to the Credit Agreement, as defined in the Mortgage Rider attached hereto as Exhibit C (hereinafter designated as the "Mortgagee"), the property described in Exhibit A attached hereto and incorporated herein by reference situated in the County of Cook in the State of Illinois (together with the other rights and interests described in the Mortgage Rider being referred to herein as the "Property"), hereby releasing and waiving all rights under and by virtue of the Homestead Exemption Laws of this State.

The covenants, agreements, conditions, representations and warranties contained in the Mortgage Rider which is annexed hereto as Exhibit C are incorporated herein by reference as if fully set out herein; and all references to the covenants, agreements, conditions, representations and warranties contained in this Mortgage shall be deemed to include the covenants, agreements, conditions, representations and warranties contained herein and in said Mortgage Rider.

The Mortgagor further covenants and agrees as follows:

(A) The term "Obligations" as used herein shall have the meaning set forth in the Mortgage Rider attached hereto and shall also include any and all advances, costs or expenses paid or incurred by the Mortgagee to protect any or all of the Property, perform any obligation of the Mortgagor hereunder or collect any amount owing to the Mortgagee which is secured hereby; any and all other liabilities, obligations and indebtedness, howsoever created, arising or evidenced, direct or indirect, absolute or contingent, recourse or "non-recourse", now or hereafter existing or due or to become due, owing by the Mortgagor to the Mortgagee (provided, however, that the maximum amount included within the Obligations on account of principal shall not exceed the sum of an amount equal to \$77,500,000 plus the total amount of all advances made by the Mortgagee to protect the Property and the security interest and lien created hereby; plus the amount due on any indemnity given by the Mortgagor contained herein or in the other documents evidencing or securing the Obligations (all of which terms are defined in the Mortgage Rider); plus interest on all of the foregoing; and all reasonable costs of enforcement and collection of this Mortgage and the other such documents evidencing or securing the Obligations.

BOX 333-6H

(B) The Mortgagee shall have the following remedies, upon and during the continuance of an Event of Default (as defined in the Mortgage Rider) and to the extent provided by applicable law, in addition to the remedies hereinafter and in the Mortgage Rider set forth: (i) enter and take actual possession of the Property, the rents and the leases, or any part thereof, personally, or by its agents or attorneys, and exclude the Mortgagor therefrom; (ii) with or without process of law, enter upon and take and maintain possession of all of the documents, books, records, papers and accounts of the Mortgagor relating thereto; (iii) as attorney-in-fact or agent of the Mortgagor, or in its own name as the Mortgagee and under the powers herein granted, hold, operate, manage and control the Property, the rents and the leases relating thereto and conduct the business, if any, thereof either personally or by its agents, contractors or nominees, with full power to use such measures, legal or equitable, as in its discretion or in the discretion of its successors or assigns may be deemed proper or necessary to enforce the payment of the rents relating thereto (including actions for the recovery of rent, actions in forceable detainer and actions in distress of rent); (iv) cancel or terminate any lease for any cause or on any ground which would entitle the Mortgagor to cancel the same; (v) elect to disaffirm any lease made subsequent hereto or subordinated to the lien hereof (except to the extent, if any, the Mortgagee has expressly agreed otherwise in writing); (vi) make all necessary or proper repairs, decoration, renewals, replacements, alterations, additions, betterments and improvements to the Property that, in its discretion, may seem appropriate; (vii) insure and reinsure the Property for all risks incidental to the Mortgagee's possession, operation and management thereof; and (viii) receive all such rents and proceeds, and perform such other acts in connection with the management and operation of the Property, as the Mortgagee in its reasonable discretion may deem proper, the Mortgagor hereby granting the Mortgagee full power and authority to exercise each and every one of the rights, privileges and powers contained herein at any and all times after and during the continuance of any Event of Mortgage Default without notice to the Mortgagor or any other person. The Mortgagee, in the exercise of the rights and powers conferred upon it hereby, shall have full power to use and apply the rents to the payment of or on account of the following, in such order as it may determine: (1) to the payment of the reasonable operating expenses of the Property, including the cost of management and leasing thereof (which shall include reasonable compensation to the Mortgagee and its agents or contractors, if management be delegated to agents or contractors, and it shall also include reasonable and customary lease commissions and other reasonable compensation and reasonable expenses of seeking and procuring tenants and entering into leases), established claims for damages, if any, and premiums on insurance herein above authorized; (2) to the payment of taxes, charges and special assessments, the costs of all repairs, decorating, renewals, replacements, alterations, additions,

betterments and improvements of the Property, including the cost from time to time of installing, replacing or repairing the Property, and of placing the Property in such condition as will, in the judgment of the Mortgagee, make it readily rentable; and (3) to the payment of any Obligations.

Upon and during the continuance of any Event of Default, the Mortgagee shall also have the right, immediately or at any time thereafter (in the Mortgagee's sole discretion), to foreclose this Mortgage. Upon the filing of any complaint for that purpose, the court in which such complaint is filed may, upon application of the Mortgagee or at any time thereafter, either before or after foreclosure sale, and without notice to the Mortgagor or to any party claiming under the Mortgagor and without regard to the solvency or insolvency at the time of such application of any person then liable for the payment of any of the Obligations, without regard to the then value of the Property, and without the requirement of any bond therefor, be entitled on its motion to the appointment of a receiver of the Property, with power to take possession, charge and control of the Property, to lease the same, to keep the buildings thereon insured and in good repair, and to collect all rents during the pendency of such foreclosure suit, and, in case of foreclosure sale and a deficiency during any period of redemption. The court may from time to time, authorize said receiver to apply the net amounts remaining in his hands, after deducting reasonable compensation for the receiver and his counsel as allowed by the court, in payment (in whole or in part) of any or all of the Obligations, including, without limitation, the following, in such order of application as the Mortgagee in its sole and unreviewable discretion may elect: (i) amounts due upon the Obligations; (ii) amounts due upon any decree entered in any suit foreclosing this Mortgage; (iii) reasonable costs and expenses of foreclosure and litigation relative to the Property; (iv) insurance premiums, repairs, taxes, special assessments, water charges and interest, penalties and costs, in connection with the Property; (v) any other lien or charge upon the Property that may be or become superior to the lien of this Mortgage, or of any decree foreclosing the same; and (vi) all moneys advanced by the Mortgagee to cure or attempt to cure any Event of Default by the Mortgagor or otherwise, to protect the security hereof provided herein or in the other document or instrument evidencing or securing the Obligations, with interest on such advances at the interest rate applicable after maturity as provided in the Credit Agreement. The overplus of the proceeds of sale, if any, shall be paid to the Mortgagor. This Mortgage may be foreclosed once against all, or successively against any portion or portions, of the Property, as the Mortgagee may elect, until all of the Property has been foreclosed against and sold. In case of any foreclosure of this Mortgage (or the commencement of any preparation therefor) in any court, all expenses of every kind paid or incurred by the Mortgagee for the enforcement, protection or collection of this security, including court costs, reasonable

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attorneys' fees, stenographers' fees, costs of advertising, and costs of title insurance and any other documentary evidence of title, shall be paid by the Mortgagor.

(C) Notwithstanding anything contained in this Mortgage, the Mortgagee shall not be obligated to perform or discharge, and does not hereby undertake to perform or discharge, any obligation, duty or liability of the Mortgagor, whether hereunder or under any of the leases or otherwise, and the Mortgagor hereby agrees to indemnify against and hold the Mortgagee harmless of and from: any and all liabilities, losses or damages which the Mortgagee may incur or pay under or with respect to Property by reason of its exercise of rights hereunder, except for liabilities, losses or damages caused by the negligence or willful misconduct of the Mortgagee.

(D) This Mortgage is granted to secure future advances under a revolving line of credit and loans from the Mortgagee to the Mortgagor, as provided in the Credit Agreement. All advances, disbursements or other payments required by or provided in the Credit Agreement are obligatory advances up to the credit limits established therein and shall, to the fullest extent permitted by law, have the same priority as if advanced on the date that this Mortgage is recorded.

(E) The Mortgagor, on behalf of itself and all persons now or hereafter interested in the Property, to the fullest extent permitted by applicable law hereby waives all rights under all appraisal, homestead, moratorium, valuation, exemption, stay, reinstatement, extension, redemption and marshalling statutes, laws or equities now or hereafter existing, and the Mortgagor agrees that no defense, claim or right based on any thereof will be asserted, or may be enforced, in any action enforcing or relating to this Mortgage or any of the Property. Without limiting the generality of the preceding sentence, the Mortgagor, to the fullest extent permitted by Illinois law, on its own behalf and on behalf of each and every person acquiring any interest in or title to the Property, or any thereof, subsequent to the date of this Mortgage, hereby irrevocably waives any and all rights of redemption it may have pursuant to any statute, order, decree or judgment of any court.

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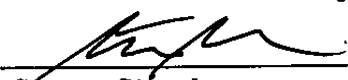
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(F) Upon full payment and performance of the Obligations, this Mortgage shall terminate and be null and void.

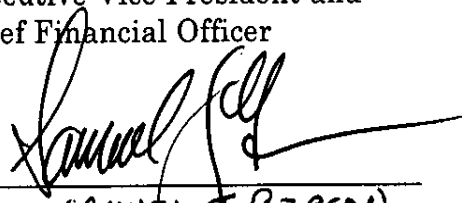
Dated as of December 3, 1998.

FILENE'S BASEMENT, INC.

By: _____


Steven Siegel,
Executive Vice President and
Chief Financial Officer

By: _____


Name: SAMUEL J. BERCON
Title: CHAIRMAN + CEO

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norfolk COMMONWEALTH OF MASSACHUSETTS
SUFFOLK COUNTY, ss.

On December 3, 1998, before me personally came Steven Siegel and Samuel J. Peron to me known, who being by me duly sworn, did depose and say that they reside at 40 Walnut St. Woburn and 40 Walnut St. Woburn, that they are the V.P./CEO and Chairman/CEO, respectively, of Filene's Basement, Inc., the corporation described in and which executed and attested, respectively, the above instrument, that they know the seal of said corporation, that the seal affixed to said instrument is such corporate seal, that it was affixed by order of the Board of Directors, and that they signed their names thereto by like order.

Elaine J. Hurst

Notary Public

My Commission expires: November 9, 2001

This instrument was prepared
by ~~and after recording return~~
to:

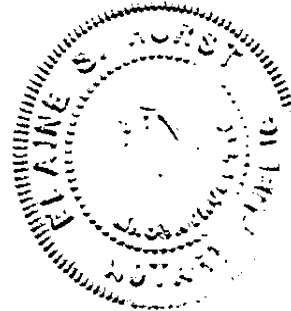
QUAN NGHIEM, ESQUIRE
BINGHAM DANA LLP
150 FEDERAL STREET
BOSTON, MASSACHUSETTS 02110
(617) 951-8000

Permanent Tax Index

Numbers: 10-16-205-027

AFTER RECORDING, MAIL TO:

CHICAGO TITLE INSURANCE CO.
ATTN: Joseph Quiros
171 N. CLARK ST. - MLC: 04SP
CHICAGO, IL 60601



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EXHIBIT A

DESCRIPTION OF PREMISES

The premises include approximately 30,000 square feet of the building located at the corner of Skokie Boulevard and Golf Road in Skokie, Illinois, including 200 square feet representing 50% of the dock staging area space. The premises are located in the building commonly known as Orchard Place Shopping Center, situated in the City of Skokie, County of Cook, State of Illinois, as more particularly described in formal legal description in Exhibit A-1 as annexed hereto.

UNOFFICIAL COPY**EXHIBIT A-1****08145467****LEGAL DESCRIPTION****PARCEL 1:**

THAT PART OF LOTS 1 TO 7, LOTS 38 TO 55 AND LOT 60 AND THAT PART OF VACATED LA CROSSE AVENUE AND VACATED ALLEY FALLING WITHIN THE FOLLOWING DESCRIBED TRACT OF LAND:

BEGINNING AT THE NORTHWEST CORNER OF SAID LOT 1; THENCE EAST ALONG THE SOUTH LINE OF SIMPSON STREET, 216.35 FEET TO THE CENTERLINE OF VACATED LA CROSS AVENUE; THENCE SOUTH ALONG SAID CENTERLINE, 141.00 FEET TO THE NORTH LINE OF SAID LOT 46 EXTENDED WEST; THENCE EAST ALONG SAID EXTENDED LINE AND THE NORTH LINE OF LOT 46, 156.14 FEET TO THE NORTHEAST CORNER THEREOF; THENCE SOUTH ALONG THE EAST LINE OF LOTS 38 TO 46, A DISTANCE OF 269.08 FEET TO A LINE WHICH IS 410.08 FEET SOUTH OF AND PARALLEL TO THE SOUTH LINE OF SIMPSON STREET; THENCE WEST ALONG SAID LINE WHICH IS 410.08 FEET SOUTH OF AND PARALLEL TO THE SOUTH LINE OF SIMPSON STREET, 372.25 FEET TO THE WEST LINE OF SAID LOT 60; THENCE NORTH ALONG THE WEST LINE OF LOT 60 AND SAID WEST LINE EXTENDED AND THE WEST LINE OF LOT 1, 410.08 FEET TO THE PLACE OF BEGINNING, ALL IN TALMAN AND THIELE'S CICERO AVENUE SIMPSON STREET SUBDIVISION OF THE NORTH 40 RODS OF THE EAST 33 RODS OF THE NORTHEAST 1/4 OF SECTION 16, TOWNSHIP 41 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN IN COOK COUNTY, ILLINOIS.

PARCEL 2:

THAT PART OF THE EAST 1/2 OF THE NORTHEAST 1/4 OF SECTION 16, TOWNSHIP 41 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE WEST LINE OF THE EAST 33 RODS OF THE NORTHEAST 1/4 OF SAID SECTION 16, 40.00 FEET SOUTH OF THE NORTH LINE OF SAID NORTHEAST 1/4; THENCE SOUTH ON THE WEST LINE OF THE EAST 33 RODS OF THE NORTHEAST 1/4 OF SAID SECTION 16, 410.08 FEET; THENCE WEST ON A LINE PARALLEL WITH THE NORTH LINE OF SAID NORTHEAST 1/4, 12.00 FEET; THENCE NORTH ON A LINE PARALLEL WITH THE WEST LINE OF THE EAST 33 RODS 291.77 FEET TO A POINT OF CURVE; THENCE NORTHWESTERLY ON A CURVE CONCAVE SOUTHWESTERLY AND HAVING A RADIUS OF 50.46 FEET, 33.84 FEET; THENCE NORTHWESTERLY ON A LINE TANGENT TO THE LAST DESCRIBED CURVE 53.82 FEET TO A POINT OF CURVE; THENCE NORTHERLY ON A CURVE CONCAVE EASTERLY AND HAVING A RADIUS OF 72.12 FEET, 48.09 FEET TO A POINT ON A LINE 40.00 FEET SOUTH OF AND PARALLEL WITH THE NORTH LINE OF SAID NORTHEAST 1/4, 72.00 FEET WEST OF THE PLACE OF BEGINNING; THENCE EAST ON A LINE 40.00 FEET SOUTH OF AND PARALLEL WITH THE NORTH

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LINE OF SAID NORTHEAST 1/4, 72.00 FEET TO THE PLACE OF BEGINNING, IN COOK COUNTY, ILLINOIS.

PARCEL 3:

THE SOUTH 10.00 FEET OF THE NORTH 460.08 FEET OF THE EAST 12.00 FEET OF THAT PART OF THE EAST 1/2 OF THE NORTHEAST 1/4 OF SECTION 16, TOWNSHIP 41 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, LYING WEST OF THE WEST LINE OF THE EAST 33 RODS OF THE NORTHEAST 1/4 OF SAID SECTION 16, IN COOK COUNTY, ILLINOIS.

PARCEL 4:

EASEMENT FOR INGRESS AND EGRESS AS CREATED BY A GRANT FROM JASALLE NATIONAL BANK, AS TRUSTEE UNDER TRUST NUMBER 38391, DATED MAY 29, 1969 AND FILED JULY 1, 1969 IN THE OFFICE OF THE REGISTRAR OF TITLES AS DOCUMENT LR2459484 AND REFILED MARCH 24, 1972 AS DOCUMENT LR2614018 OVER, UNDER, UPON AND THROUGH THAT PART OF THE EAST 1/2 OF THE NORTHEAST 1/4 SECTION 16, TOWNSHIP 41 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS:

COMMENCING AT A POINT ON THE WEST LINE OF THE EAST 33 RODS OF THE NORTHEAST 1/4 OF SAID SECTION 16, 40.00 FEET SOUTH OF THE NORTH LINE OF SAID NORTHEAST 1/4; THENCE WEST ON A LINE 40.00 FEET SOUTH OF AND PARALLEL WITH THE NORTH LINE OF SAID NORTHEAST 1/4; 72.00 FEET TO THE PLACE OF BEGINNING OF THIS DESCRIPTION; THENCE SOUTHERLY ON A CURVE CONCAVE EASTERLY AND HAVING A RADIUS OF 72.12 FEET, 48.09 FEET; THENCE SOUTHEASTERLY ON A LINE TANGENT TO THE LAST DESCRIBED CURVE 53.82 FEET TO A POINT OF CURVE; THENCE SOUTHEASTERLY ON A CURVE CONCAVE SOUTHWESTERLY AND HAVING A RADIUS OF 50.46 FEET, 33.84 FEET TO ITS INTERSECTION WITH A LINE 120 FEET WEST OF AND PARALLEL TO THE WEST LINE OF THE EAST 33 RODS OF SAID NORTHEAST 1/4; THENCE SOUTH ON A LINE PARALLEL WITH THE WEST LINE OF THE EAST 33 RODS, 291.77 FEET; THENCE WEST ON A LINE PARALLEL WITH THE NORTH LINE OF THE NORTHEAST 1/4 OF SAID SECTION 16, 12.00 FEET; THENCE NORTH ON A LINE PARALLEL WITH THE WEST LINE OF THE EAST 33 RODS, 291.81 FEET TO A POINT OF CURVE, THENCE NORTHWESTERLY ON A CURVE CONCAVE SOUTHWESTERLY AND HAVING A RADIUS OF 38.46 FEET, 25.80 FEET; THENCE NORTHWESTERLY ON A LINE TANGENT TO THE LAST DESCRIBED CURVE 53.82 FEET TO A POINT OF CURVE; THENCE NORTHERLY ON A CURVE CONCAVE EASTERLY AND HAVING A RADIUS OF 84.12 FEET, 56.10 FEET TO A POINT ON A LINE 40.00 FEET SOUTH OF AND PARALLEL WITH THE NORTH LINE OF SAID NORTHEAST 1/4, 12.00 FEET WEST OF THE PLACE OF BEGINNING; THENCE EAST ON A LINE 40.00 FEET SOUTH OF AND PARALLEL WITH THE NORTH LINE OF SAID NORTHEAST 1/4, 12.00 FEET TO THE PLACE OF BEGINNING, IN COOK COUNTY, ILLINOIS.

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UNOFFICIAL COPY**08145467****PARCEL 5:**

EASEMENT FOR INGRESS AND EGRESS AS CREATED BY A GRANT FROM LASALLE NATIONAL BANK, AS TRUSTEE UNDER TRUST NUMBER 38391, DATED MAY 29, 1969 AND FILED JULY 1, 1969, IN THE OFFICE OF THE REGISTRAR OF TITLE AS DOCUMENT LR2459484 AND REFILED MARCH 24, 1972 AS DOCUMENT LR2614018 OVER, UNDER, UPON AND THROUGH THE SOUTH 10.00 FEET OF THE NORTH 460.08 FEET OF THE WEST 12.00 FEET OF THE EAST 24.00 FEET OF THAT PART OF THE EAST 1/2 OF THE NORTHEAST 1/4 OF SECTION 16, TOWNSHIP 41 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, LYING WEST OF THE WEST LINE OF THE EAST 33 RODS OF THE NORTHEAST 1/4 OF SAID SECTION 16, IN COOK COUNTY, ILLINOIS.

PARCEL 6:

EASEMENT FOR INGRESS AND EGRESS AS CREATED BY A GRANT FROM LASALLE NATIONAL BANK, AS TRUSTEE UNDER TRUST NUMBER 38391, DATED MAY 29, 1969 AND FILED JULY 1, 1969 AS DOCUMENT LR2459484 AND REFILED MARCH 24, 1972 AS DOCUMENT LR2614018 IN THE OFFICE OF THE REGISTRAR OF TITLES OVER, UNDER, UPON AND THROUGH THAT PART OF LOTS 38, 55 AND 60 AND THAT PART OF VACATED LA CROSSE AVENUE AND VACATED ALLEY IN TALMAN AND THIELE'S CICCERO AVENUE - SIMPSON STREET SUBDIVISION OF THE NORTH 40 RODS OF THE EAST 33 RODS OF THE NORTHEAST 1/4 OF SECTION 16, TOWNSHIP 41 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, LYING NORTH OF A LINE 420.08 FEET SOUTH OF AND PARALLEL TO THE SOUTH LINE OF SIMPSON STREET AND LYING SOUTH OF A LINE 410.08 FEET SOUTH OF AND PARALLEL TO THE SOUTH LINE OF SIMPSON STREET, IN COOK COUNTY, ILLINOIS.

PARCEL 7:

LOTS 8, 9, 10, 11, 12, 13, 14, 15 AND 16 IN TALMAN AND THIELE'S CICCERO AVENUE SIMPSON STREET SUBDIVISION OF THE NORTH 40 RODS OF THE EAST 33 RODS OF THE NORTHEAST 1/4 OF SECTION 16, TOWNSHIP 41 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN (EXCEPT THAT PART OF SAID ABOVE DESCRIBED PROPERTY BEGINNING AT THE NORTHEAST CORNER OF SAID LOT 16; THEN SOUTH ALONG THE EAST LINE OF SAID LOT 16, BEING ALSO THE WEST LINE OF SKOKIE BOULEVARD, A DISTANCE OF 125.00 FEET TO THE SOUTH LINE OF SAID LOT 16; THENCE WEST ALONG THE SOUTH LINE OF SAID LOT 16, A DISTANCE OF 18.00 FEET TO A POINT DISTANT 18.00 FEET WEST MEASURED AT RIGHT ANGLES FROM SAID EAST LINE OF LOT 16; THENCE NORTH PARALLEL WITH SAID EAST LINE OF LOT 16, A DISTANCE OF 55.66 FEET TO A POINT; THENCE NORTHWESTERLY ALONG A STRAIGHT LINE A DISTANCE OF 34.88 FEET TO A POINT OF CURVATURE, DISTANCE 22.27 FEET WEST, MEASURED AT RIGHT ANGLES FROM THE EAST LINE OF SAID LOT 16; THENCE NORTHWESTERLY ALONG A CURVED LINE HAVING A RADIUS OF 42.00 FEET AND CONCAVE TO THE SOUTHWEST A DISTANCE OF 45.37

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FEET TO A POINT 4.27 FEET SOUTH MEASURED AT RIGHT ANGLES FROM THE SOUTH LINE OF SIMPSON STREET, AS THE SAME IS SHOWN ON THE PLAT OF SUBDIVISION REGISTERED AS DOCUMENT NO. 268690; THENCE NORTHWESTERLY ALONG A STRAIGHT LINE A DISTANCE OF 34.88 FEET TO A POINT IN THE NORTH LINE OF SAID LOT 14, DISTANT 87.34 FEET WEST FROM SAID WEST LINE OF SKOKIE BOULEVARD, AS MEASURED ALONG SAID NORTH LINE OF SAID LOTS 14, 15 AND 16; THENCE EAST ALONG SAID NORTH LINE OF LOTS 14, 15 AND 16, A DISTANCE OF 87.34 FEET TO THE POINT OF BEGINNING), TOGETHER WITH THE EAST 1/2 OF VACATED 66.00 FEET WIDE ACROSS LA CROSSE AVENUE RECORDED MARCH 17, 1974 AS DOCUMENT NO. 2410456 LYING SOUTH OF THE SOUTH LINE OF GOLF ROAD AND LYING NORTH OF THE SOUTH LINE EXTENDED WEST OF THE 16.00 FOOT PUBLIC ALLEY, SOUTH OF AND ADJOINING LOTS 8, 9, 10, 11, 12, 13, 14, 15 AND 16 AFORESAID, IN COOK COUNTY, ILLINOIS.

Property of Cook County Clerk's Office

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08145467**EXHIBIT A****DESCRIPTION OF PREMISES**

The premises include approximately 30,000 square feet of the building located at the corner of Skokie Boulevard and Golf Road in Skokie, Illinois, including 200 square feet representing 50% of the dock staging area space. The premises are located in the building commonly known as Orchard Place Shopping Center, situated in the City of Skokie, County of Cook, State of Illinois, as more particularly described in formal legal description in Exhibit A-1 as annexed hereto. The permanent index number for the property described above is 10-16-05-027.

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EXHIBIT B

PERMITTED ENCUMBRANCES

All matters of record existing as of the date of this Mortgage.

Property of Cook County Clerk's Office

EXHIBIT C

MORTGAGE RIDER

Mortgage Rider attached to and made a part of that certain Leasehold Mortgage, Assignment of Leases and Security Agreement, dated as of December 3, 1998 (the "Mortgage") from FILENE'S BASEMENT, INC., a Massachusetts corporation having its principal office at 40 Walnut Street, Wellesley, Massachusetts 02181 (hereinafter referred to as the "Mortgagor"), to BANKBOSTON, N.A., a national banking association, having its principal office at 100 Federal Street, Boston, Massachusetts 02110, as agent for itself, the Banks as such terms are defined in the Credit Agreement (the "Mortgagee").

With intent to be legally bound, Mortgagor and Mortgagee agree that the following terms and conditions are herein made a part of the Mortgage as an integral part thereof. The provisions of this Mortgage Rider are supplementary to the provisions of the Mortgage to which this Mortgage Rider is attached and to the extent any provision of this Mortgage Rider deals with the same subject matter as similar provisions of the Mortgage, the provisions hereof are to be construed to expand such similar provisions and not to limit the general application of any general provision contained in the Mortgage. To the extent any provision of this Mortgage Rider conflicts with the Mortgage, the language in the Mortgage shall control. In case any one or more provisions of this Mortgage Rider may be found to be invalid or unenforceable for any reason or in any respect, such invalidity or unenforceability shall not limit or impair enforcement of any other provisions of this Mortgage Rider. Unless otherwise defined herein, capitalized terms used in the Mortgage and this Mortgage Rider shall have meanings ascribed to them in the Credit Agreement.

1. REPRESENTATIONS AND WARRANTIES.

Mortgagor hereby represents, covenants and warrants to Mortgagee as follows.

1.1. No Sublease. There are presently in effect no subleases of the Property or any part thereof except for licensed departments as permitted under the Credit Agreement.

2. CERTAIN COVENANTS AND CONDITIONS.

Mortgagor covenants and agrees as follows.

2.1. Rent and Governmental Charges. Mortgagor shall pay before the same become delinquent (i) all rent, additional rent and other payments required to be paid by the lessee under the Lease, and (ii) all taxes, charges, sewer use fees, water rates and assessments of every name and nature, whether or not assessed against Mortgagor, if applicable or related to the Property, or

any interest therein, or applicable or related to any of the Obligations, which, if unpaid, might by law become a lien or charge upon all or any part of the Property; provided, however, that, so long as no distraint, foreclosure sale or other levy upon or transfer with respect to the Property or any part thereof shall have been effected or commenced, and no Event of Default shall have occurred and be continuing, Mortgagor shall not be required to pay any such taxes, charges, fees, rates and assessments by reason of this §2.1 if (a) the amount, applicability or validity thereof is currently being contested by Mortgagor in good faith by appropriate legal proceedings, (b) Mortgagor shall have set aside on its books reserves reasonably adequate with respect thereto or (c) Mortgagor shall have provided to the Mortgagee a bond or other security of such nature and in such amount as Mortgagee reasonably deems sufficient as security for payment thereof.

2.2. Maintenance of Property; Alterations. Mortgagor shall keep and maintain the Property in as good repair and condition as the same now is or may hereafter be put (ordinary wear and tear excepted), damage from uninsured casualty expressly not excepted, shall make all such needful and proper repairs, replacements, additions and improvements thereto as shall be necessary for the proper conduct of its business thereon, and shall not permit or commit waste on the Property.

2.3. Insurance. Mortgagor agrees, at Mortgagor's sole cost and expense, to keep the Property insured at all times throughout the term of this Mortgage in accordance with the terms of the Lease and the Credit Agreement. All proceeds of any insurance or awards of damages on account of any taking or condemnation for public use or injury to the Property shall be adjusted and paid in accordance with the terms of the Lease, then in accordance with the terms of the Credit Agreement.

2.4. Notice of Condemnation. Mortgagor, promptly upon obtaining knowledge of the institution of any proceeding for the condemnation or requisition of the Property or any portion thereof, shall notify Mortgagee of the pendency of such proceeding. Mortgagee may participate in such proceeding to the extent that the Mortgagor is permitted to participate under the terms of the Lease, and Mortgagor from time to time shall deliver to Mortgagee all instruments reasonably requested by Mortgagee to permit such participation.

2.5. Subleases; Assignments; Subordination. Mortgagor shall not assign the Lease or sublease the Property or any part thereof without the prior written consent of Mortgagee, which consent shall not be unreasonably withheld, other than licensed departments agreements, assignments or subleases where it is permitted under the Credit Agreement. As part of the consideration for the Obligations, Mortgagor shall absolutely and unconditionally assign and transfer to mortgagee all of Mortgagor's right, title and interest in and to any subleases of the Property and the rents and profits therefrom, provided that Mortgagor shall be entitled to retain and use such

rents and profits until an Event of Default shall have occurred and be continuing.

2.6. Encumbrances. Except as permitted in the Credit Agreement, Mortgagor shall not create any encumbrance on the Property (other than any lien for property taxes not yet due and payable and the Permitted Encumbrances) even if such encumbrance is inferior to this Mortgage, without the prior express written consent of Mortgagee.

2.7. Transfers of Ownership. Except as permitted in the Credit Agreement, Mortgagor shall not sell or permit any transfer of any interest in the Property, or any part thereof, without the prior express written consent of Mortgagee.

2.8. Priority of Lien; After-Acquired Property. This Mortgage is and will be maintained as a valid mortgage lien on the Property subject only to the Permitted Encumbrances. All property of every kind acquired by Mortgagor after the date hereof which, by the terms hereof, is required or intended to be subjected to the lien of this Mortgage shall, promptly upon the acquisition thereof by Mortgagor, and without any further mortgage, conveyance, assignment or transfer, become subject to the lien of this Mortgage. Mortgagor will do, execute, acknowledge and deliver all and every such further conveyances, mortgages, and assurances as Mortgagee shall reasonably require for accomplishing the purposes of this Mortgage.

Except to the extent permitted under the terms of the Credit Agreement, Mortgagor will not release, surrender or terminate the Lease without the prior written consent of Mortgagee, nor without similar consent will Mortgagor modify the Lease so as to reduce the term thereof, or to increase the rentals payable thereunder, or to alter those provisions relating to grace periods, notices to be given to Mortgagee, construction, use, reconstruction, or demolition of the building on the mortgaged premises, payment of governmental charges as provided in the Lease, renewal privileges or in any other manner which would impair the security of this Mortgage. Upon receipt by Mortgagor of service of any action or proceeding instituted to evict Mortgagor or recover possession of the Property or for the foreclosure of any other mortgage or for any other purpose affecting the Lease or this Mortgage, Mortgagor will promptly deliver to Mortgagee a true copy of each precept, petition, summons, complaint, notice of motion, order to show cause, and all other process, pleadings and papers however designated, served in such action or proceeding and in any such action or proceeding.

2.9. Fixtures and Equipment; Financing Statement. This Mortgage constitutes a security agreement under the Uniform Commercial Code, and Mortgagor hereby grants to Mortgagee to secure the payment and performance of the Obligations and also to secure the performance of all agreements and covenants herein contained, a security interest in all fixtures, Building Service Equipment and any other property included in the Property, now owned or

hereafter acquired by Mortgagor, which might otherwise be deemed "personal property" (and all accessions thereto and the proceeds thereof). Mortgagor covenants and agrees that, upon the subsequent acquisition of fixtures or Building Service Equipment, it will provide to Mortgagee such further assurances as may be required by Mortgagee to establish Mortgagee's first and prior security interest in such fixtures and Building Service Equipment. **IT IS INTENDED BY MORTGAGOR AND MORTGAGEE THAT THIS MORTGAGE BE EFFECTIVE AS A FINANCING STATEMENT FILED WITH THE REAL ESTATE RECORDS AS A FIXTURE FILING.** Upon request of Mortgagee, Mortgagor shall execute and deliver at Mortgagor's sole cost and expense, continuances and such other instruments as will maintain Mortgagee's priority of security in all fixtures and Building Service Equipment.

2.10. Performance of Lease. Mortgagor covenants that the Mortgagor will:

(a) diligently perform and observe all of the material terms, covenants and conditions of the Lease required to be performed and observed by Mortgagor as such lessee unless such performance or observance shall have been waived or not required by the lessor;

(b) promptly notify Mortgagee in writing of any material default by the lessor in the performance or observance of any of the terms, covenants or conditions on the part of Lessor to be performed or observed; and

(c) promptly advise Mortgagee in writing of the giving of any notice by the lessor to Mortgagor of any material default by Mortgagor under the Lease.

3. DEFAULT AND REMEDIES.

3.1. Default; Acceleration of Obligations. If an Event of Default shall occur and be continuing then Mortgagee may exercise the remedies provided under this Mortgage, under the Credit Agreement, under any and all other instruments and documents providing security for the Obligations, or any other remedies available under applicable law.

3.2. Remedies Cumulative. No remedy herein conferred on Mortgagee is intended to be exclusive of any other remedy and each and every remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing.

3.3. Right of Mortgagee to Cure an Event of Default. If an Event of Default shall occur Mortgagee shall have the right, but without any obligation so to do, to cure such default for the account of Mortgagor and to make any payment or take any action necessary to effect such cure.

3.4. Operation of Mortgaged Property. Upon the occurrence of an Event of Default which is continuing, Mortgagee may hold, lease, manage, operate or otherwise use or permit the use of the Property, either itself or by other persons, firms or entities, in such manner, for such time and upon such other terms as Mortgagee may deem to be prudent and reasonable under the circumstances.

3.5. Certain Terms of Foreclosure Sale. At any foreclosure sale, any combination, or all, of the Property or security given to secure the indebtedness secured hereby, may be offered for sale for one total price, and the proceeds of such sale accounted for in one account without distinction between the items of security or without assigning to them any proportion of such proceeds, Mortgagor hereby waiving the application of any doctrine of marshalling; and, in case Mortgagee, in the exercise of the power of sale herein given, elects to sell in parts or parcels, said sales may be held from time to time, and the power shall not be fully executed until all of the property or security not previously sold shall have been sold.

3.6. Uniform Commercial Code. If the provisions of the Uniform Commercial Code are applicable to any property or security given to secure the indebtedness secured hereby which is sold in combination with or as a part of the Property, or any part thereof, at one or more foreclosure sales, any notice required under such provisions shall be fully satisfied by the notice given in execution of the power of sale or other provision in accordance with which the sale of real property pursuant to such foreclosure is held with respect to the Property or any part thereof.

3.7. Rights Cumulative. Each right, power and remedy conferred upon Mortgagee by this Mortgage, the Credit Agreement and by all other documents evidencing or securing the Obligations and conferred by law or in equity is cumulative and in addition to every other right, power and remedy herein or therein set forth or otherwise so existing, may be exercised from time to time, as often, and in such order, as may be deemed expedient by Mortgagee.

4. DEFINITIONS.

The following terms as used herein shall have the following meanings:

"Building Service Equipment" shall mean all apparatus, fixtures and articles of personal property owned by Mortgagor now or hereafter attached to or used or procured for use in connection with the operation or maintenance of any building, structure or other improvement located on or included in the Property (except apparatus, fixtures or articles of personal property belonging to lessees or other occupants of such building or to persons other than Mortgagor unless the same be abandoned by any such lessee or other occupant or person), together with any and all replacements thereof and additions thereto.

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"Credit Agreement" shall mean that certain Amended and Restated Revolving Credit and Term Loan Agreement dated as of January 30, 1998, by and among Mortgagor, Filene's Basement, Corp., the Banks (as defined therein) and Mortgagee, as originally executed, or if varied, supplemented, amended or restated from time to time, as so varied, supplemented, amended or restated.

"Event of Default" shall mean (i) any Event of Default under the Credit Agreement (as therein defined), or (ii) any default in the payment or performance of the obligations of Mortgagor hereunder, and Mortgagor shall fail to remedy the same within 30 days after receipt of notice to Mortgagor specifying such default or failure, or if such default is of such a nature that Mortgagor cannot reasonably remedy the same within such thirty (30) day period, Mortgagor shall fail to commence promptly to remedy the same and to prosecute such remedy to completion with diligence and continuity or (iii) any representation or warranty of Mortgagor hereunder proving to be untrue in any material respect.

"Lease" shall mean that certain Lease entered on September 13, 1995, as amended, by and between Marshalls of Skokie, IL., Inc., as tenant, and Orchard Place Retail, L.L.C., as landlord and successor in interest to the original landlord HSS Real Estate, Inc., as agent for the beneficiary of First Bank & Trust Company of Illinois, as Trustee under a Trust Agreement dated February 4, 1995 and known as Trust Number 10-1915, a Memorandum of Lease of which was executed under seal on October 6, 1995, and recorded on November 7, 1995, with a recorder's receipt number of 95765615, as assigned to Mortgagor by Marshalls of Skokie, IL., Inc. under an Assignment of Lease dated January 17, 1997, a Memorandum of Assignment of Lease of which was executed under seal on January 17, 1997 and was recorded on February 26, 1997 with a recorder's receipt number of 97-138774, with respect to the premises described in Exhibit A to this Mortgage.

"Mortgage" shall have the meaning assigned to it in the recitals to this Mortgage Rider.

"Mortgagee" shall mean the mortgagee named at the beginning of this instrument, any subsequent holder or holders of this Mortgage or the indebtedness secured hereby, the trustee under a deed of trust, or any state or county official engaged in any part of the enforcement of the lien of this Mortgage, and their respective successors and assigns.

"Mortgagor" shall mean the person or persons named at the beginning of this instrument as Mortgagor, and any subsequent owner or owners of the equity of redemption of the Property.

"Obligations" shall mean have the meaning set forth in the Credit Agreement.

"Permitted Encumbrances" shall mean the encumbrances listed on Exhibit B to this Mortgage and incorporated herein by reference as if fully set out herein and any other encumbrances expressly permitted by the Credit Agreement.

"Property" shall mean all of the described property, rights, privileges, interests and franchises more particularly described in paragraphs (a) through (i) below:

(a) The leasehold estate created pursuant to the Lease with respect to the premises described in Exhibit A annexed hereto and incorporated herein by reference as if fully set out herein;

(b) The Lease; together with the appurtenances and all the estate and rights of Mortgagor of, in and to the premises which are subject to the Lease; all and each of the tenements, hereditaments and appurtenances of Mortgagor belonging or in anywise appertaining to said premises, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof; and all right, title and interest of Mortgagor, if any, now owned or hereafter acquired, in and to any land lying in the bed of any street, road or avenue, open or proposed, in front of or adjoining the premises which are subject to the Lease to the center line thereof and all sidewalks and alleys, and all strips and gores of land, adjacent to or used in connection with said premises;

(c) To the extent not inconsistent or prohibited by the terms of the Lease, all buildings and other improvements of every kind and description now or hereafter erected or placed on the premises which are subject to the Lease or any part thereof owned by Mortgagor, and all of the right, title and interest of Mortgagor in and to all materials intended for construction, reconstruction, alteration and repairs of such improvements now or hereafter erected thereon, all of which materials shall be deemed to be included within said premises immediately upon the delivery thereof to said premises, and all fixtures, Building Service Equipment, and all renewals or replacements thereof or articles in substitution therefor; it being mutually agreed that all the aforesaid property owned or to be owned by Mortgagor and placed by it on said premises and such buildings and improvements shall, so far as permitted by law, be deemed to be affixed thereto and covered by this Mortgage.

(d) All modifications, extensions and renewals of the Lease and all rights to renew or extend the term of the Lease; all credits, deposits, options, privileges and rights of Mortgagor, as lessee under the Lease; and to the extent not prohibited by or inconsistent with the terms of the Lease, all awards heretofore made or hereafter to be made for the taking by eminent domain of the whole or any part of the above described premises, or any estate or easement therein, including any awards for

change of grade of streets, all of which awards are hereby assigned to Mortgagee;

(e) All present and future subleases of space in the building erected upon the premises which are subject to the Lease or any other portion of said premises, and the rents, issues and profits payable thereunder,

(f) All unearned premiums accrued, accruing or to accrue under any and all insurance policies now or hereafter obtained by Mortgagor pursuant to the provisions of the Mortgage,

(g) All proceeds of the conversion, voluntary or involuntary, of any of the foregoing into cash or liquidated claims, including, but without limitation, proceeds of insurance provided for in this Mortgage and proceeds of condemnation awards and awards for restriction of access to, or change of grade of, streets;

(h) All transferable building service, building maintenance, construction, management and other similar agreements and contracts, written or oral, express or implied, now or hereafter entered into arising or in any manner related to the construction, design, improvement, use, operation, occupation, enjoyment, sale, conversion or other disposition (voluntary or involuntary) of the premises which are subject to the Lease, or the buildings and improvements now or hereafter located thereon, or any other interest in said premises, or any combination thereof, including all property management agreements, sales contracts, contract deposits, earnest money deposits, prepaid items and payments due and to become due thereunder, and further including all payment and performance bonds, construction guaranties, warranties, construction contracts, architects agreements, general contract agreements, design agreements, engineering agreements, technical service agreements, architectural plans and specifications, sewer and water and other utility agreements, permits, approvals, licenses, building permits, service contracts, advertising contracts, purchase orders and equipment leases, and

(i) All proceeds and products of the foregoing of every type.

5. MISCELLANEOUS.

5.1. Notices. All notices, requests and other communications hereunder shall be made in writing and shall be given in the manner set forth in Section 21 of the Credit Agreement.

5.2. Successors and Assigns; Joint and Several Liability; Partial Invalidity. All the covenants and agreements of Mortgagor herein contained shall be binding upon Mortgagor and the successors and assigns of Mortgagor.

5.3. Future Advances; Revolving Credit Loan. This Mortgage shall secure, and constitute a lien upon the Property for, all future advances made by Mortgagee under the Credit Agreement at any time or times hereafter, whether or not any reference is made to this Mortgage at the time such advances are made, and all such sums shall be equally secured with and, to the extent permitted by law, have the same priority as the Obligations outstanding as of the date hereof.

5.4. Modification. No change, amendment, modification, cancellation or discharge of this Mortgage, or any part hereof, shall be valid unless in writing and signed by the parties hereto or their respective successors and assigns.

5.5. Governing Law. The Credit Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Massachusetts, but this Mortgage and the perfection and enforcement of the lien and security interest hereunder (and any financing statement filed in connection herewith) shall be governed by and construed and enforced in accordance with the laws of the state in which the Property is situated.