

67-91-78576



TRUST DEED

665117

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THE ABOVE SPACE FOR RECORDER'S USE ONLY

THIS INDENTURE, made December 9, 1980, between PAG, INC., a corporation organized under the laws of the State of Illinois

herein referred to as "Mortgagors," and CHICAGO TITLE AND TRUST COMPANY, an Illinois corporation doing business in Chicago, Illinois, herein referred to as TRUSTEE, witnesseth:

THAT, WHEREAS the Mortgagors are justly indebted to the legal holders of the Instalment Note hereinafter described, said legal holders being herein referred to as Holders of the Note, in the principal sum of THREE MILLION

FIVE HUNDRED SEVENTY THOUSAND (3,570,000.00) Dollars, evidenced by one certain Instalment Note of the Mortgagors of even date herewith, made payable to THE ORDER OF BEARER

and delivered, in and by which said Note the Mortgagors promise to pay the said principal sum and interest from the date of disbursement on the balance of principal remaining from time to time unpaid at the rate of 12-1/2 per cent per annum in instalments (including principal and interest) as follows:

\$38,228.57 Dollars or more on the 1st day of 1980, and \$38,228.57 Dollars or more on the 1st day of each month thereafter until said note is fully paid except that the final payment of principal and interest, if not sooner paid, shall be due on the 1st day of December 1990. All such payments on account of the indebtedness evidenced by said note to be first applied to interest on the unpaid principal balance and the remainder to principal; provided that the principal of each instalment unless paid when due, shall bear interest at the rate of 15% per annum, and all of said principal and interest being made payable at such banking house or trust company in Chicago, Illinois, as the holders of the note may, from time to time, in writing appoint, and in absence of such appointment, then as directed by the law firm of Rosenthal and Schanfield.

NOW, THEREFORE, the Mortgagor to secure the payment of said principal sum of money and said interest in accordance with the terms, provisions and agreements contained in said Note and to secure the performance of the terms, provisions and agreements contained herein and also in consideration of the sum of Ten Dollars (\$10.00) in hand paid, the receipt and sufficiency of all of which is hereby acknowledged by the Mortgagor, the Mortgagor does hereby Grant, Release, Remise, Alien, Mortgage and Convey unto the Trustee, its successors and assigns, the interest of the Mortgagor in the leasehold estate in the real estate legally described in Exhibit A (hereinafter referred to as the "Leasehold Parcel") and the fee interest of the Mortgagor in the real estate legally described in Exhibit A1 (hereinafter referred to as the "Fee Parcel"), the Leasehold Parcel and the Fee Parcels, together with the property hereinafter described, is collectively referred to as the "Premises".

TOGETHER with all improvements, tenements, easements, fixtures, and appurtenances thereto belonging, and all rents, issues and profits thereof for so long and during all such times as Mortgagors may be entitled thereto (which are pledged primarily and on a parity with said real estate and not secondarily) and all apparatus, equipment or articles now or hereafter therein or thereon used to supply heat, gas, air conditioning, water, light, power, refrigeration (whether single units or centrally controlled), and ventilation, including (without limiting the foregoing), screens, window shades, storm doors and windows, floor coverings, inador beds, awnings, stoves and water heat. All of the foregoing are declared to be a part of said real estate whether physically attached thereto or not, and it is agreed that all similar apparatus, equipment or articles hereafter placed in the premises by the mortgagors or their successors or assigns shall be considered as constituting part of the real estate.

TO HAVE AND TO HOLD the premises unto the said Trustee, its successors and assigns forever, for the purposes, and upon the uses and trusts herein set forth.

The covenants, conditions and provisions appearing on page 2 (the reverse side of this trust deed) and the Rider attached hereto are incorporated herein by reference and are a part hereof and shall be binding on the mortgagors, their heirs, successors and assigns.

In Witness Whereof said mortgagor has caused its corporate seal to be hereunto affixed and these presents to be signed by its Assistant Vice President and attested by its Assistant Secretary on the day and year first above written, pursuant to authority given by resolutions duly passed by the Board of Directors of said corporation.

and resolutions further provided that the note herein described may be executed on behalf of said corporation by its

PAG, INC., an Illinois Corporation

BY Robert Novak Assistant Vice President

ATTEST: Russell Novak Assistant Secretary

STATE OF ILLINOIS } SS. I, JUDY R. BROZEK a Notary Public in and for and residing in said County, in the State aforesaid, DO HEREBY CERTIFY THAT County of COOK } ROBERT NOVAK Assistant Vice President of the PAG, INC. and RUSSELL NOVAK Assistant Secretary

of said Company, personally known to me to be the same persons whose names are subscribed to the foregoing instrument as such Assistant Vice President and Assistant Secretary, 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 Company, for the uses and purposes therein set forth; and the said Assistant Secretary then and there acknowledged that said Assistant Secretary, as Secretary of the corporate seal of said Company, did affix the corporate seal of said Company to said instrument as said Assistant Secretary's own free and voluntary act and as the free and voluntary act of said Company, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 17 day of December, 1980.

Notarial Seal

Judy R. Brozek NOTARY PUBLIC

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THE COVENANTS, CONDITIONS AND PROVISIONS REFERRED TO ON PAGE 1 (THE REVERSE SIDE OF THIS TRUST DEED):

1. Mortgagors shall (a) promptly repair, restore or rebuild any buildings or improvements now or hereafter on the premises which may become damaged or be destroyed; (b) keep said premises in good condition and repair without waste, and free from mechanic's or other liens or claims for lien or expressly subordinated to the lien hereof; (c) pay when due any indebtedness which may be secured by a lien or charge on the premises superior to the lien hereof, and upon request exhibit satisfactory evidence of the discharge of such prior lien to Trustee or to the holders of the note; (d) complete within a reasonable time any building or buildings now or at any time in process of erection upon said premises; (e) comply with all requirements of law or municipal ordinance with respect to the premises and the use thereof; (f) make no material alterations and no improvements received by law or municipal ordinance.

2. Mortgagors shall pay before any penalty attaches all general taxes, and shall pay special assessments, water charges, sewer charges, and other charges against the premises when due, and shall, upon written request, furnish to Trustee or to holders of the note duplicate receipts therefor. To prevent default hereunder Mortgagors shall pay in full under protest, in the manner provided by statute, any tax or assessment which Mortgagors may be liable to pay.

3. Mortgagors shall keep all buildings and improvements now or hereafter situated on said premises insured against loss or damage by fire, lightning or wind storm (and flood damage) in accordance with the law to have it so insured under policies providing for payment by the insurance companies of moneys sufficient either to pay the cost of replacing or repairing the same or to pay in full the indebtedness secured hereby. In the event of loss or damage to the mortgaged premises, under insurance policies payable, in case of loss or damage, to Trustee for the benefit of the holders of the note, such rights to be evidenced by the standard mortgage clause to be attached to each policy, and shall deliver all policies, including additional and renewal policies, to holders of the note, and in case of insurance about to expire, shall deliver renewal policies not less than ten days prior to the respective dates of expiration.

4. In case of default therein, Trustee or the holders of the note may, but need not, make any payment or perform any act herebefore required of Mortgagors in any form and manner deemed expedient, and may, but need not, make full or partial payments of principal or interest on prior encumbrances, if any, and purchase, discharge, compromise or settle any tax lien or other prior lien or title or claim thereof, or redeem from any tax sale or forfeiture affecting said premises or contest any tax or assessment. All moneys paid for any of the purposes herein authorized and all expenses paid or incurred in connection therewith, including attorney's fees, and any other moneys advanced by Trustee or the holders of the note to protect the mortgaged premises and the lien hereof, plus reasonable compensation to Trustee for each matter concerning which action herein authorized may be taken, shall be so much additional indebtedness secured hereby and shall become immediately due and payable with notice and with interest thereon at a rate equivalent to the post maturity rate set forth in the note securing this trust deed, if any, otherwise the prematurity rate set forth therein. Inaction of Trustee or holders of the note shall never be considered as a waiver of any right accruing to them on account of any default hereunder on the part of Mortgagors.

5. The Trustee or the holders of the note hereby secured making any payment hereby authorized relating to taxes or assessments, may do so according to any bill, statement or estimate procured from the appropriate public office without inquiry into the accuracy of such bill, statement or estimate or into the validity of any tax assessment, sale, forfeiture, tax lien or title or claim thereof.

6. Mortgagors shall pay each item of indebtedness herein mentioned, both principal and interest, when due according to the terms hereof. At the option of the holders of the note or in this Trust deed, to the contrary, become due and payable (a) immediately in the case of default in making payment of any installment of principal or interest on the note, or (b) when default shall occur and continue for three days in the performance of any other agreement of the Mortgagors herein contained.

7. When the indebtedness hereby secured shall become due, whether by acceleration or otherwise, holders of the note or Trustee shall have the right to foreclose the lien hereof. In any suit to foreclose the lien hereof, there shall be allowed and included as additional indebtedness in the decree for sale all expenditures and expenses which may be paid or incurred by or on behalf of Trustee or holders of the note for attorneys' fees, Trustee's fees, appraiser's fees, outlays for documentary and expert evidence, stenographers' charges, publication costs and costs (which may be estimated as to items to be expended after entry of the decree) of procuring all such abstracts of title, title searches and examinations, title insurance policies, Torrens certificates, and similar data and accessories with respect to title as Trustee or holders of the note may deem to be reasonably necessary either to prosecute such suit or to evidence bidders at any sale which may be had pursuant to such decree the true condition of the title to or the value of the premises. All expenditures and expenses of the nature in this paragraph mentioned shall become so much additional indebtedness secured hereby and immediately due and payable, with interest thereon at a rate equivalent to the post maturity rate set forth in the note securing this trust deed, if any, otherwise the prematurity rate set forth therein, when paid or incurred by Trustee or holders of the note in connection with (a) any proceeding, including probate and bankruptcy proceedings, to which either of them shall be a party, either as plaintiff, claimant or defendant, by reason of this trust deed or any indebtedness hereby secured; or (b) preparations for the commencement of any suit for the foreclosure hereof after accrual of such right to foreclose whether or not actually commenced; or (c) preparations for the defense of any threatened suit or proceeding which might affect the premises or the security hereof, whether or not actually commenced.

8. The proceeds of any foreclosure sale of the premises shall be distributed and applied in the following order of priority: First, on account of all costs and expenses incident to the foreclosure proceedings, including all such items as are mentioned in the preceding paragraph hereof; second, all other items which under the terms hereof constitute secured indebtedness additional to that evidenced by the note, with interest thereon as herein provided; third, all principal and interest remaining unpaid on the note; fourth, any overplus to Mortgagors, their heirs, legal representatives or assigns, as their rights may appear.

9. Upon, or at any time after the filing of a bill to foreclose this trust deed, the court in which such bill is filed may appoint a receiver of said premises. Such appointment may be made either before or after sale, without notice, without regard to the solvency or insolvency of Mortgagors at the time of application for such receiver and without regard to the then value of the premises or whether the same shall be then occupied as a homestead or not and the Trustee hereunder may be appointed as such receiver. Such receiver shall have power to collect the rents, issues and profits of said premises during the pendency of such foreclosure suit and, in case of a sale and a deficiency, during the full statutory period of redemption, whether there be redemption or not, as well as during any further times when Mortgagors, except for the intervention of such receiver, would be entitled to collect such rents, issues and profits, and all other powers which may be necessary or are usual in such cases for the protection, possession, control, management and operation of the premises during the whole of said period. The Court from time to time may authorize the receiver to apply the net income in his hands in payment in whole or in part of: (a) The indebtedness secured hereby, or by any decree foreclosing this trust deed, or any tax, special assessment or other lien which may be or become superior to the lien hereof or of such decree, provided such application is made prior to foreclosure sale; (b) the deficiency in case of a sale and deficiency.

10. No action for the enforcement of the lien or of any provision hereof shall be subject to any defense which would be good and available to the party interposing same in an action at law upon the note hereby secured.

11. Trustee or the holders of the note shall have the right to inspect the premises at all reasonable times and access thereon shall be permitted for that purpose.

12. Trustee has no duty to examine the title, location, existence or condition of the premises, or to inquire into the validity of the signatures or the identity, capacity, or authority of the signatories on the note or trust deed, nor shall Trustee be obligated to record this trust deed or to exercise any power herein given unless expressly obligated by the terms hereof, nor be liable for any acts or omissions hereunder, except in case of its own gross negligence or misconduct or that of the agents or employees of Trustee, and it may require indemnity satisfactory to it before exercising any power herein given.

13. Trustee shall release this trust deed and the lien thereof by proper instrument upon presentation of satisfactory evidence that all indebtedness secured by this trust deed has been fully paid; and Trustee may execute and deliver a release hereof to and at the request of any person who shall, either before or after maturity thereof, produce and exhibit to Trustee the note, representing that all indebtedness hereby secured has been paid, which representation Trustee may accept as true without inquiry. Where a release is requested of a successor trustee, such successor trustee may accept as the genuine note herein described any note which bears an identification number purporting to be placed thereon by a prior trustee hereunder or which conforms in substance with the description herein contained of the note and which purports to be executed by the persons herein designated as the makers thereof; and where the release is requested of the original trustee and it has never placed its identification number on the note described herein, it may accept as the genuine note herein described any note which may be presented and which conforms in substance with the description herein contained of the note and which purports to be executed by the persons herein designated as makers thereof.

14. Trustee may resign by instrument in writing filed in the office of the Recorder or Registrar of Titles in which this instrument shall have been recorded or filed. In case of the resignation, inability or refusal to act of Trustee, the then Recorder of Deeds of the county in which the premises are situated shall be Successor in Trust. Any Successor in Trust hereunder shall have the identical title, powers and authority as are herein given Trustee.

15. This Trust Deed and all provisions hereof, shall extend to and be binding upon Mortgagors and all persons claiming under or through Mortgagors, and the word "Mortgagors" when used herein shall include all such persons and all persons liable for the payment of the indebtedness or any part thereof, whether or not such persons shall have executed the note or this Trust Deed. The word "note" when used in this instrument shall be construed to mean "notes" when more than one note is used.

16. Before releasing this trust deed, Trustee or successor shall receive for its services a fee as determined by its rate schedule in effect when the release deed is issued. Trustee or successor shall be entitled to reasonable compensation for any other act or service performed under any provisions of this trust deed. The provisions of the "Trust And Trustees Act" of the State of Illinois shall be applicable to this trust deed.

02/22/11
9:05 AM
A/E

EGS No 2

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IMPORTANT!
FOR THE PROTECTION OF BOTH THE BORROWER AND LENDER THE INSTALMENT NOTE SECURED BY THIS TRUST DEED SHOULD BE IDENTIFIED BY CHICAGO TITLE AND TRUST COMPANY, TRUSTEE, BEFORE THE TRUST DEED IS FILED FOR RECORD.

Identification No. **665117**
CHICAGO TITLE AND TRUST COMPANY,
Trustee,
By *[Signature]*
Assistant Secretary/Assistant Vice President

MAIL TO: **CHICAGO TITLE & TRUST CO.**
ATTN: D. NELSON, ROOM 844
111 WEST WASHINGTON
CHICAGO IL 60602

FOR RECORDER'S INDEX PURPOSES
INSERT STREET ADDRESS OF ABOVE
DESCRIBED PROPERTY HERE

IN RECORDER'S OFFICE BOX NUMBER **533 #315842**

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RIDER ATTACHED TO AND MADE A PART OF THAT CERTAIN TRUST DEED DATED DECEMBER 9, 1980 BY AND BETWEEN PAG, INC., AN ILLINOIS CORPORATION (MORTGAGOR) AND CHICAGO TITLE AND TRUST COMPANY (TRUSTEE)

R-1 The interest of the Trustee in the subject Premises as created by this Trust Deed is junior, subject and subordinate to the rights and liens created by the following documents:

Mortgage dated November 25, 1980 and recorded December 8, 1980 made by Harris Trust and Savings Bank, not personally but as Trustee under a Trust Agreement dated January 15, 1980 and known as Trust No. 40174 to Foodmaker, Inc., a Delaware corporation, to secure a Note (the "Senior Note") in the original principal amount of \$3,514,699.00 (the Senior Note and Mortgage hereinafter referred to as the "Senior Loan Documents").

R-2 Concurrently with the disbursement of the loan proceeds evidenced by the Note and secured hereby, Mortgagor is obtaining four additional loans (the "Other Loans") from the holder of the Note for the purpose of acquiring the Premises and sixteen additional properties from the holder of the Note (the Premises and the sixteen additional properties hereinafter collectively referred to as the "Properties"). In conjunction with the acquisition of the Properties, Mortgagor is entering into leases (the "Leases") with the holder of the Note (the acquisition and lease transaction described above, hereinafter referred to as the "Sale-Leaseback Transaction"). The lessee under the Leases has or will subsequently enter into subleases with third parties (hereinafter collectively referred to as the "Third Party Leases"). In consideration of the mutual promises and undertakings relative to the Sale-Leaseback Transaction, Mortgagor and the holder of the Note secured hereby, their respective successors and assigns hereby covenant and agree as follows:

(a) Notwithstanding the obligations imposed upon the Mortgagor in Paragraphs 2 and 3 on the reverse side of the printed form to which this Rider is attached, the obligations of the Tenant under the Leases to maintain the Premises; to pay all general and special taxes, assessments, water charges, sewer service charges and other charges against the Premises; to keep all buildings and improvements insured against loss or damage by fire, lightning or windstorm shall supersede the aforesaid obligations imposed on the Mortgagor hereunder and the failure on the part of Mortgagor to perform these obligations shall not be a default hereunder.

(b) In the event that title or interest in the Premises is or becomes vested in the holder of the Note secured hereby (the "Lender") whether through foreclosure sale or deed in lieu of foreclosure, the Lender agrees to attorn to the tenants under the Third Party Leases in accordance with the terms and conditions thereof.

(c) A default under the terms of the notes which evidence the Other Loans (the "Other Notes") or the documents which secure the Other Notes, shall be a default hereunder.

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(d) In the event the lessee under the Leases fails to make rental payments in accordance with the terms of the Leases, Mortgagor shall have the right to deduct from the payments due under the Note, a sum equal to the unpaid rental under the Leases.

R-3 The interest of the Mortgagor in and to the Leasehold Parcel is created by an assignment of that certain Sublease Agreement dated November 1, 1980 by and between Foodmaker, Inc., a Delaware corporation, Lessor and Harris Trust and Savings Bank, not personally but solely as Trustee under a Trust Agreement dated February 15, 1980 and known as Trust No. 40174, Lessee (the Sublease Agreement and the leases creating the leasehold estate previously vested in Foodmaker, Inc. hereinafter referred to as the "Master Leases"). Mortgagor hereby covenants and agrees to perform the obligations of the Lessee under the Master Leases and the failure to perform the obligations of the Lessee under the Master Leases shall be a default hereunder. Notwithstanding anything to the contrary contained herein, the failure of the Mortgagor to perform any obligation of the Lessee under the Master Leases which is imposed upon the Lessee under the Leases shall not be a default hereunder.

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R-4 It is understood and agreed that:

(a) The terms "Trustee" and "Mortgagee" are used interchangeably and the terms "First Party" and "Mortgagor" are used interchangeably.

(b) The loan secured hereby is a so-called "wraparound loan" by which is meant that the Mortgagee agrees, by acceptance of the Note, that prior to the maturity date of the Note and so long as no default or event of default exists under the Note or this Trust Deed, the Mortgagee will out of payments made upon the Note and the Other Notes repay the principal and interest on the Senior Note as and when the same become due under the terms thereof provided there is no acceleration of the maturity thereof. The obligation of the Mortgagee herein contained is a personal undertaking between Mortgagor and Mortgagee and is not intended to be relied upon by any other party including but not limited to the holder of the Senior Note.

(c) Except as herein set forth, nothing herein or in the Note or other documents securing the Note shall require, obligate or make liable the Mortgagee or any holder of the Note to perform, observe or make payments in accordance with any of the terms, provisions, conditions, agreements or payments required to be performed, observed or paid pursuant to the Senior Loan Documents; provided, however, that the Mortgagee may, at its sole discretion, perform or observe all or any such term, provision, condition, agreement or payment and do and make any and all acts, things and payments required to prevent or cure any default under the Senior Loan Documents; and any monies advanced or expended by Mortgagee in connection therewith shall be so much additional indebtedness secured hereby, and shall be immediately due and payable with interest at the default rate specified in the Note, from the date expended to the date paid.

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(d) It is understood and agreed that a default or event of default under any one or more of the Senior Loan Documents shall also be a default hereunder.

(e) Subject to the provisions of subparagraph (b) above, Mortgagor shall duly and punctually comply with all obligations imposed by the Senior Loan Documents.

(f) The Mortgagor hereby authorizes and empowers the legal holder and owner from time to time of the Note secured hereby to disburse the funds secured hereby and to apply the same from time to time to payment of part or all of the principal and interest due under the Senior Note. It is expressly covenanted and agreed by the parties hereto that upon each such payment, the owner of the indebtedness secured hereby shall be and is hereby subrogated to all rights, liens, and privileges which before such payment were vested in the owner or legal holder of the indebtedness evidenced by the Senior Note and upon such payment this mortgage shall be to all intents and purposes and to the extent of payments so made a first and valid lien, subrogated as aforesaid, upon the premises herein described.

(g) To the extent that this Trust Deed imposes an obligation or right to perform an act on the part of the Mortgagee, said obligation or right shall be assumed by the legal holder of the Note secured hereby.

R-5 The Mortgagor hereby waives its right of redemption to the fullest extent permitted under the laws of the State of Illinois.

R-6 The Mortgagor will give the Mortgagee prompt notice of any damage to or destruction of the Premises, and, to the extent not in conflict with the Senior Loan Documents or the Master Leases, then:

(a) In case of loss covered by policies of insurance, the Mortgagee (or, after entry of decree of foreclosure, the Purchaser at the foreclosure sale or decree creditor, as the case may be) is hereby authorized at its option either (i) to settle and adjust any claim under such policies without the consent of the Mortgagor, or (ii) allow the Mortgagor to agree with the insurance company or companies on the amount to be paid upon the loss; provided, that the Mortgagor may itself adjust losses aggregating not in excess of Five Thousand Dollars (\$5,000), and provided further that in any case the Mortgagee shall, and is hereby authorized to, collect and receipt for any such insurance proceeds; and the expenses incurred by the Mortgagee in the adjustment and collection of insurance proceeds shall be so much additional Indebtedness Hereby Secured, and shall be reimbursed to the Mortgagee upon demand.

(b) In the event of any insured damage to or destruction of the Premises or any part thereof (herein called an "Insured Casualty"), the proceeds of insurance consequent upon any Insured Casualty shall be applied in accordance with the terms and provisions of the Leases.

R-7 To the extent not in conflict with the Senior Loan Documents or the Master Leases, then in the event the

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Mortgagor is entitled to reimbursement out of insurance proceeds held by the Mortgagee, such proceeds shall be disbursed from time to time upon the Mortgagee being furnished with satisfactory evidence of the estimated cost of completion of the restoration, repair, replacement and rebuilding with funds (or assurances satisfactory to the Mortgagee that such funds are available) sufficient in addition to the proceeds of insurance, to complete the proposed restoration, repair, replacement and rebuilding and with such architect's certificates, waivers of lien, contractor's sworn statements and such other evidences of cost and of payment as the Mortgagee may reasonably require and approve; and the Mortgagee may, in any event, require that all plans and specifications for such restoration, repair, replacement and rebuilding be submitted to and approved by the Mortgagee prior to commencement of work. No payment made prior to the final completion of the restoration, repair, replacement or rebuilding shall exceed Ninety Percent (90%) of the value of the work performed from time to time; funds other than proceeds of insurance shall be disbursed prior to disbursement of such proceeds; and at all times the undisbursed balance of such proceeds remaining in the hands of the Mortgagee, together with funds deposited for the purpose or irrevocably committed to the satisfaction of the Mortgagee by or on behalf of the Mortgagor for the purpose, shall be at least sufficient in the reasonable judgment of the Mortgagee to pay for the cost of completion of the restoration, repair, replacement or rebuilding, free and clear of all liens or claims for lien. No interest shall be allowed to the Mortgagor on account of any proceeds of insurance or other funds held in the hands of the Mortgagee.

R-8 To the extent the obligations imposed herein are not in conflict with the Senior Loan Documents or the Master Leases, the Mortgagor hereby assigns, transfers and sets over unto the Mortgagee the entire proceeds of any award or claim for damages for any of the Premises taken or damaged under the power of eminent domain, or by condemnation including damages to grade. The Mortgagee may elect to apply the proceeds of the award upon or in reduction of the Indebtedness Hereby Secured then most remotely to be paid, whether due or not, or to require the Mortgagor to restore or rebuild the Premises, in which event, the proceeds shall be held by the Mortgagee and used to reimburse the Mortgagor for the cost of such rebuilding or restoring. If the Mortgagor is obligated to restore or replace the damaged or destroyed buildings or improvements upon the Premises under the terms of any lease or leases which are or may be prior to the lien of this Mortgage, and if such taking does not result in cancellation of such lease or leases, the award shall be used to reimburse the Mortgagor for the cost of restoration and rebuilding; provided always, that Mortgagor is not in default hereunder and that no Event of Default has occurred and is then continuing. If the Mortgagor is required or permitted to rebuild or restore the Premises as aforesaid, such rebuilding or restoration shall be effected solely in accordance with plans and specifications previously submitted to and approved by the Mortgagee, and proceeds of the award shall be paid out in the same manner as is provided in Paragraph R-7 hereof for the payment of insurance proceeds towards the cost of rebuilding or restoration. If the amount of such award is insufficient to cover the cost of rebuilding or restoration, the Mortgagor shall pay such costs in excess of the award, before being

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entitled to reimbursement out of the award. Any surplus which may remain out of the award after payment of such costs of rebuilding or restoration shall, at the option of the Mortgagee, be applied on account of the Indebtedness Hereby Secured, then most remotely to be paid, or be paid to any other party entitled thereto. No interest shall be allowed to Mortgagor on account of any award held by Mortgagee. Notwithstanding anything to the contrary contained herein, in the event of a conflict between the terms hereof and the Leases, the terms of the Leases shall control and supercede the obligations imposed hereunder.

R-9 It shall be an immediate Event of Default and default hereunder if, without the prior written consent of the Mortgagee (which consent shall not unreasonably be withheld) any of the following shall occur:

(a) If the Mortgagor shall create, effect or consent to or shall suffer or permit any conveyance, sale, assignment, transfer, lien, pledge, mortgage, security interest or other encumbrance or alienation of the Premises or any part thereof, or interest therein, excepting only sales or other dispositions of Collateral (herein called "Obsolete Collateral") no longer useful in connection with the operation of the Premises, provided that prior to the sale or other disposition thereof, such Obsolete Collateral has been replaced by Collateral, subject to the first and prior lien hereof, of at least equal value and utility;

(b) If any shareholder of Mortgagor shall create, effect or consent to or shall suffer or permit any sale, assignment, transfer, lien, pledge, mortgage, security interest or other encumbrance or alienation of any such shareholder's shares in such corporation; provided, that if such corporation is a corporation whose stock is publicly traded on a national securities exchange or on the "Over The Counter" market, then this Subparagraph (b) shall be inapplicable;

in each case whether any such conveyance, sale, assignment, transfer, lien, pledge, mortgage, security interest, encumbrance or alienation is effected directly, indirectly, voluntarily or involuntarily, by operation of law or otherwise; provided, that the foregoing provisions of this Paragraph shall not apply (i) to liens securing the Indebtedness Hereby Secured, (ii) to the lien of current taxes and assessments not in default or (iii) to any transfers of the Premises, or part thereof, or interest therein, or any beneficial interests, or shares of stock as the case may be, in the Mortgagor or on behalf of an owner thereof who is deceased or declared judicially incompetent, to such owner's heirs, legatees, devisees, executors, administrators, estate, personal representatives and/or committee. The provisions of this Paragraph shall be operative with respect to, and shall be binding upon, any persons who, in accordance with the terms hereof or otherwise, shall acquire any part of or interest in or encumbrance upon the Premises, or such beneficial interest, share of stock of or partnership or joint venture interest in the Mortgagor or any beneficiary of a Trustee Mortgagor.

Notwithstanding the provisions of Paragraph R-9(a) to the contrary, Mortgagee hereby consents to a transfer of

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Mortgagor's right, title and interest in the Premises subject to the terms and conditions of this Trust Deed to the Wexler/Box-Jack Venture, an Illinois joint venture; provided, however, the prohibitions of this paragraph shall apply subsequent to such transfer described herein and the provisions of paragraph 7(b) shall be applicable to a transfer or other alienation described therein of joint venture interest in the Wexler/Box-Jack Venture.

R-10 This Mortgage constitutes a Security Agreement under the Uniform Commercial Code of the State of Illinois (herein called the "Code") with respect to any part of the Premises which may or might now or hereafter be or be deemed to be personal property, fixtures or property other than real estate (all for the purposes of this Paragraph called "Collateral"); all of the terms, provisions, conditions and agreements contained in this Mortgage pertain and apply to the Collateral as fully and to the same extent as to any other property comprising the Premises; and the following provisions of this Paragraph shall not limit the generality or applicability of any other provision of this Mortgage but shall be in addition hereto:

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(a) The Mortgagor (being the Debtor as that term is used in the Code) is and will be the true and lawful owner of the Collateral, subject to no liens, charges or encumbrances other than the lien hereof and the lien of the Senior Loan Documents.

(b) The Collateral is to be used by the Mortgagor solely for business purposes, being installed upon the Premises for Mortgagor's own use or as the equipment and furnishings furnished by Mortgagor, as landlord, to tenants of the Premises.

(c) The Collateral will be kept at the real estate comprised in the Premises, and will not be removed therefrom without the consent of the Mortgagee (being the Secured Party as that term is used in the Code) by Mortgagor or any other person; and the Collateral may be affixed to such real estate but will not be affixed to any other real estate.

(d) The only persons having any interest in the Premises are the Mortgagor and the Mortgagee and Foodmaker, Inc., a Delaware corporation.

(e) No Financing Statement covering any of the Collateral or any proceeds thereof is on file in any public office except pursuant hereto and the Senior Loan Documents; and Mortgagor will at its own cost and expense, upon demand, furnish to the Mortgagee such further information and will execute and deliver to the Mortgagee such financing statement and other documents in form satisfactory to the Mortgagee and will do all such acts and things as the Mortgagee may at any time or from time to time reasonably request or as may be necessary or appropriate to establish and maintain a perfected security interest in the Collateral as security for the Indebtedness Hereby Secured, subject to no adverse liens or encumbrances; and the Mortgagor will pay the cost of filing the same or filing or recording such financing statements or other documents, and this instrument, in all public offices wherever filing or recording is deemed by the Mortgagee to be necessary or desirable.

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(f) Upon any default or Event of Default hereunder and at any time thereafter (such default not having previously been cured), the Mortgagee at its option may declare the Indebtedness Hereby Secured immediately due and payable, and thereupon Mortgagee shall have the remedies of a secured party under the Code, including without limitation, the right to take immediate and exclusive possession of the Collateral, or any part thereof, and for that purpose may, so far as the Mortgagor can give authority therefor, with or without judicial process, enter (if this can be done without breach of the peace), upon any place which the Collateral or any part thereof may be situated and remove the same therefrom, provided that if the Collateral is affixed to real estate, such removal shall be subject to the conditions stated in the Code; and the Mortgagee shall be entitled to hold, maintain, preserve and prepare the Collateral for sale, until disposed of, or may propose to retain the Collateral subject to Mortgagor's right of redemption in satisfaction of the Mortgagor's obligations, as provided in the Code. The Mortgagee without removal may render the Collateral unusable and dispose of the Collateral on the Premises. The Mortgagee may require the Mortgagor to assemble the Collateral and make it available to the Mortgagee for its possession at a place to be designated by Mortgagee which is reasonably convenient to both parties. The Mortgagee will give Mortgagor at least five (5) days' notice of the time and place of any public sale thereof or of the time after which any private sale or any other intended disposition thereof is made. The requirements of reasonable notice shall be met if such notice is mailed, by certified mail or equivalent, postage prepaid, to the address of Mortgagor at least five (5) days before the time of the sale or disposition. The Mortgagee may buy at any Public sale and if the Collateral is of a type customarily sold in a recognized market or is of a type which is the subject of widely distributed standard price quotations, Mortgagee may buy at private sale. Any such sale may be held as part of and in conjunction with any foreclosure sale of the real estate comprised within the Premises, the Collateral and real estate to be sold as one lot if Mortgagee so elects. The net proceeds realized upon any such disposition, after deduction for the expenses of retaking, holding, preparing for sale, selling or the like and the reasonable attorneys' fees and legal expenses incurred by Mortgagee, shall be applied in satisfaction of the Indebtedness Hereby Secured. The Mortgagee will account to the Mortgagor for any surplus realized on such disposition.

(g) The remedies of the Mortgagee hereunder are cumulative and the exercise of any one or more of the remedies provided for herein or under the Code shall not be construed as a waiver of any of the other remedies of the Mortgagee, including having the Collateral deemed part of the realty upon any foreclosure thereof so long as any part of the Indebtedness Hereby Secured remains unsatisfied.

(h) The terms and provisions contained in this Paragraph shall, unless the context otherwise requires, have the meanings and be construed as provided in the Code.

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R-11 It is understood and agreed that the loan evidenced by the Note and secured hereby is a loan to a corporation within the purview and intent of Section 4(1)(a) of the Illinois Interest Act [Illinois Revised Statutes, Chapter 74, Sections 4(1)(a)] and thus is exempt from the limitations imposed on interest charged upon such loans.

R-12 No personal liability shall be asserted or be enforceable against the Mortgagor or any shareholder of the Mortgagor or any assignee, grantee, or successor in interest of the Mortgagor because or in respect of the Note secured hereby or this Trust Deed, all such liability, if any, being expressly waived by each taker and holder of the Note, and each original and successive holder of the Note accepts the same upon the express condition that in case of a default under the Note or this Trust Deed, the sole remedy of the holder of the Note shall be by foreclosure of this Trust Deed in accordance with the terms and provisions hereof.

PAG, INC.

By: Robert Anak, Pres.

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ATTEST:

Russell Anak
Asst. Secretary

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FEE LOCATIONS

LOCATION 1005

Lot 32 (except the South 6 inches), all of Lots 33 to 37, inclusive, and the South 6 inches of Lot 38 (excepting therefrom that part thereof lying west of a line drawn 50 feet East of and parallel with the West line of Section 35) all in MacDonaldis Subdivision of the North 1/2 of the Northwest 1/4 of the Northwest 1/4 of the Southwest 1/4 of Section 35, Township 38 North, Range 14 East of the Third Principal Meridian, (except that part condemned for Jackson Avenue), in Cook County, Illinois.

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LOCATION 1023

PARCEL 1:
THAT PART OF LOT "S" IN ROLLING MEADOWS, UNIT NUMBER 8, BEING A SUBDIVISION IN THAT PART OF THE WEST 1/2 OF SECTION 36, TOWNSHIP 42 NORTH, RANGE 10 EAST OF THE THIRD PRINCIPAL MERIDIAN, LYING SOUTH OF KIRCHOFF ROAD, ACCORDING TO THE PLAT THEREOF FILED IN THE OFFICE OF THE REGISTRAR OF TORRENS TITLES OF COOK COUNTY, ILLINOIS AS DOCUMENT NUMBER LR 1608437, COMMENCING AT A POINT ON A LINE, 60 FEET EAST OF AND PARALLEL WITH THE WEST LINE OF LOT "S" 230 FEET SOUTH OF THE POINT OF INTERSECTION OF SAID PARALLEL LINE WITH THE NORTHERLY LINE OF LOT "S" (SAID NORTHERLY LINE OF LOT "S" BEING THE SOUTHERLY LINE OF KIRCHOFF ROAD); THENCE NORTH ALONG SAID PARALLEL LINE, 230 FEET TO SAID NORTHERLY LINE OF LOT "S"; THENCE SOUTHEASTERLY ALONG THE NORTHERLY LINE OF LOT "S" A DISTANCE OF 155 FEET; THENCE SOUTHWESTERLY ALONG A LINE DRAWN AT RIGHT ANGLES TO SAID NORTHERLY LINE OF LOT "S" A DISTANCE OF 119 FEET; THENCE SOUTHWESTERLY TO THE POINT OF BEGINNING, IN COOK COUNTY, ILLINOIS

PARCEL 2:
EASEMENT FOR INGRESS AND EGRESS FOR THE BENEFIT OF PARCEL 1 OVER AND ACROSS THE FOLLOWING DESCRIBED PROPERTY: THAT PART OF LOT "S" IN ROLLING MEADOWS, UNIT NUMBER 8, BEING A SUBDIVISION IN THAT PART OF THE WEST 1/2 OF SECTION 36, TOWNSHIP 42 NORTH, RANGE 10 EAST OF THE THIRD PRINCIPAL MERIDIAN, LYING SOUTH OF KIRCHOFF ROAD, ACCORDING TO THE PLAT THEREOF RECORDED REGISTERED IN THE OFFICE OF THE REGISTRAR OF TITLES OF COOK COUNTY, ILLINOIS, AS DOCUMENT NUMBER 1608437, DESCRIBED AS FOLLOWS: COMMENCING AT A POINT IN THE NORTHERLY LINE OF SAID LOT "S" (SAID NORTHERLY LINE OF LOT "S" BEING THE SOUTHERLY LINE OF KIRCHOFF ROAD) 155 FEET SOUTHEASTERLY OF THE POINT OF INTERSECTION OF SAID NORTHERLY LINE OF LOT "S" WITH A LINE, 60 FEET EAST OF AND PARALLEL WITH THE WEST LINE OF SAID LOT "S"; THENCE SOUTHWESTERLY ALONG A LINE DRAWN AT RIGHT ANGLES TO SAID NORTHERLY LINE OF LOT "S", A DISTANCE OF 119 FEET; THENCE SOUTHWESTERLY TO A POINT IN A LINE, 60 FEET EAST OF AND PARALLEL WITH THE WEST LINE OF LOT "S" THAT IS 230 FEET SOUTH OF THE POINT OF INTERSECTION OF SAID PARALLEL LINE WITH THE NORTHERLY LINE OF SAID LOT "S"; THENCE SOUTH ALONG SAID LINE, 60 FEET EAST OF AND PARALLEL WITH THE WEST LINE OF SAID LOT "S", A DISTANCE OF 79.01 FEET, TO A POINT IN A LINE THAT IS 66 FEET SOUTHEASTERLY OF AND PARALLEL WITH THE LAST DESCRIBED COURSE; THENCE NORTHEASTERLY ALONG SAID LAST PARALLEL LINE, A DISTANCE OF 150.02 FEET TO A POINT IN A LINE THAT IS 66 FEET SOUTHEASTERLY OF AND PARALLEL WITH THE HEREIN 1ST DESCRIBED COURSE; THENCE NORTHEASTERLY ALONG SAID LAST PARALLEL LINE A DISTANCE OF 135.06 FEET TO A POINT IN THE SAID NORTHERLY LINE OF LOT "S"; THENCE NORTHWESTERLY ALONG THE SAID NORTHERLY LINE OF LOT "S", BEING THE ARC OF A CIRCLE CONVEXED TO THE SOUTH WEST AND HAVING A RADIUS OF 975.4 FEET, A DISTANCE OF 20.49 FEET TO A POINT OF TANGENCY; THENCE NORTHWESTERLY ALONG THE SAID NORTHERLY LINE OF LOT "S", BEING A LINE TANGENT TO THE LAST DESCRIBED CURVE, A DISTANCE OF 45.51 FEET TO THE POINT OF BEGINNING; AS CREATED BY GRANT OF EASEMENT MADE AUGUST 23, 1961 AND FILED AUGUST 29, 1961 AS DOCUMENT NUMBER LR 1995251 BY HILL HOMES INCORPORATED, A CORPORATION OF ILLINOIS, TO SOCONY MOBIL OIL COMPANY, INCORPORATED, A CORPORATION OF NEW YORK, IN COOK COUNTY, ILLINOIS.

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LOCATION 1011

THE SOUTH 122 FEET OF THE EAST 231 FEET OF THE SOUTH EAST 1/4 OF THE SOUTH WEST 1/4 OF SECTION 14, TOWNSHIP 42 NORTH, RANGE 10 EAST OF THE THIRD PRINCIPAL MERIDIAN, (EXCEPTING THEREFROM THAT PART TAKEN FOR NORTHWEST HIGHWAY AND ALSO EXCEPTING THEREFROM THAT PART TAKEN FOR ALATINE ROAD), ALL IN COOK COUNTY, ILLINOIS.

LOCATION 1035

Lots 3, 4, 5 and 6 in the Subdivision of the South 150.0 feet of the North 200.0 feet of Lot 1 (excepting therefrom the East 35.0 feet thereof) in King Estate Subdivision in Evergreen Park of the North West 1/4 of Section 12, Township 37 North, Range 13 East of the Third Principal Meridian, in Cook County, Illinois

LOCATION 1039

PARCEL 1:

LOT 1 IN ROHLWING GROVE UNIT NUMBER 2, BEING A SUBDIVISION OF PART OF THE SOUTH WEST 1/4 OF SECTION 31, TOWNSHIP 41 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PARCEL 2:

A NON-EXCLUSIVE EASEMENT FOR ACCESS TO PARCEL 1, ABOVE, AND INGRESS AND EGRESS TO SAID PARCEL 1 OVER THE FOLLOWING DESCRIBED LAND, AS CREATED BY EASEMENT AGREEMENT FILED AS DOCUMENT NUMBER 2926291; THAT PART OF LOT 2 DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTH WEST CORNER OF LOT 2; THENCE SOUTHEASTERLY ALONG THE NORTHEASTERLY LINE OF LOT 2 A DISTANCE OF 30.00 FEET TO A POINT IN AN ARC OF A CIRCLE CONVEX SOUTHEASTERLY AND HAVING A RADIUS OF 30.0 FEET, THE CENTER OF WHICH IS SAID NORTH WEST CORNER OF LOT 2; THENCE WESTERLY ALONG SAID ARC 41.58 FEET MORE OR LESS TO A POINT IN THE WEST LINE OF LOT 2 AFORESAID, 30.0 FEET SOUTHERLY OF THE POINT OF BEGINNING, THENCE NORTHERLY ALONG SAID WEST LINE 30.00 FEET TO THE POINT OF BEGINNING; ALL IN ROHLWING GROVE UNIT NUMBER 2, BEING A SUBDIVISION OF PART OF THE SOUTH WEST 1/4 OF SECTION 31, TOWNSHIP 41 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

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Leasehold Estate

LOCATION 1054

Lot 6 in Block 6 (except the South 75 feet thereof) and (except that part beginning at the Northwest corner of said Lot 6; thence Southerly along the West line of said Lot 6 for a distance of 30.00 feet; thence Northeasterly and Easterly along a curved line, concave Southeasterly, having a radius of 30.0 feet, and which is tangent to the last described line at the last described point, for an arc length of 46.75 feet to a point on the North line of said Lot 6; thence Westerly along the said North line of Lot 6 for a distance of 30.00 feet to the point of beginning, as condemned for highway purposes in Case No. C71-1636), in Arthur T. Mc Intosh and Company's Westmont acres, being a subdivision of the Southwest quarter (except that part of the East half thereof South of the center line of Naperville Road) in the West half of the Southeast quarter of Section 3, Township 38 North, Range 11, East of the Third Principal Meridian, according to the Plat thereof recorded November 4, 1920 as Document 145100, in DuPage County, Illinois.

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