

# UNOFFICIAL COPY

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## LANDLORD'S AGREEMENT

This Landlord's Agreement is made and executed as of this 10<sup>th</sup> day of November, 1988, by and between Avenue Bank & Trust Company of Oak Park, as Trustee under Trust Agreement dated February 21, 1983 and known as Trust No. 3649, and not personally, with an address at \_\_\_\_\_ ("Landlord"), and American National Bank and Trust Company of Chicago, with an address at 33 North LaSalle Street, Chicago, Illinois 60690 ("Lender").

DEPT-01 RECORDING \$39.60  
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 48771 : B #--88-534225  
 COOK COUNTY RECORDER

### WITNESSETH:

WHEREAS, Lender and Arpac Corp., an Illinois corporation ("Borrower"), have entered into, and may from time to time hereafter enter into, various agreements, instruments and documents (collectively the "Financing Agreements") providing for loans and advances to or for the benefit of Borrower;

WHEREAS, to secure payment and performance of all of Borrower's obligations and liabilities to Lender under the Financing Agreements ("Borrower's Liabilities"), Lender has required that Borrower grant to Lender a security interest in, among other things, all of Borrower's existing and future accounts, inventory, machinery, equipment, fixtures and other personal property and all products and proceeds of the foregoing including without limitation proceeds of insurance (collectively referred to as the "Collateral");

WHEREAS, some of the Collateral is now or from time to time hereafter may be located at the premises known as 9511 West River Street, Schiller Park, Illinois 60176 and legally described on Exhibit A hereto (the "Premises");

WHEREAS, the Premises are owned and leased by Landlord to Borrower pursuant to the Indenture of Lease dated June 30, 1987, a copy of which is attached hereto as Exhibit B (the "Lease");

WHEREAS, Landlord wishes to continue to lease the Premises to Borrower and receive rental payments therefor pursuant to the Lease, and accordingly wishes for Borrower to remain in business and continue to operate the same; and

WHEREAS, Borrower to remain in business and continue to operate the same, may require loans and advances from Lender pursuant to the Financing Agreements, and Lender, as a condition precedent to making such loans and/or advances, has required that Landlord enter into this Agreement;

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*Handwritten signature/initials*

PROSECUTOR OF COOK COUNTY CLERK'S OFFICE

COOK COUNTY RECORDER

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NOW THEREFORE, in consideration of the foregoing and other good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, Landlord hereby covenants and agrees as follows:

1. Landlord waives all rights which Landlord now or hereafter may have, under the laws of the State of Illinois or by virtue of the Lease, or any renewals, extensions, amendments, modifications, substitutions or replacements thereof (a "New Lease"), or by virtue of Borrower's occupation of the Premises, to levy or distrain upon, or to claim or assert any lien, right, claim or title to, any of the Collateral which now or hereafter may be located on the Premises in order to enforce any obligation of Borrower under the Lease or a New Lease, including without limitation the obligation to pay rent and any other monetary obligation arising thereunder.

2. Landlord agrees that the Collateral (i) is and shall remain personal property notwithstanding the manner or mode of the attachment of any item of Collateral to the Premises, and (ii) is not and shall not become or be deemed to be fixtures.

3. Landlord recognizes and acknowledges that Lender's security interest in the Collateral pursuant to the Financing Agreements is superior to any lien, right, claim or title of any nature which Landlord now or hereafter may have or assert in the Collateral by statute, common law, the Lease, any New Lease, any other agreement or otherwise.

4. In the event of default by Borrower in the payment or performance of any of Borrower's Liabilities, Lender may remove the Collateral or any part thereof from the Premises in accordance with the terms and conditions of any agreement between Borrower and Lender and statutory law appertaining thereto without objection, delay, hindrance or interference by Landlord and in such case Landlord will make no claim or demand whatsoever against the Collateral; provided, that Lender shall (i) promptly repair any damage to the Premises caused in the course of any such removal of the Collateral and (ii) not unreasonably interfere with the use of the Premises by any other patron or tenant. In the event of any such default by Borrower, Landlord agrees that it will (A) permit Lender to enter the Premises in order to assemble and/or remove all of the Collateral located thereon; (B) permit Lender to remain on the premises for ninety (90) days after Lender

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declares the default, provided that Borrower's rent obligations and other monetary obligations, if any, for such period under the Lease are paid in full as they come due, or, at Lender's option, permit Lender to remove the Collateral from the Premises within a reasonable time, not to exceed thirty (30) days after Lender declares the default without charge to the Lender, provided, in any event, that Lender gives Landlord prior written notice of its intent to occupy the Premises or remove the Collateral; and (C) not hinder Lender's actions in enforcing its security interest in the Collateral.

5. Lender may, without affecting the validity of this Agreement, extend, amend or in any way modify the terms of payment or performance of any of Borrower's Liabilities, without the consent of Landlord and without giving notice thereof to Landlord.

6. Landlord will notify Lender if Borrower defaults on any of its obligations to Landlord under the Lease or any New Lease and allow Lender thirty (30) days from its receipt of such notice in which to cure or cause Borrower to cure any such default.

7. Nothing herein shall restrict Landlord's right to either redeem or to take possession of the Premises and terminate the Lease or any New Lease or sell or otherwise transfer all or any part of its interest in the Premises. Landlord agrees to notify Lender at least thirty (30) days before taking any such action.

8. Lender may, at any time or times hereafter during normal business hours, without any fee or charge for rent, enter upon the Premises to inspect Borrower's assets located on the Premises.

9. Any notice(s) required or desired to be given hereunder shall be in writing and sent by U.S. mail, postage paid, or personally delivered, and directed to the party to be notified at the address set forth above. All notices shall be deemed received 48 hours after being deposited with the U.S. Postal Service or, in the case of personal delivery, upon actual receipt thereof.

10. The agreements contained herein shall continue in force until the earlier to occur of (i) all Borrower's Liabilities are paid and satisfied in full and all financing arrangements between Lender and Borrower have been terminated and (ii) the termination

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of the Lease or New Lease, as applicable. The agreements contained herein may not be modified or terminated orally, and shall be binding upon the successors, assigns and personal representatives of Landlord, upon any successor owner or transferee of the Premises, and upon any purchasers (including any mortgagee) from the undersigned.

IN WITNESS WHEREOF, this Agreement has been duly executed and delivered as of the date set forth above.

First Colonial Trust Company f/k/a  
AVENUE BANK & TRUST COMPANY OF  
OAK PARK, as Trustee, and not  
personally

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By Norma J. Haworth  
Title Norma J. Haworth Land Trust Officer

Milo Popovic  
Milo Popovic, Sole Beneficiary  
of Trust No. 3649

AMERICAN NATIONAL BANK AND  
TRUST COMPANY OF CHICAGO

By Norma J. Haworth  
Title Norma J. Haworth Land Trust Officer

Agreed to this \_\_\_\_ day  
of November, 1988.

ARPAC CORP.

By \_\_\_\_\_  
Title \_\_\_\_\_

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## ACKNOWLEDGEMENT

STATE OF Illinois )  
                                  )  
COUNTY OF Cook     )

First Colonial Trust Company F/E/A

BE IT REMEMBERED, that on this 9th day of November, 1988, before me, the subscribed, a Notary Public in the State of Illinois, personally appeared Norma J. Haworth Land Trust Officer of First Colonial Trust Company f/k/a Avenue Bank & Trust Company of Oak Park, who, I am satisfied, is the person named in and who executed the within instrument, and thereupon she acknowledged that she signed, sealed and delivered the same as the act and deed of Avenue Bank & Trust Company of Oak Park and as her act and deed, for the uses and purposes therein expressed.

Eleanor Frank

Notary Public

My Commission Expires:

\_\_\_\_\_  
[Faint notary seal]

Notary Public of Cook County Clerk's Office

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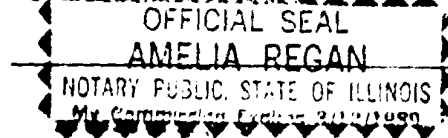
## ACKNOWLEDGEMENT

STATE OF )  
                  )  
COUNTY OF )

BE IT REMEMBERED, that on this \_\_\_\_\_ day of \_\_\_\_\_, 1988, before me, the subscribed, a Notary Public in the State of \_\_\_\_\_, personally appeared Milo Popovic, who, I am satisfied, is the person named in and who executed the within instrument, and thereupon he acknowledged that he signed, sealed and delivered the same as his own act and deed, for the uses and purposes therein expressed.

\_\_\_\_\_  
Notary Public

My Commission Expires:



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## ACKNOWLEDGEMENT

STATE OF \_\_\_\_\_ )  
COUNTY OF \_\_\_\_\_ )

BE IT REMEMBERED, that on this 12 day of February, 1988, before me, the subscribed, a Notary Public in the State of \_\_\_\_\_, personally appeared \_\_\_\_\_ of American National Bank & Trust Company of Chicago, who, I am satisfied, is the person named in and who executed the within instrument, and thereupon he acknowledged that he signed, sealed and delivered the same as the act and deed of American National Bank & Trust Company of Chicago and as \_\_\_\_\_ act and deed, for the uses and purposes therein expressed.

OFFICIAL SEAL  
TERESA L. HUNTER  
NOTARY PUBLIC STATE OF ILLINOIS  
MY COMMISSION EXP. DEC.2.1991

Teresa L. Hunter  
Notary Public

My Commission Expires: December 2, 1991

THIS INSTRUMENT PREPARED BY:

David L. Dranoff  
GOLDBERG, KOHN, BELL, BLACK,  
ROSENBLUM & MORITZ, LTD.  
55 East Monroe Street  
Suite 3900  
Chicago, Illinois 60603  
(312) 332-2177

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## EXHIBIT A

### Legal Description of Leased Property

The West 174 feet of the East 874 feet of Lot 3 (except the South 310 feet of Lot 3 and except the North 5.35 feet of said Lot 3) in O'Hare Industrial Center being a subdivision of part of the North half of Robinson's Reservation in Township 40 North, Range 12, East of the Third Principal Meridian.

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EXHIBIT B

Lease

Attached

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INDENTURE OF LEASE

4A

This Indenture of Lease, dated as of June 30th, 1987, between AVENUE BANK & TRUST COMPANY OF OAK PARK, as, Trustee under Trust Agreement dated 2/21/83 and known as Trust No. 3649, and not personally (hereinafter referred to as "Landlord") and MICHAEL LEVY, (hereinafter referred to as "Tenant").

## W I T N E S S E T H :

That for and in consideration of the mutual covenants and agreements herein contained on the part of the parties hereto to be done, kept, and performed, and of the due and faithful performance of each and all of the terms, covenants, conditions hereof on the part of each, respectfully, to be done, kept, and performed, the parties hereto agree as follows:

### Section 1. PREMISES:

1.1 Landlord, in consideration of the rentals reserved and of the covenants and promises herein contained to be kept and performed by the Tenant, does hereby demise and lease unto Tenant and Tenant does hereby lease and take from Landlord all of that certain tract of real estate located at 9511 West River Street, in Schiller Park, Illinois, and more particularly described in Exhibit "A" attached hereto and made part hereof, together with all buildings, structures, improvements, fixtures, machinery, apparatus, and equipment now or hereafter constructed, installed, or located thereon which are classified as fixtures under applicable law and which are used in connection with the operation, maintenance, or protection of said buildings, structures, and improvements as such, and are not used in connection

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with the operation of any business conducted upon said real estate, and with all rights, easements, and appurtenances now or hereafter belonging or appertaining thereto and all right, title, and interest of Landlord in and to land lying in all streets, highways, roads, alleys, and right of way abutting on or adjacent to or appurtenant to said real estate (all of the property demised and leased hereunder being hereafter referred to as the "Premises").

Section 2. TERM:

2.1 The term of this lease shall commence upon the June, 1987 Closing of the purchase of the assets and goodwill of Arpac Corporation by Michael Levy, and shall end exactly three (3) years from the date of the Closing, unless sooner terminated as hereinafter set forth, with the option to purchase the real estate as hereinafter provided in Section 17 hereof.

Section 3. RENTAL AND RENEWAL OF OPTION.

3.1 Tenant hereby covenants and agrees to pay the Landlord fixed rentals in the aggregate of Three Hundred Thousand Dollars (\$300,000.00) in thirty-six (36) equal monthly installments with the first payment payable on the date of closing and each of the thirty-five (35) remaining monthly payments payable on the same date of each succeeding month for the remaining 35 subsequent months of the term, each in the amount of Eight Thousand Three Hundred Thirty-Three and 34/100 Dollars (\$8,333.34), until termination of this lease, at Landlord's address, 104 North Oak Park Avenue, Oak Park Avenue, Illinois 60301 or as otherwise directed in writing by the Landlord. In the event that the lease is terminated pursuant to Section 17 hereof, the Landlord shall be entitled to a prorata

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share of the rent through the month of closing subject to tenant's credit for prepaid rent, to the date of closing.

3.2. Tenant shall have the right, privilege and option to renew this lease for a term of two (2) additional years, subject to the same terms and conditions except:

(1) the monthly rental for the two (2) year succeeding period (July 1, 1990 to June 30, 1992) shall be increased by one (1) times the percentage which reflects the percentage increase of the Consumer Price Index of the United States Department of Labor from July 1, 1987 to June 30, 1990. If at the latter date the CPI is no longer published by the Bureau of Labor Statistics of the United States Department of Labor then the parties shall with such adjustments as may be required use such other index as is then generally recognized and accepted for similar determination of purchasing power.

(2) The Tenant's contribution for insurance pursuant to Section 6 hereof shall be increased to thirty-five hundred dollars (\$3,500.00) per year:

(3) An additional yearly rental payment to compensate the Landlord for the increase in real estate taxes on the premises shall be payable upon notice from Landlord based upon: (a) for the year 7/1/90 through 6/30/91 the increase in real estate taxes on the premises between the 1986 real estate tax bill and the 1989 real estate tax bill; and (b) for the year 7/1/91 through 6/30/92 the increase in real estate taxes on the premises between the 1986 real estate tax bill and the 1990 real estate tax bill; and

(4) Section 17, "Option to Purchase" shall be terminated upon the Tenant's exercise of the option in this Section 3.2.

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The option for two (2) additional years (7/1/90-6/30/92) shall be exercised by the Tenant giving written notice to the Landlord of its intention to extend this Lease, as herein provided, at least Ninety (90) days prior to the expiration of the original term.

## Section 4. TAXES AND ASSESSMENTS:

4.1 Landlord shall pay all general real estate taxes and special assessments levied, assessed, or otherwise imposed upon the Premises during the term hereof, including all improvements now or hereafter thereon.

## Section 5. WATER, GAS AND ELECTRIC CHARGES:

5.1 Tenant will pay, all water, gas, electric and power bills taxed, levied, or charged on the Premises, for and during the time for which this lease is granted.

5.2 In case said water, gas, electric and power bills shall not be paid when due, Landlord shall have the right to pay the same, which amounts so paid are declared to be so much additional rent and payable with the installment of rent next due thereafter.

5.3. Landlord has no obligation to provide water, gas, electric and power under this lease but does represent that said utilities have been installed and are operational on the date hereof. The maintenance of the water, gas, electric and power shall be the sole responsibility of the Tenant.

## Section 6. INSURANCE:

6.1 Tenant shall bear the first Two Thousand Five Hundred Dollars (\$2,500.00) per annum cost of insuring the Premises for fire, extended coverage, and vandalism and malicious mischief, and liability insurance against claims for personal injury, death, or property damage occurring



in connection with the use and occupancy of the Premises. Landlord agrees to maintain during the term hereof and any extension thereof insurance on the premises in the amount of \$600,000.00 for fire, extended coverage, vandalism and malicious mischief and \$2,000,000.00 for liability coverage. Each insurance policy will name Landlord as insured thereunder, and in the event of any loss covered by such insurance, the proceeds therefrom shall be payable to Landlord or its Mortgagee.

6.2 Tenant shall pay the Landlord its twenty-five hundred dollar (\$2,500.00) obligation hereunder at the same time and in the same manner as its monthly rental payments for the first, thirteenth and twenty-fifth monthly rental payment.

6.3 Tenant shall be responsible for obtaining insurance on and hereby indemnifies Landlord from any and all claims for loss on Tenant's property, including but not limited to, machinery, equipment, and inventory, on the premises.

Section 7. MAINTENANCE AND REPAIR.

7.1 Tenant agrees to do its own interior decorating, maintenance and repair and to maintain all heating equipment, air-conditioning equipment, or other equipment as well as to provide all scavenger service, snow removal and lawn care. Landlord agrees to make all external repairs to the building including to the roof thereof.

7.2 Tenant shall yield the Premises back to Landlord, upon the termination of this lease, whether such termination shall occur by expiration of the term hereof, or in any other manner whatsoever (other than exercise of option to Purchase by Tenant pursuant to Section 17 hereof), in good condition and repair except for loss by fire or other casualty, ordinary wear and tear, depreciation, and obsolescence.

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7.3 Tenant has examined and knows the condition of the Premises and has received the same in good order and repair, and acknowledges that no representations as to the condition, other than in Section 5.3 hereof and repair thereof have been made by Landlord, or its agent, prior to or at the execution of this lease that are not herein expressed.

7.4 Landlord shall not be liable for any damage occasioned by failure to keep the Premises in repair, nor for any damage done or occasioned by or from plumbing, gas, water, sprinkler, steam or other pipes or sewerage or the bursting, leaking or running of any pipes, tank or plumbing fixtures, in, above, upon or about Premises or any building or improvement thereon nor for any damage occasioned by water, snow or ice being upon or coming through the roof, skylights, trap door or otherwise, nor for any damages arising from acts or neglect of any owners or occupants of adjacent or contiguous property. However, nothing herein shall be construed to obligate the Tenant for damages to Landlord for any Landlord violations under this section.

7.5 Landlord shall not be obliged to incur any expense for repairing any interior improvements upon said demised premises or connected therewith, and the Tenant at his own expense will keep all improvements in good repair (injury by fire, or other causes beyond Tenant's control excepted) as well as in a good tenable and wholesome condition, and will comply with all local or general regulations, laws and ordinances applicable thereto, as well as lawful requirements of all competent authorities in that behalf. Tenant will, as far as possible, keep said improvements from deterioration due to ordinary wear and from falling temporarily out of repair. If Tenant does not make repairs as required hereunder promptly and adequately, Landlord

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may but need not make such repairs and pay the costs thereof, and such costs shall be so much additional rent immediately due from and payable by Tenant to Landlord.

7.6 Tenant will allow Landlord free access to the Premises for the purpose of examining or exhibiting the same, or to make any needful repairs, or alterations thereof which Lessor may see fit to make and will allow to have placed upon the Premises at all times notice of "For Sale" and "To Rent" and will not interfere with the same.

## Section 8. ALTERATIONS:

8.1 Tenant shall have no right to make additions, alterations and changes (hereinafter collectively referred to as "alterations") without the express written authorization and under terms and conditions, including increase in rental, all solely at the discretion of the Landlord.

8.2 Tenant will not permit any mechanic's lien or lien's to be placed upon the Premises or any building or improvement thereon during the term hereof, and in case of the filing of any such lien Tenant will promptly pay same. If default in payment thereof shall continue for thirty (30) days after written notice thereof from Landlord to the Tenant, the Landlord shall have the right and privilege at Landlord's option of paying the same or any portion thereof without inquiry as the validity thereof, and any amounts so paid, including expenses and interest, shall be so much additional indebtedness hereunder due from Tenant to Landlord and shall be repaid to Landlord immediately on rendition of bill therefor.

## Section 9. USE OF PREMISES:

9.1 Tenant shall use the Premises for the business of manufac-

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turing of shrink package machinery and purposes incidental thereto, and shall not use the Premises for any unlawful purpose, and shall not commit waste. Tenant shall comply with all lawful requirements of the municipality including the Police and Fire Departments, and with all State and Federal authorities respecting the manner in which it uses the premises.

9.2 Tenant covenants and agrees that he will protect and save and keep the Landlord forever harmless and indemnified against and from any penalty or damages or charges imposed for any violation of any laws or ordinances, whether occasioned by the neglect of Tenant or those holding under Tenant, and that Tenant will at all times protect, indemnify and save and keep harmless the Landlord against and from any and all loss, cost, damage or expense, arising out of or from any accident or other occurrence on or about the Premises, causing injury to any person or property whomsoever or whatsoever and will protect, indemnify and save and keep harmless the Landlord against and from any and all claims and against and from any and all loss, cost, damage or expense arising out of any failure of Tenant in any respect to comply with and perform all the requirements and provisions hereof.

Section 9.3. Notwithstanding any provision of Sections 9 and/or 10 hereof the Landlord represents and warrants that the premises can and are being lawfully used for the shrink packaging business consistent with all applicable rules, regulations and ordinances.

Section 10. DANGEROUS USAGES:

10.1 Tenant shall not permit any unlawful or immoral practice, with or without its knowledge or consent, to be committed or carried on thereby by itself or any other person whomsoever, nor for any use

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other than herein before specified, nor allow said Premises to be used for any purpose that will increase the rate of insurance thereon, nor keep or use or permit to be kept or used in or on said Premises, or in or on any place contiguous thereto, any inflammable fluids or explosives without the written permission of Landlord, nor for any purpose whatsoever that will injure the reputation of the Premises or of the building of which they form a part, or which will disturb the tenants of said building or the inhabitants of the neighborhood.

10.2 Tenant will not allow the Premises to be used for any purpose that will increase the rate of insurance thereon, nor for any purpose other than that hereinbefore specified, and will not load floors with machinery or goods beyond the floor load rating prescribed by applicable municipal ordinances, and will not allow the Premises to be occupied in whole, or in part by any other person, and will not sublet the same or any part thereof, nor assign this lease without in each case the written consent of the Landlord first had, and Tenant will not permit any transfer by operation of law of the interest in the Premises acquired through this lease.

10.3 Notwithstanding any provision of this Section 10, Tenant shall not be in breach for any use described in 10.1 and 10.2 which is consistent with the operation of the shrink packaging machinery business as currently conducted on the premises.

## Section 11. DAMAGE OR DESTRUCTION:

11.1 In the event the improvements of the Premises shall be substantially damaged or destroyed by fire or other casualty, this lease may be terminated at the option of the Landlord by notice served on the Tenant not more than 45 days after such casualty. Substantial damage shall constitute damage which results in the necessity

for repairs costing in excess of \$50,000.00. In the event the Landlord does not elect to terminate this lease as aforesaid or has no right to so elect, the Landlord shall promptly repair and restore the Premises to their previous condition. Rent shall abate in whole or proportionately in part during any period the Premises are untenable in whole or part. Landlord, within one hundred twenty (120) days from the date of such damage or destruction, shall make necessary alterations and repairs to Landlord's improvements for the purpose of restoring same to an economic architectural unit, for the same use at that which was in effect immediately prior to such fire or other casualty loss. If Landlord's improvements cannot be restored and repaired within such one hundred twenty (120) day period because of delay caused by strikes, acts of God, insurrection, civil commotion, riots, or unavoidable casualty, that prohibit, limit or delay such construction, then the time for completion of such construction shall be extended accordingly; provided however, that in any event, if the restorations and repairs of Landlord's improvements have not been completed within a period of one hundred eighty (180) days from the date of such damage or destruction, either Landlord or Tenant may terminate this lease without any liability.

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11.2 All insurance proceeds received by Landlord or its Mortgagee on account of such damage or destruction shall be paid to Landlord or its Mortgagee and be applied, to the extent necessary, to repairs, replacements, rebuilding or alteration, including expenditures made for temporary repairs or for the protection of property pending the completion of permanent restoration, repairs, replacements, rebuilding or alterations to the premises, or to prevent interference with the business operated thereon.

11.3. Notwithstanding Sections 11.1 and 11.2, above, in the event that Landlord delivers notice of its intent to terminate this Lease in accordance with Section 11.1, Tenant may, within 10 days of the date of receipt of such notice, notify Landlord that Tenant desires that the Lease not be terminated, and elects to purchase the premises pursuant to Section 17 hereof, in which event the term of this Lease shall continue (subject to the abatement of rent as provided in Section 11.1) for an additional 180 days, during which time Tenant shall undertake the repair and restoration of the Premises. In such event, all insurance proceeds received by Landlord or its mortgagee on account of any damage or destruction shall be paid to Tenant. On or prior to the last day of the 180-day extended lease term, Tenant shall close on purchase of the Premises on the terms and conditions set forth in Section 17.

Section 12. ABANDONMENT OR BREACH:

12.1 If Tenant shall vacate or abandon said Premises or permit the same to remain wholly vacant or unoccupied for a period of Fourteen (14) days, or in case of the nonpayment of the rent (Section 3), water, gas and electric charges (Section 5), insurance reimbursement (Section 6), repairs (Section 7), liens (Section 8), and/or Dangerous Usages or Assignment (Section 10), reserved hereby, Tenant's right to the possession of the Premises thereupon shall terminate, upon notice within ten (10) days thereafter by the Landlord; subject to the Tenant's right to cure monetary and/or Dangerous Usages default within five (5) days of notice thereof. Upon the termination of Tenant's right of possession as aforesaid, whether this lease be terminated or not, Tenant agrees to surrender possession of the Premises.

12.2 If Tenant shall abandon or vacate the Premises, or if

Tenant's right to occupy the Premises be terminated by Landlord by reason of Tenant's breach of any of the covenants herein, the same may be re-let by Landlord for such rent and upon such terms as Landlord may deem fit; and if a sufficient sum shall not thus be realized monthly, after paying the expenses of such re-letting and collecting to satisfy the rent hereby reserved, Tenant agrees to satisfy and pay all deficiency monthly during the remaining period of this lease.

12.3 If default be made in the payment of the above rent, or any part thereof, and is not cured within five (5) days of notice thereof or in any of the covenants herein contained to be kept by the Tenant, it shall be lawful for Landlord at any time thereafter at his election, without notice, to declare said term ended, and to re-enter the Premises, or any part thereof, with or without process of law, and to remove Tenant, or any persons occupying the same, without prejudice to any remedies which might otherwise be used for arrears of rent, and Landlord shall have at all times the right to distrain for rent due, and shall have a valid and first lien upon all personal property which Tenant now owns, or may hereafter acquire, or have an interest in, whether exempt by law or not, as security for payment of the rent herein reserved.

Section 13. CONDEMNATION:

13.1 In the event that the whole or any substantial part of the Premises shall be taken or condemned by any competent authority for public or quasi-public purpose or use during the term of this lease, the term of this lease shall end upon, and not before the date set forth in Section 2.1 hereof or when Tenant can no longer use the Premises in the manner herein intended or when possession or legal title thereof shall be required by the appropriating or

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condemning authority, whichever shall first occur.

13.2 If the whole or any substantial part of the Premises be so appropriated or condemned during the term of this lease, Tenant's interest herein shall terminate and he may not prosecute a claim for an award for damages for the termination of this lease caused by such appropriation or taking, nor for his terminated right to purchase the premises pursuant to Section 17 hereof nor for damages based on damage to Tenant's business and/or the value of Tenant's fixtures or other personal property erected or installed on the Premises. Except by reason of operation of law, nothing herein contained shall preclude Tenant from exercising his option under Section 17 and Closing thereon prior to an actual taking by any competent authority. Landlord shall give Tenant written notice of any action or intention to commence an action to appropriate or condemn the whole or any substantial part of the Premises within 5 days of Landlord receiving notice from said authority of same.

13.3 The term "substantial part" shall mean a part the appropriating or taking of which prevents the operation of the business of shrink packaging.

## Section 14. EXTERIOR SIGNS:

14.1 Tenant shall not erect, install, display, inscribe or affix any exterior sign, lettering or advertising medium upon the Premises, or to the building thereon, without in each instance securing the prior written approval of the Landlord; provided, however, that Landlord shall not withhold its approval of a sign satisfactory to Tenant which is in reasonable conformity with the size, character and architectural design of the Premises and of the general area of which the premises are a part and which complies with all

applicable regulations of the Village of Schiller Park.

Section 15. FIXTURES:

15.1 Tenant shall have no right to remodel and make any additions, alterations, or extensions to Landlord's improvements on the Premises subject to the provisions of Section 8 hereof. Tenant shall have no right to erect, install, maintain, and operate on the Premises any fixtures unless consistent with the shrink packaging business and approved in writing by the Landlord, which approval shall not be unreasonably withheld, provided, however, all of the foregoing will be made with reasonable provisions of the Landlord to protect it from liens, liabilities and/or other risk of loss of value of the premises and without any expense to Landlord.

15.2 At any time, and upon termination of this lease, Tenant at its sole cost may remove from the Premises all personal property, trade fixtures, machinery, equipment, furniture, furnishings and consumable supplies not supplied by, belonging to, or paid by Landlord, subject to the provisions of Section 12.3 hereof, which have been or may hereafter be placed upon the Premises, whether or not affixed or annexed. Any damage caused to the Premises by the removal of such property shall be restored at the sole expense of Tenant.

Section 16. HOLDING OVER:

16.1 If Tenant shall hold over or remain in possession of the Premises after the expiration of the term of this lease for 30 days without the execution and delivery by Landlord and Tenant of a new written lease, such holding over shall, at the option of the Landlord, create a tenancy for the following twelve (12) month term under the same terms and conditions as this Agreement except that the rental (Section 3) shall be increased to a per annum rate of Three Hundred Thousand Dollars (\$300,000.00) and Section 17 hereof

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shall be deleted.

16.2 In the event the Landlord does not elect the tenancy provided in Section 16.1 above, Tenant will, at the termination of this lease of time or otherwise, yield up immediate possession to Landlord, and failing so to do, will pay as liquidated damages, for the whole time such possession is withheld, the sum of One Thousand Dollars (\$1,000.00) per day; but the provisions of this clause shall not be held as a waiver by Landlord of any right of re-entry; nor shall the receipt of said rent or any part thereof, or any other act in apparent affirmance of tenancy, operate as a waiver of the right to forfeit this lease and the term hereby granted for the period still unexpired, for a breach of any of the covenants herein.

## Section 17. OPTION TO PURCHASE:

17.1 Tenant shall have the option to purchase the Premises within the lease term, provided Tenant is not in default with respect to any rental payments, including payments for utilities (Section 5) insurance (Section 6), maintenance and repair (Section 7) and/or liens (Section 8), hereof under the lease, by notifying the Landlord of the exercise of the option in writing and closing the transaction within 60 days of said notice to Landlord. In the event that the closing is not finalized within said 60 day period after notice to Landlord with no fault of Landlord, the option shall terminate. The purchase price shall be Six Hundred Fifty Thousand Dollars (\$650,000.00) plus or minus customary prorations. Upon payment of the purchase price, the Landlord shall convey or cause to be conveyed to the Tenant or its nominee, a good and merchantable title to the land and appurtenances by recordable stamped warranty deed subject to general real estate taxes, and existing covenants, conditions and

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restrictions of records, easements and violations thereof and the general exceptions then contained in the standard owner's title insurance policy issued by the Chicago Title Insurance Company or its successor organization; which title policy shall be issued in the amount of the purchase price hereunder at the Landlord's expense. The sale shall be consummated, at the Landlord's or Tenant's option, through an escrow with the Chicago Title Insurance Company or its successor organization, in accordance with the general provisions of the usual Deed and Money Escrow Agreement then in use by said organization. In addition, Landlord will convey personalty, if any, by a Bill of Sale and supply the Tenant with an appropriate affidavit of title if so requested. Upon the creation of the escrow, anything herein to the contrary notwithstanding payment of the purchase price and delivery of the deed shall be through the escrow. The cost of the escrow shall be divided equally between Landlord and Tenant.

Section 18. QUIET ENJOYMENT AND TITLE:

18.1 Landlord covenants and warrants to Tenant that Landlord has full right and lawful authority to enter into this lease for the term of this lease and to grant the option to purchase pursuant to Section 17; that Landlord is lawfully seized of the Premises and has good and marketable title thereto, free and clear of all tenancies, liens, encumbrances, encroachments, restrictions, conditions, reservations, easements, and general and special assessments levied or imposed against the Premises, whether or not a lien thereon or now due or payable, except real estate taxes due but not yet payable; and that if Tenant is not in default herein, Tenant's quiet and peaceable enjoyment of the Premises during the term of

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this lease shall not be disturbed nor interfered with by anyone.

## Section 19. CUMULATIVE REMEDIES:

19.1 The specific remedies to which Landlord may resort under the terms of this lease are cumulative and are not intended to be exclusive of any other remedies or means of redress to which it may be lawfully entitled in case of any breach or threatened breach of any provision of this lease. The failure of Landlord to insist in any one or more cases upon the strict performance of any of the covenants of this lease, or to exercise any option herein contained, shall not be construed as a waiver or relinquishment for the future of such covenant or option. One or more waivers of any covenant or agreement or condition by the Landlord shall not be construed as a waiver of a future breach of the same covenant, agreement or condition. A receipt by the Landlord of rent with knowledge of the breach of any covenant hereof shall not be deemed a waiver of such breach and no waiver, change, modification or discharge by Landlord hereto of any provision in this lease shall be deemed to have been made or shall be effective unless expressed in writing and signed by Landlord.

## Section 20. PAYMENT OF FEES:

Tenant will pay and discharge all reasonable costs, attorney's fees and expenses that may be incurred by Landlord, in enforcing the covenants and agreements of this lease, and this lease and all covenants and agreements herein shall be binding upon, apply, and inure to their respective heirs, executors, successors, administrators, but neither this Lease nor any rights hereunder may be assigned by either the Landlord or Tenant without the Consent in writing of the other party. Notwithstanding the foregoing to the contrary, Tenant

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shall be permitted to assign its rights under this Agreement to a corporation organized under the laws of one of the states of the United States of America, provided that (i) that corporation shall be authorized to do business in the State of Illinois; (ii) Tenant shall be the chief operating officer of said corporation; and (iii) Tenant shall beneficially own, directly or indirectly, more than 50 percent of the capital stock issued or to be issued by said corporation. No such assignment shall be effective until Tenant and Assignee have executed and delivered to Landlord such additional documents as Landlord reasonably determines necessary and appropriate to bind Assignee. Notwithstanding any permitted assignment, Tenant shall not be relieved of any obligations hereunder.

## Section 21. NOTICE:

21.1 All notices provided for herein shall be in writing and shall be delivered personally or deposited in the United States mail, certified mail, postage prepaid, addressed as follows:

If to Landlord:

c/o J. Patrick Doherty  
J. Patrick Doherty, Ltd.  
69 W. Washington Street, Suite 1255  
Chicago, Illinois 60602

If to Tenant:

c/o Levenfeld, Eisenberg, Janger  
Glassberg & Samotny  
33 W. Monroe  
21st Floor  
Chicago, IL 60603

or to Landlord and Tenant at such other business as such of them may designate by notice duly given in accordance with this Section to the other party. All notice shall be deemed to have been given or served at the time the same shall have been received by the addressee.

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## Section 22. MISCELLANEOUS:

22.1 The captions of this lease are for convenience only and are not to be construed as part of this lease and shall not be construed as defining or limiting in any way the scope or intent of the provisions hereof.

22.2 If any term or provision of this lease shall to any extent be held invalid or unenforceable, the remaining terms and provisions of this lease shall not be affected thereby, but each term and provision of this lease shall be valid and be enforced to the fullest extent permitted by law.

22.3 The lease shall be construed and enforced in accordance with the laws of the State of Illinois.

22.4 This lease may be executed in several counterparts each of which shall constitute an original but all together only one lease.

22.5 All covenants, promises, representations, and agreements herein contained shall be binding upon, apply and inure to the benefit of the heirs, executors, administrators and assigns of Landlord and Tenant.

22.6 Wherever appropriate, the singular includes the plural and the masculine form denotes the feminine or neuter.

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IN WITNESS WHEREOF, the parties have executed this Agreement

and its counterparts the day and year first above written.

Executed and delivered by Avenue Bank and Trust Co. of Oak Park, Inc. in its individual capacity, but solely in the capacity of Trustee for the purpose of binding the trust for which this being, and subject to the express condition anything herein to the contrary notwithstanding, that no personal liability or responsibility is assumed by Avenue Bank and Trust Co. of Oak Park, 3649

LANDLORD:

WITNESS:

Norma J. Haworth

Norma J. Haworth  
Land Trust Officer

John B. Murphy

OF AVENUE BANK AND  
TRUST COMPANY OF OAK PARK, AS  
TRUSTEE, AND NOT PERSONALLY  
John B. Murphy Vice Pres.

WITNESS:

J. Walter [Signature]

Milo Popovic

MILO POPOVIC, SOLE BENEFICIARY  
OF TRUST NO. 3649 AND EQUITABLE  
LANDLORD HEREUNDER

WITNESS:

Michael [Signature]

TENANT:

Michael Levy  
MICHAEL LEVY

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EXHIBIT "A"  
TO  
INDENTURE OF LEASE  
DATED  
JUNE 30<sup>th</sup>, 1987  
between  
AVENUE BANK AND TRUST COMPANY OF  
OAK PARK, AS TRUSTEE UNDER TRUST AGREEMENT DATED 2/21/83 AND  
KNOWN AS TRUST NO. 3649, AND NOT PERSONALLY  
("LANDLORD")  
AND MICHAEL LEVY  
("TENANT")

The West 17.4 feet of the East 874 feet of Lot 3 (except the South 310 feet of Lot 3 and except the North 5.35 feet of said Lot 3) in O'Hare Industrial Center being a subdivision of part of the North half of Robinson's Reservation in Township 40 North, Range 12, East of the Third Principal Meridian.

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Return to:

Golubers, Kohn, et al.

ATTN: Sarah S. Young

55 EAST Monroe ST.

M.J. Continental Plaza

Suite 3900

Chicago, IL 60603