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MORTGAGE,  
ASSIGNMENT OF LEASES AND RENTS,  
SECURITY AGREEMENT AND FINANCING STATEMENT

FROM

VIENNA BEEF LTD. AND VIENNA SAUSAGE  
MANUFACTURING CO.

TO

CONTINENTAL BANK N.A.

Dated as of January 29<sup>th</sup>, 1993

93083057

THIS INSTRUMENT WAS PREPARED IN CHICAGO, ILLINOIS  
BY, AND WHEN RECORDED AND/OR FILED RETURN TO:

Terence J. Venezia  
McDermott, Will & Emery  
227 West Monroe Street  
Chicago, Illinois 60606  
(312) 372-2000

Box 307

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MORTGAGE  
ASSIGNMENT OF LEASES AND RENTS,  
SECURITY AGREEMENT AND FINANCING STATEMENT  
(SECURING, IN PART, A REVOLVING CREDIT FACILITY)

THIS MORTGAGE, ASSIGNMENT OF LEASES AND RENTS, SECURITY AGREEMENT AND FINANCING STATEMENT (this "Mortgage") is made as of January 29, 1993 by and among VIENNA BEEF LTD. ("Vienna") and VIENNA SAUSAGE MANUFACTURING CO. ("Sausage"), both corporations duly organized and validly existing under the laws of the State of Illinois (herein, collectively together with their successors and assigns, referred to as "Grantor"), both with their principal offices at 2501 North Damen Avenue, Chicago, Illinois 60647, and CONTINENTAL BANK N.A., a national banking association having its principal place of business at 231 South LaSalle Street, Chicago, Illinois 60697 (herein, together with its successors and assigns, referred to as "Mortgagee").

W I T N E S S E T H:

WHEREAS, pursuant to that certain Credit Agreement, dated as of January 28<sup>th</sup>, 1993 (as the same may be extended, renewed, refunded, refinanced, restructured, amended, modified, restated, supplemented or replaced from time to time, herein called the "Credit Agreement"), among Vienna, Sausage, J & J Scotch Company, an Illinois general partnership (herein called "J & J") and Mortgagee and upon the terms and subject to the conditions therein set forth, the Mortgagee has agreed to make, in addition to other loans, the Facility A Loan and Facility B Loan (as those terms are defined in the Credit Agreement) some of which shall be made on a revolving basis, and other financial commitments to Grantor;

WHEREAS, the Loans made by Mortgagee to Grantor pursuant to the Credit Agreement, are secured by this Mortgage and evidenced by:

A. that certain promissory note, dated as of the date hereof (herein, as the same may be amended, modified or supplemented from time to time and together with any promissory note or notes taken in whole or in partial extension or renewal thereof or substitution therefor, referred to as the "Facility A Note"), from Grantor, payable to the order of Mortgagee, payable in installments as set forth therein, with the final installment being due on or before the earlier of (i) January 28<sup>th</sup>, 1996 and (ii) the date of termination of the Facility A Obligations (as defined in the Credit Agreement) pursuant to Sections 5.1, 5.3 and 14.2 of the Credit Agreement, subject to acceleration as provided in such Facility A Note, on a revolving basis, with interest computed as stated therein, and in the principal amount not to exceed the lesser of (i) \$7,000,000.00 and (ii) the Borrowing Base (as defined in the Credit Agreement); and

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B. that certain promissory note, dated as of the date hereof (herein, as the same may be amended, modified or supplemented from time to time and together with any promissory note or notes taken in whole or in partial extension or renewal thereof or substitution therefor, referred to as the "Facility B Note"), from Vienna, payable to the order of Mortgagee, payable in installments as set forth therein, with the final installment being due and payable on or before the earlier of (i) December 31, 1997 and (ii) the date of termination of the Facility B Obligations (as defined in the Credit Agreement) pursuant to Section 14.2 of the Credit Agreement, subject to acceleration as provided in such Facility B Note, with interest computed as stated therein, and in the aggregate original stated principal amount not to exceed \$5,105,000.00.

WHEREAS, the Facility A Note and the Facility B Note, both of which shall be of equal parity and priority with respect to each other, are sometimes collectively referred to hereinafter as the "Notes";

WHEREAS, Grantor has duly authorized the execution and delivery of this Mortgage;

WHEREAS, it is a condition precedent to the making of the Loans and other financial accommodations under the Credit Agreement that Grantor enter into certain security instruments, including this Mortgage;

WHEREAS, it is in the highest interests of Grantor to execute this Mortgage inasmuch as Grantor will derive substantial direct and indirect benefits from the Loans and other financial accommodations to be made under the Credit Agreement;

WHEREAS, capitalized terms used herein, unless otherwise specified, shall have the respective meanings assigned thereto in the Credit Agreement; provided, however, that such definitions shall survive any termination of the Credit Agreement, and, provided further, when used herein the following terms shall have the following meanings:

A. "Credit Agreement Liabilities" shall mean all obligations and liabilities (including all obligations and liabilities referred to in the Credit Agreement) of Grantor to the Mortgagee, howsoever created, arising or evidenced, whether direct or indirect, absolute or contingent, primary or secondary, joint or several, recourse or nonrecourse, or now or hereafter existing or due or to become due, whether for principal, interest, fees, expenses, claims, lease obligations, indemnities or otherwise, under or in connection with the Loan Documents (as hereinafter defined), the aggregate amount of which obligations and liabilities being secured hereby shall in no event exceed the amount of \$35,000,000.00;

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B. "Default" shall mean the occurrence of an Event of Default;

C. "Event of Default" shall mean the occurrence of any of the events described in Section 3.1 hereof;

D. "Loan Documents" shall mean this Mortgage, the Credit Agreement, the Notes, the Related Documents (as defined in the Credit Agreement), the Related Agreements (as hereinafter defined), and any and all other mortgages, security agreements, assignments of leases and rents, guarantees, letters of credit and any other documents and instruments now or hereafter executed by Grantor or any party related thereto or affiliated therewith to evidence, secure or guarantee the payment of all or any portion of the Credit Agreement Liabilities, and any and all renewals, extensions, refundings, refinancings, restructurings, amendments, modifications, restatements, supplements and replacements thereof;

E. "Proceeds" shall mean any and all proceeds (whether such proceeds are cash or non-cash items) of or from or generated by (i) any or all of the Collateral or (ii) any disposition of or realization upon any or all of the Collateral;

F. "Related Agreements" shall mean any of the agreements, documents or instruments related to, or executed and delivered in connection with, the Credit Agreement; and

WHEREAS, Grantor wishes to secure performance and payment of the Credit Agreement Liabilities.

## G R A N T

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by Grantor, and intending to be legally bound hereby, and in order to secure the full, timely and proper payment and performance of each and every one of the Credit Agreement Liabilities, Grantor does hereby grant, mortgage, bargain, sell, warrant, assign, transfer, release and convey unto Mortgagee, its successors and assigns, with right of entry and possession, the following whether now owned or hereafter acquired:

A. Real Estate. All of Grantor's right, title and interest in, to and under the real property legally described in Exhibit A attached hereto and made a part hereof (the "Land"), together with all and singular, the tenements, rights, easements, hereditaments, rights of way, privileges, franchises, liberties, appendages and appurtenances now or hereafter belonging or in any way appertaining to the Land (including, without limitation, all rights relating to storm and sanitary sewer, water, gas, electric, railway and telephone services);

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all development rights and air rights; all water and water rights, both tributary and non-tributary, including all rights to divert, appropriate or use water, all rights in and to all ground water, whether considered to be tributary or non-tributary, underlying the Land, including, without limitation, the exclusive right to take, appropriate, produce, use, and otherwise dispose of said ground water, including the right to reuse and otherwise dispose of sewage effluent or other return flows attributable to the use of said ground water, relating to, on, underlying, attached to, appurtenant to, or now or historically used in connection with, on, or for the benefit of, the Land, and all reservoirs and reservoir rights, ditches and ditch rights, wells and well rights, dikes, embankments, dams, tanks, and all other water developments, storage and conservation facilities, and all springs and spring rights, whether any of the foregoing are evidenced or initiated by permit, appropriation decree, well registration, appropriation not decreed, water court application, shares of stock or other interests in mutual ditch or reservoir companies or carrier ditch or reservoir companies or otherwise, appertaining or appurtenant to or beneficially used or useful in connection with the Land, and whether any of said rights be adjudicated, unadjudicated, or subsequently decreed or adjudicated; all gas, oil, minerals, coal and other substances of any kind or character underlying or relating to the Land; all estate, claim, demand, right, title or interest of the Grantor in and to any street, road, highway, or alley (vacated or otherwise) adjoining the Land or any part thereof; all strips and gores belonging, adjacent or pertaining to the Land; and any after-acquired title to any of the foregoing; and all Proceeds, products, replacements, additions, substitutions, renewals and accessions thereof and thereto (collectively, the "Real Estate");

B. Improvements and Fixtures. All of Grantor's right, title and interest in, to and under the buildings, structures, replacements, furnishings, fixtures, fittings and other improvements and property of every kind and character whether Real Estate or not, now or hereafter located on, installed in, attached to or situated in or upon, or used or intended to be used in connection with or in the operation or maintenance of the Real Estate or the buildings and improvements erected or hereafter erected thereon and owned by Grantor, or in the operation of any, buildings, improvements, plant or business now or hereafter situate thereon, together with all building or construction materials, equipment, appliances, machinery, plant equipment, fittings, apparatuses, fixtures and other articles of any kind or nature whatsoever now or hereafter found on, affixed to or attached to the Real Estate, including, without limitation, all motors, boilers, engines and devices for the operation of pumps, and all heating, electrical, lighting, power, sprinkler and plumbing equipment, fixtures and systems, irrigation, water and power systems and fixtures, air conditioning, refrigeration and ventilation equipment, security, gas and electric fixtures, radiators, ranges, furnaces, oil burners or units thereof,

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elevators and motors, communication systems, dynamics, transformers, generators, storm and screen windows, shutters, doors, decorations, awnings, shades, blinds and signs, and trees, shrubbery and other plantings, and together with all parts, fittings, accessories, Proceeds, products, additions, renewals, accessions, substitutions and replacements therefor (collectively, the "Improvements");

C. Personal Property. All of Grantor's right, title and interest in, to and under building materials, goods, funds deposited in bank accounts, construction materials, furniture, furnishings, computer hardware and software, equipment (including, without limitation, motor vehicles, telephone and other communications equipment, window cleaning, building cleaning, recreational, monitoring, garbage, air conditioning, pest control and other equipment) and all other tangible property of any kind or character now or hereafter owned by Grantor and used or useful in connection with the Real Estate, regardless of whether located on the Real Estate or located elsewhere, together with all parts, fittings, accessories, Proceeds, products, additions, renewals, substitutions and replacements therefor (collectively, the "Goods");

D. Intangibles. All of Grantor's right, title and interest in, to and under the goodwill, trademarks, trade names, option rights, purchase contracts, actions and rights in action, books and records, bank accounts, return of unearned insurance premiums and general intangibles now owned or hereafter acquired by Grantor relating to the Real Estate or the Improvements and all accounts, contract rights, instruments, chattel paper and other rights of Grantor for payment of money to it, for property sold or lent by it, for services rendered by it, for money lent by it, or for advances or deposits made by it, and any other intangible property of Grantor related to the Real Estate or the Improvements, including, without limitation, all rights under and to any escrow account established and maintained pursuant to Section 1.19 and all rights of the Grantor under any Lease (hereinafter defined) of furniture, furnishings, fixtures and other items of personal property at any time during the term of such Lease, together with all Proceeds, products, additions, renewals, substitutions and replacements thereof (collectively, the "Intangibles");

E. Rents. All of Grantor's right, title and interest in, to and under the rents, issues, profits, royalties, avails, income, security deposits and other benefits derived or owned by Grantor directly or indirectly from the Real Estate or the Improvements, or from or in respect of the balance of the Collateral (as hereinafter defined), and any and all bank accounts and similar accounts to the extent they contain any of the foregoing (collectively, the "Rents") it being intended that this Granting Clause (E) shall constitute an absolute and present assignment of the Rents, subject, however, to the conditional

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permission given to Grantor in this Mortgage to collect and use the Rents as provided in this Mortgage;

F. Leases. All of Grantor's right, title and interest in, to and under all leases, licenses, occupancy agreements, concessions or other arrangements, whether written or oral, whether now existing or entered into at any time hereafter, whereby any person agrees to pay money or any consideration to Grantor for the use, possession or occupancy of, or any estate in, the Real Estate, the Improvements, the Goods or the Intangibles, or any part thereof, together with all Rents, income, profits, benefits, avails, security, advantages and claims against guarantors under any thereof, and together with all books and records owned by Grantor which contain evidence of payments made thereunder and all security given therefor (collectively, the "Leases"), subject, however, to the conditional permission given in this Mortgage to Grantor to collect the Rents arising under the Leases as provided in this Mortgage.

G. Plans. All of Grantor's right, title and interest in, to and under all plans and specifications, designs, drawings and other matters prepared in connection with the Real Estate or the Improvements (collectively, the "Plans");

H. Contracts, Licenses and Permits. All of Grantor's right, title and interest in, to and under all agreements with any provider of goods or services of or in connection with any construction undertaken or to be undertaken on, or services performed or to be performed in connection with, and all licenses, permits, warranty agreements and other agreements relating to the present or future use or operation of, the Real Estate, the Improvements, or the Goods (collectively, the "Operation Contracts");

I. Contracts for Sale or Financing. All of Grantor's right, title and interest as seller or borrower under any agreement, contract, understanding or arrangement pursuant to which Grantor has, with the consent of Mortgagee, obtained the agreement of any person to pay or disburse any money for Grantor's sale (or borrowing on the security) of the Real Estate, Improvements, Goods, Intangibles, Rents, Leases, Plans or Operation Contracts, or any part thereof (collectively, the "Contracts for Sale");

J. Awards and Payments. Subject to the provisions of Section 1.8.5, all of Grantor's right, title and interest in, to and under all awards, settlements, insurance Proceeds, payments or judgments relating to all or any portion of the Real Estate, Improvements or Goods, including interest thereon, and the right to receive the same, as a result of the exercise or threatened exercise of any right of eminent domain, or as a result of any damage or casualty to or decrease in the

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value of, all or any portion of the Real Estate, Improvements or Goods (collectively, the "Awards"); and

K. Other Property. All of Grantor's right, title and interest in, to and under all other property or rights of Grantor of any kind or character related in any way to the Real Estate or the Improvements, and all Proceeds (including, without limitation, insurance and condemnation Proceeds), all of Grantor's rights and remedies at any time arising under or pursuant to the United States Bankruptcy Code, 11 USC §101 et. seq., or any successor or similar statute, including, without limitation, any of Grantor's rights to remain in possession of the Premises thereunder if there shall be filed by or against Grantor a petition under said Bankruptcy Code and products of any of the foregoing or of any other estate, title or interest in the Real Estate, the Improvements or the Goods that Grantor may hereafter acquire.

All of the Real Estate and the Improvements, and any other property hereinabove described which is real estate under applicable law, is sometimes collectively referred to hereinafter as the "Premises". The Premises together with all of the other property hereinabove described which is not real estate under applicable law, and all of the other tangible and intangible property owned by Grantor pledged or to which a security interest has attached pursuant to any of the Loan Documents, is sometimes collectively referred to hereinafter as the "Collateral". The Rents and Leases are pledged on a parity with the Real Estate and the Improvements and not secondarily.

TO HAVE AND TO HOLD the Collateral unto Mortgagee, its successors and assigns, forever, hereby expressly waiving and releasing any and all right, benefit, privilege, advantage or exemption under and by virtue of any and all statutes and laws of the state or other jurisdiction in which the Premises are located providing for the exemption of homesteads from sale on execution or otherwise.

## I. COVENANTS AND AGREEMENTS OF GRANTOR

To further secure the payment and performance of the Credit Agreement Liabilities, Grantor hereby covenants, warrants and agrees with Mortgagee as follows:

1.1 Payment of Credit Agreement Liabilities. Grantor agrees that it shall pay, timely and in the manner required in the appropriate documents or instruments, the principal of and interest on all Credit Agreement Liabilities owing by Grantor or for which Grantor is responsible (including, without limitation, fees and charges). All sums payable by Grantor hereunder and under the other Loan Documents shall be paid without demand, counterclaim, offset, deduction, defense or benefit of valuation or

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appraisement laws. Grantor waives all rights now or hereafter conferred by statute or otherwise to make any such demand, counterclaim, offset, deduction or defense.

1.2 General Covenants and Representations. Grantor covenants and represents that as of the date hereof and at all times hereafter during the term of this Mortgage: (i) Grantor is seized of an indefeasible estate in fee simple in the Premises, and has good and absolute title to it and the balance of the Collateral free and clear of all liens, security interests, charges and encumbrances whatsoever except those listed on Exhibit B attached hereto (the "Permitted Exceptions"); (ii) Grantor is a corporation duly organized, validly existing and in good standing under the laws of the State of Illinois, and has good right, full power and lawful authority to mortgage and pledge the Collateral as provided herein; (iii) upon the occurrence of a Default, Mortgagee may at all times peaceably and quietly enter upon, hold, occupy and enjoy the Collateral in accordance with the terms hereof; (iv) Grantor shall maintain and preserve the lien of this Mortgage as a lien on the Collateral subject only to the Permitted Exceptions, until the Credit Agreement Liabilities have been paid in full; and (v) Grantor and its successors and assigns shall forever warrant and defend the Collateral against all claims and demands whatsoever.

1.3 Payment of Taxes and Assessments. Grantor shall pay or cause to be paid promptly when due all taxes and assessments, general or special, and any and all levies, claims, charges, expenses and liens, ordinary or extraordinary, governmental or non-governmental, statutory or otherwise, due or to become due, that may be levied, assessed, made, imposed or charged on or against the Collateral or any property used in connection therewith, and will pay before due any tax or other charge on the interest or estate in lands created or represented by this Mortgage or by any of the other Loan Documents, whether levied against Grantor or the Mortgagee or otherwise, and shall submit to the Mortgagee within five (5) days after payment thereof all receipts showing payment of all of such taxes, assessments and charges; provided, however, that unless compliance with applicable law requires that taxes, assessments or other charges must be paid as a condition to protesting or contesting the amount thereof, Grantor may in good faith, by appropriate proceedings commenced no later than thirty (30) days prior to the due date of such amounts and thereafter diligently pursued, contest the validity, applicability or amount of any asserted tax, assessment or other charge and, pending such contest, Grantor shall not be deemed in Default hereunder if on or before the due date of the asserted tax or assessment, Grantor shall either (i) establish adequate reserves to cover such contested taxes, assessments or charges, or (ii) deposit with Mortgagee a bond or other security satisfactory to Mortgagee in an amount equal to the amount being so contested plus all additional charges, penalties or expenses arising from or occurring as a result of such contest as estimated by Mortgagee. If Grantor deposits such a bond or other security, Mortgagee shall return such bond or other security to Grantor after final adjudication

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of such tax, assessment or other charge and, if required, payment thereof by Grantor. Grantor shall pay, or Mortgagee shall apply such bond or other security to, the disputed or contested tax, assessment or other charge and all interest and penalties due in respect thereof promptly after the date any adjudication of the validity or amount thereof becomes final or such earlier time as is required to prevent material impairment of the value of the Collateral or Mortgagee's lien on the Collateral, and in any event no less than thirty (30) days prior to any forfeiture or sale of the Collateral by reason of such non-payment.

1.4 Maintenance and Repair. Grantor shall not abandon the Premises, nor do or suffer anything to be done which would depreciate or impair the value of the Collateral or the security of this Mortgage, nor remove or demolish any of the Improvements except in the ordinary course of business or to replace obsolete Improvements with items of equal or greater value. Grantor shall pay promptly for all labor and materials for all construction, repairs and improvements to or on the Premises. Grantor shall not make any material changes, additions or alterations to the Premises except (i) as required by any applicable governmental requirement, (ii) as otherwise previously approved in each case in writing by Mortgagee, or (iii) those material changes, additions or alterations made in the ordinary course of business, which, in the judgment of Mortgagee and considered in the aggregate, are not substantial in amount, and which do not in any case materially detract from the value or alter the use of the Premises, or interfere with the ordinary conduct of the business of Grantor. Grantor shall maintain, preserve and keep the Goods and Premises in good, safe and insurable condition and repair and promptly make any needful and proper repairs, replacements, renewals, additions or substitutions required by war, damage, obsolescence or destruction. Grantor shall promptly restore and replace any of the Premises or Goods which are destroyed or damaged, and shall maintain all grounds and abutting streets and sidewalks in good and neat order and repair. Grantor shall not commit, suffer or permit waste of any part of the Premises.

1.5 Liens. Grantor shall not permit or suffer any mechanic's, laborer's, materialman's, statutory or other lien or encumbrance (other than any lien for taxes and assessments not yet due) to be created upon or against the Collateral; provided, however, that Grantor may in good faith, by appropriate proceedings, contest the validity, applicability or amount of any asserted lien and, pending such contest, Grantor shall not be deemed to be in Default hereunder if Grantor shall first deposit with Mortgagee a bond or other security satisfactory to Mortgagee in an amount equal to the amount being so contested plus all additional charges, penalties or expenses arising from or occurring as a result of such contest as estimated by Mortgagee or otherwise obtain an endorsement insuring over such lien to the title policy insuring Mortgagee's interest in the Premises. If Grantor deposits such a bond or other security, Mortgagee shall return such bond or other security to Grantor after final adjudication of such asserted lien

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and, if required, payment thereof by Grantor. Grantor shall pay, or Mortgagee shall apply such bond or other security to, the disputed amount, and all interest and penalties due in respect thereof, promptly after the date any adjudication of the validity or amount thereof becomes final or such earlier time as is required to prevent material impairment of the value of the Collateral or Mortgagee's lien on the Collateral, and in any event no less than thirty (30) days prior to any foreclosure sale of the Collateral or the exercise of any other remedy by such claimant against the Collateral.

1.6 Access by Mortgagee. Grantor shall at all times deliver to Mortgagee either all of its executed originals (in the case of chattel paper or instruments) or copies (in all other cases) of all Leases, agreements creating or evidencing Intangibles, Plans, Operation Contracts, Awards, Contracts for Sale, all amendments and supplements thereto, and any other document which is, or which evidences, governs, or creates, Collateral. During reasonable business hours following not less than twenty four (24) hours' notice from Mortgagee (except in cases of emergency), Grantor shall permit Mortgagee and its agents and designees to enter on and inspect the Premises and the other Collateral, and to review, make copies and extracts of Grantor's books and records, construction progress reports, tenant registers, sales records, offices, insurance policies and other papers. Grantor shall prepare such schedules, summaries, reports and progress schedules as Mortgagee may request during the term of this Mortgage. Notwithstanding the foregoing, Mortgagee shall not unreasonably interfere with Grantor's operations on the Premises.

1.7 Stamp and Other Taxes. If the Federal, or any state, county, local, municipal or other government, or any subdivision of any thereof, having jurisdiction shall levy, assess or charge any tax (excepting therefrom any income tax on Mortgagee's receipt of interest payments on the principal portion of the Credit Agreement Liabilities secured hereby), assessment or imposition upon this Mortgage, the Credit Agreement Liabilities, any of the Loan Documents, the interest of Mortgagee in the Collateral, or any of the foregoing, or upon Mortgagee by reason of or as holder of any of the foregoing, or shall at any time or times require revenue stamps to be affixed to this Mortgage, the Notes, or any of the other Loan Documents, Grantor shall pay all such taxes and stamps to or for Mortgagee as they become due and payable. If any law or regulation is enacted or adopted permitting, authorizing or requiring any tax, assessment or imposition to be levied, paid or charged, which law or regulation prohibits Grantor from paying the tax, assessment, stamp, or imposition to or for Mortgagee, then such event shall constitute an Event of Default hereunder and all sums hereby secured shall become due and payable at the option of Mortgagee upon the date which is sixty (60) days from the date of enactment or adoption of such law or regulation, unless such law or regulation requires payment within a lesser time, in which event such sums shall be due upon the expiration of such lesser time period. Grantor shall

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not claim, demand or be entitled to receive any credit against the principal or interest payable under the terms of the Notes or on any of the Credit Agreement Liabilities for any of the taxes, assessments or similar impositions assessed against the Collateral or any part thereof, or that are applicable to the Credit Agreement Liabilities or to Mortgagee's interest in the Collateral.

## 1.8 Insurance and Condemnation.

1.8.1 Hazard Insurance. Grantor shall, at its sole expense, obtain for, deliver to, assign to and maintain for the benefit of Mortgagee, until the Credit Agreement Liabilities are paid in full, policies of hazard insurance in an amount which shall be not less than 100% of the full insurable replacement cost of the Collateral (other than the Land), insuring the Collateral, on a replacement cost basis and on an "All Risks" or "Special Causes of Loss" form, against loss or damage occasioned by such insurable hazards, casualties and contingencies as Mortgagee may require, including, without limitation, fire, windstorm, rainstorm, vandalism, earthquake, if available, and, if all or any part of the Collateral shall at any time be located within an area identified by the government of the United States or any agency thereof as having special flood hazards and for which flood insurance is available, floods. Grantor shall pay promptly when due any premiums on such insurance policies and on any renewals thereof. The form of such policies and the companies issuing them shall be reasonably acceptable to Mortgagee. If any such policy shall contain a co-insurance clause, the policy or an endorsement thereto shall state the stipulated value of the insured property, and the amount of such insurance shall exceed the product of the co-insurance clause percentage and the stipulated value of the insured property. Certificates of Insurance or certified copies of all such policies and renewals thereof shall be held by Mortgagee and shall contain a non-contributory standard Mortgagee's endorsement making losses payable to Mortgagee. No additional parties shall appear in the mortgagee clause without in each case Mortgagee's prior written consent. In the event of loss, Grantor shall give immediate written notice to Mortgagee and Mortgagee may make proof of loss if not made promptly by Grantor. In the event of the foreclosure of this Mortgage or any other transfer of title to the Collateral in full or partial satisfaction of the Credit Agreement Liabilities, all right, title and interest of Grantor in and to all insurance policies and renewals thereof then in force shall pass to the purchaser or grantee. All such policies shall provide that insurer shall not modify, cancel or terminate such policies without at least thirty (30) days' prior written notice in each case to Mortgagee from the insurer. Grantor also hereby covenants and agrees that Grantor shall give Mortgagee thirty (30) days' written notice in each case of Grantor's intent to modify, cancel or terminate such policies.

1.8.2 Other Insurance. Grantor shall, at its sole expense, obtain for, deliver to, assign to and maintain for the benefit of,

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Mortgagee, until the Credit Agreement Liabilities are paid in full (i) a commercial general liability insurance policy in an amount reasonably acceptable to Mortgagee, (ii) a loss of rentals and/or business interruption insurance policy (in an amount equal to not less than one (1) year's gross rent or gross income for a fully leased or fully operational building) with respect to any third party leases and (iii) such other insurance policies relating to the Collateral and the use and operation thereof, or construction thereon, in such amounts as may be reasonably required by Mortgagee and with such companies and in such form as may be reasonably acceptable to Mortgagee. Such policies shall contain an endorsement, in form reasonably satisfactory to Mortgagee, naming Mortgagee as an additional insured thereunder.

1.8.3 Adjustment of Loss. Mortgagee is hereby authorized and empowered, at its option, to adjust or compromise any claim under any insurance policies covering or relating to the Collateral and to collect and receive the Proceeds from any such policy or policies (and deposit such proceeds as provided in Section 1.8.5). Grantor hereby irrevocably appoints Mortgagee as its attorney-in-fact for the purposes set forth in the preceding sentence, such appointment being coupled with an interest. Each insurance company is hereby authorized and directed to make payment of 100% of all such losses directly to Mortgagee alone. After deducting from such insurance Proceeds any expenses incurred by Mortgagee in the collection and settlement thereof, including without limitation attorneys' and adjusters' fees and charges, Mortgagee shall apply such net Proceeds as provided in Section 1.8.5. Mortgagee shall not be responsible for any failure to collect any insurance Proceeds due under the terms of any policy regardless of the cause of such failure.

1.8.4 Condemnation Awards. Mortgagee shall be entitled to all compensation, Awards, damages, claims, rights of action and Proceeds of, or on account of (i) any damage or taking, pursuant to the power of eminent domain, of the Premises or any part thereof, (ii) damage to the Premises by reason of the taking, pursuant to the power of eminent domain, of other property or of a portion of the Premises, or (iii) the alteration of the grade of any street or highway on or about the Premises. Mortgagee is hereby authorized, at its option, to commence, appear in and prosecute in its own or Grantor's name any action or proceeding relating to any such compensation, Awards, damages, claims, rights of action and Proceeds and to settle or compromise any claim in connection therewith. Grantor hereby irrevocably appoints Mortgagee as its attorney-in-fact for the purposes set forth in the preceding sentence, such appointment being coupled with an interest. After deducting from such compensation, Awards, damages, claims, rights of action and Proceeds any expenses incurred by Mortgagee in the collection and settlement thereof, including attorneys' fees, Mortgagee shall apply such net Proceeds as provided in Section 1.8.5. Grantor agrees to execute such further assignments of any compensation, Awards, damages, claims, rights of action and Proceeds as Mortgagee may require.

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1.8.5 Repair; Proceeds of Casualty Insurance and Eminent Domain. If all or any part of the Premises shall be damaged or destroyed by fire or other casualty or shall be damaged or taken through the exercise of the power of eminent domain or other cause described in Section 1.8.4, the entire amount of the Proceeds, Award or compensation from any such casualty, damage or taking shall be applied in such manner and order as Mortgagee may determine; provided, however, Proceeds of any insurance policies shall be applied pursuant to the terms of Section 9.4(f) of the Credit Agreement. Except with respect to insurance Proceeds, which shall be controlled by Section 9.4(f) of the Credit Agreement, if no Default exists, Mortgagee may, in its sole discretion, permit Grantor to use such Proceeds, Award or compensation to be disbursed for such repair or restoration of the Premises, and under such conditions, as Mortgagee may impose and in a manner acceptable to Mortgagee. Notwithstanding the foregoing, in the event such Proceeds, Award or compensation, other than insurance Proceeds, are less than \$100,000.00, Mortgagee shall permit Grantor to adjust, settle and use such Proceeds, Award or compensation to be disbursed for such repair or restoration of the Premises, and under such conditions, as Mortgagee may impose and in a manner acceptable to Mortgagee. If the amount of Proceeds to be made available to Grantor pursuant to this Section 1.8.5 is less than the cost of the restoration or repair as estimated by Mortgagee at any time prior to completion thereof, Grantor shall cause to be deposited with Mortgagee the amount of such deficiency within thirty (30) days of Mortgagee's written request therefor (but in no event later than the commencement of the work) and Grantor's deposited funds shall be disbursed prior to any such Proceeds. If Grantor is required to deposit funds under this Section 1.8.5, the deposit of such funds shall be a condition precedent to Mortgagee's disbursement of any Proceeds, Award or compensation held by Mortgagee hereunder. The amount of Proceeds, Award or compensation which is to be made available to Grantor, together with any deposits made by Grantor hereunder, shall be disbursed from time to time to pay the cost of repair or restoration either, at Mortgagee's option, to Grantor or directly to contractors, subcontractors, material suppliers and other persons entitled to payment in accordance with and subject to such conditions to disbursement as Mortgagee may impose to assure that the work is fully completed in a good and workmanlike manner and paid for and that no liens or claims arise by reason thereof. Subject to the third sentence of this Section 1.8.5 and Section 9.4(f) of the Credit Agreement, Mortgagee shall have the right at all times to apply such net Proceeds to the cure of any Default, or the performance of any obligations of Grantor under the Loan Documents, or the prepayment of any Credit Agreement Liabilities.

1.8.6 Proceeds of Business Interruption and Rental Insurance. The net Proceeds of business interruption and rental insurance shall be applied in such manner and order as Mortgagee may determine.

1.8.7 Renewal of Policies. At least thirty (30) days prior to the expiration date of any policy evidencing insurance required under

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this Section 1.8, a renewal thereof, substitution therefor, or certificate of insurance evidencing the renewal thereof or substitution therefor satisfactory to Mortgagee shall be delivered to Mortgagee with receipts or other evidence of the payment of any premiums then due on such renewal policy or substitute policy.

1.9 Governmental Requirements. Grantor shall at all times comply in all respects with, and cause the Collateral and the use and condition thereof to comply in all respects with, all Federal, state, county, municipal, local and other governmental statutes, ordinances, requirements, regulations, rules, orders and decrees of any kind whatsoever that apply or relate to Grantor or the Collateral or the use thereof, and will observe and comply with all conditions and requirements necessary to preserve and extend any and all rights, licenses, permits, privileges, franchises and concessions (including, without limitation, those relating to zoning, land use and development, landmark preservation, construction, access, water rights and use, noise and pollution) which are applicable to Grantor or have been granted for the Collateral or the use thereof. Unless required by applicable law, or unless Mortgagee has otherwise in each instance first agreed in writing, Grantor shall not make or allow any material changes to be made in the nature of the occupancy or use of the Premises or any portion thereof for which the Premises or such portion was intended at the time this Mortgage was delivered. Grantor shall not initiate or acquiesce in any change in any zoning or other land use classification now or hereafter in effect and affecting the Premises or any part thereof without in each case obtaining Mortgagee's prior written consent thereto. If any Federal, state or other governmental body or any court issues any notice or order to the effect that the Collateral or any part thereof is not in compliance with any statute, ordinance, requirement, regulation rule, order or decree of any kind whatsoever, Grantor shall promptly provide Mortgagee with a copy of such notice or order and will immediately commence and diligently perform all such actions as are necessary to comply therewith or otherwise correct such non-compliance. Notwithstanding the foregoing, Grantor shall have the right to contest diligently any such governmental requirement so long as the contest thereof is in good faith and by appropriate proceedings and so long as there is no material impairment of the value of the Collateral or Mortgagee's lien on the Collateral.

1.10 Continuing Priority. Grantor shall pay such fees, taxes and charges, execute and file (at Grantor's expense) such financing statements, obtain such acknowledgments or consents, notify such obligors or providers of services and materials and do all such other acts and things as Mortgagee may from time to time request to establish and maintain a valid, prior and perfected lien on and security interest in the Collateral. Grantor shall maintain its office and principal place of business at all times at the address shown in the first paragraph of this Mortgage and keep all of its books and records relating to the Collateral at such address or on the

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Premises unless Grantor provides Mortgagee with thirty (30) days prior written notice of change of address of its office and principal place of business. Grantor shall keep all tangible Collateral on the Premises except as Mortgagee may otherwise in each instance consent in writing. Grantor shall make notations on its books and records sufficient to enable Mortgagee, as well as third parties, to determine the interest of Mortgagee hereunder. Grantor shall not collect any Rents or the Proceeds of any Leases or Intangibles more than thirty (30) days before the same shall be due and payable except as Mortgagee may otherwise in each instance consent previously in writing.

1.11 Utilities. Grantor shall pay or cause to be paid all utility charges incurred in connection with the Collateral promptly when due and maintain all utility services available for use at the Premises.

1.12 Contract Maintenance; Other Agreements; Leases. Grantor shall, for the benefit of Mortgagee, fully and promptly keep, observe, perform and satisfy each obligation, condition, covenant, and restriction of Grantor affecting the Premises or imposed on it under any agreement between Grantor and a third party relating to the Collateral or the Credit Agreement Liabilities secured hereby (including, without limitation, Leases, Contracts for Sale, Operation Contracts and Intangibles) (collectively referred to as the "Third Party Agreements" and individually as a "Third Party Agreement") so that there will be no default by Grantor thereunder permitting any third party to seek damages greater than \$10,000 or to terminate any Third Party Agreement and so that the persons (other than Grantor) obligated thereon shall be and remain at all times obligated to perform for the benefit of Mortgagee; and Grantor shall not permit to exist any condition, event or fact which could allow or serve as a basis or justification for any such person to avoid such performance; provided, however, that nothing contained in this Section 1.12 shall subordinate the lien of this Mortgage to any such contract or agreement. Without the prior written consent of Mortgagee in each instance, Grantor shall not (i) make or permit any termination, except for cause during the ordinary course of business, or amendment of the rights of Grantor under any Third Party Agreement; (ii) accept prepayments of Rent exceeding one (1) month; (iii) modify or amend any Lease or, except where the lessee is in default, cancel or terminate the same or accept a surrender of the leased premises; (iv) consent to the assignment or subletting of the whole or any portion of any lessee's interest under any Lease or grant any options to renew; (v) create or permit any lien or encumbrance which, upon foreclosure, would be superior to any Lease, except for the lien of this Mortgage; or (vi) in any other manner impair Mortgagee's rights and interest with respect to the Rents or any of the Third Party Agreements. Grantor shall promptly deliver to Mortgagee copies of any demands or notices of default received by Grantor in connection with any Third Party Agreement and allow Mortgagee the right, but not the obligation, to cure any such default. All security or other deposits, if any, received from tenants under the Leases shall be segregated

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and maintained in an account and with an institution satisfactory to Mortgagee, and in compliance with the law of the state where the Premises are located.

1.13 Notify Mortgagee of Default. Grantor shall notify Mortgagee in writing promptly but no later than five (5) days after the occurrence of any Default.

1.14 No Assignments; Future Leases. Grantor shall not cause or permit any Rents or any Third Party Agreement to be assigned, transferred, conveyed, pledged or disposed of to any party other than Mortgagee without first obtaining in each instance the express written consent of Mortgagee to any such assignment or permit any such assignment to occur by operation of law. In addition, Grantor shall not cause or permit all or any portion of or interest in the Premises or the Improvements to be leased (that word having the same meaning for purposes hereof as it does in the law of landlord and tenant) directly or indirectly to any person, except under Leases approved by Mortgagee.

1.15 Assignment of Leases and Rents and Collections.

A. All of Grantor's interest in and rights under the Leases now existing or hereafter entered into, and all of the Rents, whether now due, past due, or to become due, and including all prepaid Rents and security deposits, and all other amounts due with respect to any of the other Collateral, are hereby absolutely, presently and unconditionally assigned and conveyed to Mortgagee to be applied by Mortgagee in payment of the Credit Agreement Liabilities in the manner provided in Section 3.9; provided, however, prior to the occurrence of any Default, Grantor shall have a license to collect and receive all Rents and other amounts, which license shall terminate, without regard to the adequacy of the security hereunder and without notice to or demand upon Grantor, upon the occurrence of any Default. It is understood and agreed that neither the foregoing assignment to Mortgagee nor the exercise by Mortgagee of any of its rights or remedies under Article III hereof shall be deemed to make Mortgagee a "mortgagee-in-possession" or otherwise responsible or liable in any manner with respect to the Collateral or the use, occupancy, enjoyment or operation of any portion thereof, unless and until Mortgagee, in person or by agent, assumes actual title, control or possession thereof. In addition, the appointment of a receiver for the Collateral by any court at the request of Mortgagee or by agreement with Grantor, or the entering into possession of any part of the Collateral by such receiver, shall not be deemed to make Mortgagee a "mortgagee-in-possession" or otherwise responsible or liable in any manner with respect to the Collateral or the use, occupancy, enjoyment or operation of all or any portion thereof. Upon the occurrence of any Default, this subsection A shall constitute a direction to and full authority to each lessee under any Lease, each guarantor of any Lease and any other person obligated under any of the Collateral to pay all Rents and

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other amounts owing to Grantor under the Leases to Mortgagee without proof of the Default relied upon. Grantor hereby irrevocably authorizes each such person to rely upon and comply with any notice or demand by the Mortgagee for the payment to Mortgagee of any Rents and other such amounts due.

B. Grantor shall apply the Rents and other such amounts to the payment of all necessary and reasonable operating costs and expenses of the Collateral, debt service on the Credit Agreement Liabilities secured hereby and a reasonable reserve for future expenses, repairs and replacements for the Collateral, before using the Rents and other such amounts for Grantor's personal use or any other purpose not for the direct benefit of the Collateral.

C. Grantor shall at all times fully perform the obligations of the lessor under all Leases. Grantor shall at any time or from time to time, upon request of Mortgagee, transfer and assign to Mortgagee in such form as may be satisfactory to Mortgagee, Grantor's interest in the Leases, subject to and upon the condition, however, that prior to the occurrence of any Default hereunder, Grantor shall have a license to collect and receive all Rents under such Leases upon accrual, but not prior thereto, as set forth in subsection A above.

D. Mortgagee shall have the right to assign Mortgagee's right, title and interest in any Leases to any subsequent holder of this Mortgage, or to any holder of a participating interest therein, or to any person acquiring title to all or any part of the Collateral through foreclosure or otherwise upon notice to Grantor, any subsequent assignee shall have all the rights and powers herein provided to Mortgagee. Upon the occurrence of any Default, Mortgagee shall have the right to execute new Leases of any part of the Collateral, including Leases that extend beyond the term of this Mortgage. After a Default, Mortgagee shall have the authority, as Grantor's attorney-in-fact, such authority being coupled with an interest and irrevocable, to sign the name of Grantor on all papers and documents relating to the operation, leasing and maintenance of the Collateral.

1.16 Mortgagee's Performance. If Grantor fails to pay or perform any of its obligations herein contained (including payment of expenses of foreclosure and court costs), the Mortgagee may (but need not) make any payment or perform (or cause to be performed) any obligation of Grantor hereunder, in any form and manner deemed expedient by Mortgagee. Any amount so paid or expended (plus compensation to Mortgagee for its out-of-pocket and other expenses for each matter for which it acts under this Mortgage), with interest thereon at the rate applicable after maturity as provided in the Credit Agreement and/or the Notes, shall be added to the Credit Agreement Liabilities hereby secured and shall be repaid to Mortgagee upon demand. By way of illustration and not in limitation of the foregoing, Mortgagee may (but need not) do all or any of the following: make payments of principal or interest or other amounts on any lien, encumbrance or charge

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on any of the Collateral; complete construction; make reasonable repairs; collect Rents; prosecute collection of the Collateral or Proceeds thereof; purchase, discharge, compromise or settle any tax lien or any other lien, encumbrance, suit, proceeding, title or claim thereof; contest any tax or assessment; and redeem from any tax sale or forfeiture affecting the Premises or the other Collateral. In making any payment or securing any performance relating to any obligation of Grantor hereunder, Mortgagee shall be the sole judge of the legality, validity and amount of any lien or encumbrance and of all other matters necessary to be determined in satisfaction thereof but shall act reasonably in doing so. No such action of Mortgagee shall ever be considered as a waiver of any right accruing to it on account of the occurrence of any matter which constitutes a Default.

1.17 Subrogation. To the extent that Mortgagee, on or after the date hereof, pays any sum under any provision of law or any instrument or document creating any lien or other interest prior or superior to the lien of this Mortgage, or Grantor or any other person pays any such sum with the proceeds of the loans secured hereby, Mortgagee shall have and be entitled to a lien or other interest on the Collateral equal in priority to the lien or other interest discharged and Mortgagee shall be subrogated to, and receive and enjoy all rights and liens possessed, held or enjoyed by, the holder of such lien, which shall remain in existence and benefit Mortgagee in securing the Credit Agreement Liabilities.

1.18 Transfer or Encumbrance of the Collateral. Unless expressly permitted by the Credit Agreement or unless with respect to Grantor's ordinary course of business or replacement of obsolete items with items of equal or greater value, Grantor shall not remove any portion of the Collateral consisting of tangible personal property or trade fixtures from the Premises, nor permit or suffer to occur any sale, assignment, conveyance, transfer, mortgage, lease (other than leases made in accordance with the provisions of this Mortgage or renewals or amendments of leases existing as of the date hereof upon substantially the same terms as existing on the date hereof, including, but not limited to, no material increase in rent and other payments under such leases) or encumbrance of, or any contract for, the Collateral or any part thereof, any interest or estate therein, any interest in the beneficial interest in any trust holding all or part of the title to the Collateral, or any interest in a corporation, partnership or other entity which owns all or part of the Collateral or such beneficial interest, whether by operation of law or otherwise, without in each instance the prior written consent of Mortgagee, which consent shall not be unreasonably withheld or delayed, having been obtained (i) to the sale, assignment, conveyance, mortgage, lease, option, encumbrance or other transfer, and (ii) to the form and substance of any instrument evidencing or contracting for any such sale, assignment, conveyance, mortgage, lease, option, encumbrance or other transfer. Unless expressly permitted by the Credit Agreement, Grantor shall not, without in each instance the prior written consent of Mortgagee, further assign or permit to be assigned, the

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Rents from the Collateral, and any such assignment without the prior express written consent of the Mortgagee shall be null and void. Grantor shall not permit any interest in any Lease of the Collateral to be subordinated to any encumbrance on the Collateral other than the Loan Documents and any such subordination shall be null and void. Grantor agrees that in the event the ownership of the Collateral, any interest therein or any part thereof becomes vested in a person other than Grantor, Mortgagee may, without notice to Grantor, deal in any way with such successor or successors in interest with reference to the Collateral, this Mortgage, the Notes, the Loan Documents and the Credit Agreement Liabilities without in any way vitiating or discharging Grantor's liability hereunder or under the Credit Agreement Liabilities. No sale of the Collateral, no forbearance to any person with respect to this Mortgage, and no extension to any person of the time for payment of the Notes or any of the other Credit Agreement Liabilities given by Mortgagee shall operate to release, discharge, modify, change or affect the original liability of Grantor, either in whole or in part, except to the extent specifically agreed in writing by Mortgagee.

1.19 Funds for Taxes and Insurance. In the event Grantor fails to pay any tax or insurance payments as required hereunder or an Event of Default otherwise has occurred, Mortgagee may, at its option, require Grantor to deposit with Mortgagee or its designee an additional amount sufficient to satisfy the obligations of Grantor under Section 1.3 and Section 1.8 as and when they become due; provided, however, nothing contained in this Section 1.19 shall discharge Grantor's obligations to make the payments required under Section 1.3 and/or Section 1.8 when due. The determination of the amount payable and of the fractional part thereof to be deposited with Mortgagee with each required payment of the Credit Agreement Liabilities or otherwise, shall be made by Mortgagee in its sole discretion based on the prior year's taxes and insurance premiums and Mortgagee's estimate of the amount by which taxes and insurance premiums can be expected to rise. Said amounts shall be held by Mortgagee or its designee not in trust and not as agent of Grantor, and may be commingled with other funds held by Mortgagee or its designee, and said amounts shall not bear interest, and so long as no Event of Default exists hereunder said amounts shall be applied to the payment of the obligations in respect to which the amounts were deposited or, after the occurrence of an Event of Default and at the option of Mortgagee, to the payment of the Credit Agreement Liabilities in such order or priority as Mortgagee shall determine. If at any time within thirty (30) days prior to the due date of any of the aforementioned obligations the amounts then on deposit therefor shall be insufficient for the payment of such obligation in full, Grantor shall within ten (10) days after demand deposit the amount of the deficiency with Mortgagee. If the amounts deposited are in excess of the actual obligations for which they were deposited, Mortgagee may refund to Grantor any such excess, or, at its option, may hold the same in a reserve account, not in trust and not bearing interest, and reduce proportionately the required monthly deposits for the ensuing year. Nothing herein contained

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shall be deemed to affect any right or remedy of Mortgagee under any other provision of this Mortgage or under any statute or rule of law to pay any such amount and to add the amount so paid to the Credit Agreement Liabilities hereby secured. All amounts so deposited shall be held by Mortgagee or its designee as additional security for the Credit Agreement Liabilities secured by this Mortgage and upon the occurrence of an Event of Default hereunder Mortgagee may, in its sole and absolute discretion and without regard to the adequacy of its security hereunder, apply such amounts or any portion thereof to the payment of the Credit Agreement Liabilities secured hereby in the manner provided in Section 3.9. Any such application of said amounts or any portion thereof to any Credit Agreement Liabilities secured hereby shall not be construed to cure or waive any Event of Default or notice of any Default hereunder or invalidate any act done pursuant to any such Default or notice. If Mortgagee requires deposits to be made pursuant to this Section 1.19, Grantor shall deliver to Mortgagee all tax bills, bond and assessment statements, statements of insurance premiums, and statements for any other obligations referred to above as soon as the same are received by Grantor. If Mortgagee sells or assigns this Mortgage, Mortgagee shall have the right to transfer all amounts deposited under this Section 1.19 to the purchaser or assignee, and Mortgagee shall thereupon be released and have no further liability hereunder for the application of such deposit, and Grantor shall look solely to such purchaser or assignee for such application and for all responsibility relating to such deposits.

## 1.20 Representations, Indemnity and Covenants Regarding Hazardous Materials.

All representations, warranties, liabilities, obligations, duties and rights and all other terms and provisions relating to Hazardous Substances (as defined in the Credit Agreement) and other environmental matters as set forth in the Credit Agreement, including without limitation, Sections 8.18 and 9.9 thereof, and that certain Environmental Indemnity Agreement of even date herewith by and between Mortgagee and Grantor, shall be incorporated as a part hereof as if recited herein.

## 1.21 Security Agreement and Financing Statements.

Grantor (as debtor) hereby grants to Mortgagee (as creditor and secured party) a security interest under the Uniform Commercial Code as adopted in the State where the Premises are located (or at Mortgagee's sole election, and if permitted by applicable law, the Uniform Commercial Code of the jurisdiction identified in the choice of law provision of the Credit Agreement) (the "Uniform Commercial Code") in all fixtures, machinery, appliances, equipment, furniture and personal property of every nature whatsoever, owned by Grantor and constituting part of the Collateral. Grantor shall execute any and all documents, including without limitation, financing statements pursuant to the Uniform Commercial Code, as Mortgagee may request to preserve, maintain and perfect the priority of the first lien

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and security interest created hereby on property which may be deemed personal property or fixtures, and shall pay to Mortgagee on demand any expenses incurred by Mortgagee in connection with the preparation, execution and filing of any such documents. Grantor hereby authorizes and empowers Mortgagee and irrevocably appoints Mortgagee the agent and attorney-in-fact of Grantor (such appointment being coupled with an interest), to execute and file, on Grantor's behalf, all financing statements and refilings and continuations thereof as Mortgagee deems necessary or advisable to create, preserve and protect such lien. When and if Grantor and Mortgagee shall respectively become the debtor and secured party in any Uniform Commercial Code financing statement affecting the Collateral (or Mortgagee takes possession of personal property delivered by Grantor where possession is the means of perfection of the security interest), then, at Mortgagee's sole election, this Mortgage shall be deemed a security agreement as defined in such Uniform Commercial Code as in effect in the state in which the Premises are located (or at Mortgagee's sole election, and if permitted by applicable law, the Uniform Commercial Code of the jurisdiction identified in the choice of law provision of the Credit Agreement), and the remedies for any violation of the covenants, terms and conditions of the agreements herein contained shall be as prescribed in Article III or by general law, or, as to such part of the security which is also reflected in such financing statement, by the specific statutory consequences now or hereafter enacted and specified in the Uniform Commercial Code. In addition, this Mortgage shall constitute a financing statement filed as a fixture filing in the official records of the County Recorder of the County in which the Premises are located with respect to any and all fixtures included within the term "Collateral" as used herein and with respect to any Goods or other personal property that may now be or hereafter become such fixtures. Proceeds and products of such Collateral are also covered hereby.

1.22 After-Acquired Property. To the extent permitted by, and subject to, applicable law, the lien of this Mortgage including without limitation the security interest created under section 1.21, shall automatically attach, without further act, to all property hereafter acquired by Grantor located in or on, or attached to, or used or intended to be used in connection with, or with the operation of, the Collateral or any part thereof.

1.23 Expenses. Grantor shall pay when due and payable, and otherwise on demand made by Mortgagee, appraisal fees, recording fees, taxes, brokerage fees and commissions, abstract or title insurance fees, escrow fees, attorneys' fees, costs of environmental tests, reports or studies, court costs, costs of documentary and expert evidence, fees of inspecting architects and engineers, and all other costs and expenses of every character which have been reasonably incurred or which may hereafter be incurred by Mortgagee, and its agents and counsel in connection with any of the following:

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A. The preparation, execution, delivery and performance of the Loan Documents;

B. The funding of the Loans;

C. Any court or administrative proceeding involving the Collateral or the Loan Documents to which Mortgagee is made a party by reason of its being a holder of any of the Loan Documents, including without limitation, bankruptcy, insolvency, reorganization, probate, eminent domain, condemnation, building code and zoning proceedings;

D. Any court or administrative proceeding or other action undertaken by Mortgagee to enforce any remedy or to collect any of the Credit Agreement Liabilities due under this Mortgage or any of the other Loan Documents following a Default hereunder or thereunder, including, without limitation, a foreclosure of this Mortgage or a public or private sale under the Uniform Commercial Code;

E. Any remedy exercised by Mortgagee following a Default including foreclosure of this Mortgage and actions in connection with taking possession of the Collateral or collecting Rents assigned hereby;

F. Any tax (except Federal and state income taxes) or other governmental charges or impositions imposed by any governmental authority upon Mortgagee by reason of its interest in any of the Credit Agreement Liabilities or this Mortgage;

G. Any activity in connection with any request by Grantor or anyone acting on behalf of Grantor that the Mortgagee consent to a proposed action which, pursuant to this Mortgage or any of the other Loan Documents may be undertaken or consummated only with the prior consent of Mortgagee, whether or not such consent is granted; and

H. Any negotiation undertaken between Mortgagee and Grantor or anyone acting on behalf of Grantor pertaining to the existence or cure of any Default under, or the modification or extension of, any of the Loan Documents.

If Grantor fails to pay said costs and expenses as above provided, Mortgagee may elect, but shall not be obligated, to pay the costs and expenses described in this Section 1.23, and if Mortgagee does so elect, then Grantor will, upon demand by Mortgagee, reimburse Mortgagee for all such expenses which have been or shall be paid or incurred by it. The amounts paid by Mortgagee in respect of such expenses, together with interest thereon at the rate applicable after maturity as provided in the Credit Agreement and/or the Notes from the date paid by Mortgagee until paid by Grantor, shall be added to the Credit Agreement Liabilities, shall be immediately due and payable and shall be secured by the lien of this Mortgage and the other Loan

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Documents. In the event of foreclosure hereof, Mortgagee shall be entitled to add to the indebtedness found to be due by the court an estimate calculated by Mortgagee of such expenses to be incurred after entry of the decree of foreclosure. To the extent permitted by law, Grantor agrees to hold Mortgagee harmless from and against, and reimburse Mortgagee for, all claims, demand, liabilities, losses, damages, judgments, penalties, costs and expenses, including, without limitation, attorneys' fees, which may be imposed upon, asserted against, or incurred or paid by Mortgagee by reason of or in connection with any bodily injury or death or property damage occurring in or upon or about the Premises through any cause whatsoever, or asserted against Mortgagee on account of any act performed or omitted to be performed hereunder, or on account of any transaction arising out of or in any way connected with the Collateral, this Mortgage, the other Loan Documents, any of the indebtedness evidenced by the Notes or any of the other Credit Agreement Liabilities.

1.24 Use of the Collateral. Grantor shall not suffer or permit the Collateral, or any portion thereof, to be used by the public, as such, without restriction, or in such manner as might reasonably tend to impair Grantor's title to the Collateral or any portion thereof, or in such manner as might reasonably make possible a claim or claims of easement by prescription or adverse possession by the public, as such, or of implied dedication of the Collateral or any portion thereof. Grantor shall not use or permit the use of the Collateral or any portion thereof for any unlawful purposes.

1.25 Litigation Involving Collateral. Grantor shall promptly notify Mortgagee of any litigation, administrative procedure or proposed legislative action initiated against Grantor or the Collateral or in which the Collateral is directly or indirectly involved including any proceedings which seek to (i) enforce any lien against the Collateral, (ii) correct, change or prohibit any existing condition, feature or use of the Collateral, (iii) condemn or demolish the Collateral, (iv) take, by the power of eminent domain, any portion of the Collateral or any property which would change the Collateral, (v) modify the zoning applicable to the Premises, or (vi) otherwise adversely affect the Collateral. Grantor shall initiate or appear in any legal action or other appropriate proceedings when necessary to protect the Collateral from damage. Grantor shall, upon written request of Mortgagee, represent and defend the interests of Mortgagee in any proceedings described in this Section 1.25 or, at Mortgagee's election, pay the fees and expenses of any counsel retained by Mortgagee to represent the interest of Mortgagee in any such proceeding.

1.26 Management of Collateral. Grantor shall cause the Collateral to be managed at all times in accordance with sound business practice. If the Premises are to be leased to multiple occupants, Grantor shall cause the Collateral to be managed by a competent and reputable managing agent acceptable to Mortgagee pursuant to a management agreement

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approved by Mortgagee in writing in advance of execution thereof by Grantor or anyone acting on behalf of either of them. Following such approval, Grantor shall not permit the management agreement to be terminated (except for good cause after notice to Mortgagee), modified, amended or extended, or permit a change in the identify of the management agent, without in each instance Mortgagee's prior written consent, which consent shall not be unreasonably withheld or delayed. Each management agreement shall be subject and subordinate in all respects to the lien of this Mortgage and the rights of Mortgagee hereunder and each management agreement shall so expressly provide.

1.27 No Merger; After-Acquired Title. So long as any of the Credit Agreement Liabilities secured by this Mortgage shall remain unpaid, unless Mortgagee shall otherwise in each instance and in writing consent, the fee title and the leasehold estate in the Collateral hereinbefore described shall not merge but shall always be kept separate and distinct, notwithstanding the union of said estates either in the lessor or in the lessee, or in a third party, by purchase or otherwise; and Grantor further covenants and agrees that, in case it shall acquire any other estate, title or interest in the Collateral, this Mortgage shall attach to and cover and be a lien upon such other estate so acquired, and such other estate so acquired by Grantor shall be considered as mortgaged, assigned or conveyed to Mortgagee and the liens hereof spread to cover such estate with the same force and effect as though specifically herein mortgaged, assigned, conveyed or spread.

1.28 Loan Documents. Grantor covenants that it will timely and fully perform and satisfy all the terms, covenants and conditions of any and all Loan Documents.

1.29 Further Assurances. At any time and from time to time, upon Mortgagee's request, Grantor shall make, execute and deliver, or cause to be made, executed and delivered, to Mortgagee, and where appropriate shall cause to be recorded, registered or filed, and from time to time thereafter to be re-recorded, re-registered and refiled at such time and in such offices and places as shall be deemed desirable by Mortgagee, any and all such further mortgages, security agreements, financing statements, instruments of further assurance, certificates and other documents as Mortgagee may reasonably consider necessary or desirable in order to effectuate or perfect, or to continue and preserve the obligations under, the Notes, this Mortgage, any of the other Loan Documents, and any other instrument evidencing or securing Credit Agreement Liabilities, and the lien of this Mortgage as a lien upon all of the Collateral, whether now owned or hereafter acquired by Grantor. Upon any failure by Grantor to do so, Mortgagee may make, execute, record, register, file, re-record, re-register or refile any and all such mortgages, instruments, certificates and documents for and in the name of Grantor, and Grantor hereby irrevocably

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appoints Mortgagee the agent and attorney-in-fact of Grantor to do so, such appointment being coupled with an interest.

## II. REPRESENTATIONS AND WARRANTIES

In addition to the various representations and warranties of Grantor contained in Article I which Mortgagee has and will rely upon in connection with its decision to make the Loans to Grantor, to further induce Mortgagee to make the Loans, Grantor represents and warrants to Mortgagee as follows:

2.1 Status of Documents. At the date hereof, there does not exist any basis for any claim by Grantor against Mortgagee under any of the Notes or the other Loan Documents or any defense or counterclaim on the part of Grantor to any claim which Mortgagee might make against any obligor with respect to any of the Notes or the other Loan Documents.

2.2 Compliance. To the best of Grantor's knowledge, neither the Premises nor the present use and occupancy thereof violates or conflicts with or will violate or conflict with any applicable statute, law, regulation, rule, ordinance or order of any kind whatsoever (including but not limited to any zoning or building laws or ordinances, any noise abatement, occupancy, or Hazardous Material Laws or regulations, or any rules, regulations or orders of any other governmental agency), or any building permit or any condition, privilege, license, easement, right-of-way, covenant, restriction or grant (whether or not of record) made for the benefit of or affecting the Premises or any part thereof.

2.3 Utilities. All utility services necessary for the occupancy and operation of the Premises for their intended purposes (including, without limitation, water, storm and sanitary sewer, electric and telephone facilities) are available to the Premises.

2.4 Physical Defects. There are no physical or mechanical defects of the Premises, including, without limitation, the plumbing, heating, air conditioning, ventilation, and electrical systems which would materially impair the value or interfere with the use of the Premises.

2.5 Licenses and Permits. To the best of Grantor's knowledge, Grantor has obtained all licenses, permits, easements and rights-of-way required from governmental authorities having jurisdiction over the Premises or from private parties for the use and operation of the Premises and to insure vehicular and pedestrian ingress to and egress from the Premises.

2.6 Condemnation. There are no condemnation, environmental, zoning or other land use regulation proceedings, either instituted or, to the best of Grantor's knowledge, planned to be instituted, which would

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detrimentally affect the use or operation of the Premises for its intended purpose or the value of the Premises, and Grantor has not received notice of any special assessment proceeding affecting the Premises.

2.7 Construction; Mechanics' Lien Rights. There are no outstanding contracts made by Grantor for any Improvements to the Premises which have not been fully paid for.

2.8 Representation to be Continuing. Grantor further represents and warrants to Mortgagee that all of the representations and warranties contained in this Mortgage are true as of the date of this Mortgage, and Grantor hereby agrees to keep such representations and warranties true at all times until all of the Credit Agreement Liabilities have been paid in full.

2.9 Acknowledgment of Mortgagee's Reliance. All representations, warranties, covenants and agreements made in this Mortgage or in any certificate or other document heretofore or hereafter delivered to Mortgagee by or on behalf of Grantor pursuant to or with respect to this Mortgage, the Notes, or any of the other Loan Documents, shall be deemed to have been relied upon by Mortgagee notwithstanding any investigation heretofore or hereafter made by Mortgagee or on its behalf, and shall survive the making of any or all advances contemplated hereby and shall continue in full force and effect as long as any obligation owed by Grantor to Mortgagee hereunder, under the Notes, or under any of the other Loan Documents remains unperformed.

### III. DEFAULT; REMEDIES

3.1 Events of Default. The occurrence of any of the following shall constitute an event of default ("Event of Default") hereunder (including, if Grantor consists of more than one person or entity, the occurrence of any such events with respect to any one or more of such persons or entities):

A. The occurrence of (i) an Event of Default as specified in the Note or (ii) the occurrence of default under any of the other Loan Documents solely with respect to the Note, Loan, Facility C Borrowings, Facility C Commitment, Facility C Obligations or any and all other obligations of J&J under the Credit Agreement;

B. Failure by Grantor to comply with or perform any provision of this Mortgage (and not constituting an Event of Default under any other subsection of this Section 3.1) and continuance of such failure for thirty (30) days after notice thereof to Grantor from Mortgagee or the holder of the Credit Agreement Liabilities.

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C. The occurrence of a material uninsured loss, damage or destruction, or a taking by eminent domain or other condemnation proceeding, of any substantial portion of the Collateral, or any part of the Collateral which materially impairs any of the intended uses of the Collateral;

D. Failure by Grantor to comply with or to perform any provisions of Section 1.18;

E. Failure by Grantor to comply with or to perform any provisions of Section 1.8; or

F. The occurrence of an Event of Default as described in Section 1.7.

3.2 Acceleration. Upon the occurrence of any Event of Default, the entire indebtedness constituting the Credit Agreement Liabilities, together with interest thereon at the rate applicable after maturity as provided in the Credit Agreement and/or the Notes, shall, at the option of Mortgagee, notwithstanding any provisions thereof and without demand or notice of any kind to Grantor or to any other person, become and be immediately due and payable.

3.3 Remedies Cumulative. No remedy or right of Mortgagee hereunder or under any of the Notes, or the other Loan Documents or otherwise, or available under applicable law, shall be exclusive of any other right or remedy, but each such remedy or right shall be in addition to every other remedy or right now or hereafter existing under any such document or under applicable law. No delay in the exercise of, or omission to exercise, any remedy or right accruing on a Default shall impair any such remedy or right or be construed to be a waiver of any such Default or an acquiescence thereto, nor shall it affect any subsequent Default of the same or a different nature. Every such remedy or right may be exercised concurrently or independently, and when and as often as may be deemed expedient by Mortgagee. All obligations of Grantor, and all rights, powers and remedies of Mortgagee, expressed herein shall be in addition to, and not in limitation of, those provided by law or in any of the Notes, the other Loan Documents or any other written agreement or instrument relating to any of the Credit Agreement Liabilities or any security therefor.

3.4 Possession of Premises; Remedies under the Loan Documents. Grantor hereby waives all right to the possession, income and Rents of the Premises or any other Collateral from and after the occurrence of any Event of Default, and Mortgagee is hereby expressly authorized and empowered, at and following any such occurrence, to enter into and upon and take possession of the Premises or any part thereof, to complete any construction in progress thereon at the expense of Grantor, to lease the same, to collect and receive all Rents and to apply the same, less the necessary or appropriate expenses of collection thereof, either for the care, operation

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and preservation of the Premises or, at the election of Mortgagee in its sole discretion, to a reduction of the Credit Agreement Liabilities in the manner provided in Section 3.9. Mortgagee, in addition to the rights provided under the Notes and the other Loan Documents, is also hereby granted full and complete authority to enter upon the Premises, employ watchmen to protect the Goods and the Improvements from depredation or injury and to preserve and protect the Collateral, and to continue any and all outstanding contracts for the erection and completion of Improvements to the Premises, to make and enter into any contracts and obligations wherever necessary (in the sole judgment of Mortgagee) in its own name, and to pay and discharge all debts, obligations and liabilities incurred thereby all at the expense of Grantor. All such expenditures by Mortgagee shall be Credit Agreement Liabilities hereunder and secured hereby. Upon the occurrence of any Event of Default, Mortgagee may also exercise any or all rights or remedies under the Notes and the other Loan Documents.

3.5 Judicial Foreclosure. Upon the occurrence of an Event of Default then Mortgagee or the holder or holders of any of the indebtedness secured by this Mortgage may, at its option, declare the whole amount of the Credit Agreement Liabilities secured by this Mortgage remaining unpaid immediately due and payable without notice, and proceed by suit or suits in equity or at law to foreclose the same. Appraisement of the Premises is hereby waived or not waived at the option of Mortgagee, such option to be exercised at or prior to the time judgment is rendered in such judicial foreclosure. The Premises may be sold as one parcel or in such parcels as Mortgagee may elect unless otherwise provided by law.

3.6 Receiver. Mortgagee shall have the right, with the irrevocable consent of Grantor hereby given and evidenced by the execution of this Mortgage, such consent being coupled with an interest, to obtain appointment of a receiver by any court of competent jurisdiction without further notice to Grantor, which receiver shall be authorized and empowered to enter upon and take possession of the Collateral and all bank accounts encumbered by this Mortgage or the other Loan Documents and containing funds associated with the Collateral, to let the Premises and other Collateral, to receive all the Rents due or to become due, and apply the Rents after payment of all necessary charges and expenses to reduction of the Credit Agreement Liabilities in the manner provided in Section 3.9. At the option of Mortgagee, the receiver shall accomplish such entry and taking possession of the Collateral by actual entry and possession or by notice to Grantor. The receiver so appointed by a court of competent jurisdiction shall be empowered to issue receiver's certificates for funds advanced by Mortgagee for the purpose of protecting the value of the Collateral as security for the Credit Agreement Liabilities. The amounts evidenced by receiver's certificates shall bear interest at the rate applicable after maturity as provided in the Credit Agreement and/or the Notes and may be added to the cost of redemption if the owners of the Collateral, Grantor or a junior lienholder redeems at or after the foreclosure sale.

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3.7 Remedies for Leases and Rents. If any Default shall occur, then whether before or after institution of legal proceedings to foreclose the lien of this Mortgage or before or after the sale thereunder, Mortgagee shall be entitled, in its discretion, to do all or any of the following: (i) enter and take actual possession of the Premises, the Rents, the Leases and other Collateral relating thereto or any part thereof personally, or by its agents or attorneys, and exclude Grantor therefrom; (ii) with process of law, enter upon and take and maintain possession of all of the documents, books, records, papers and accounts of Grantor relating thereto; (iii) as irrevocable attorney-in-fact or agent of Grantor (such power of attorney and agency being coupled with an interest), or in its own name as mortgagee and under the powers herein granted, hold, operate, manage and control the Premises, the Rents, the Leases and other Collateral relating thereto and conduct the business, if any, thereof either personally or by its agents, contractors or nominees, with full power to use such measures, legal or equitable, as in its discretion or in the discretion of its successors or assigns may be deemed proper or necessary to enforce the payment of the Rents, the Leases and other Collateral relating thereto (including actions for the recovery of Rent); (iv) cancel or terminate any Lease or sublease for any cause or on any ground which would entitle Grantor to cancel the same; (v) elect to disaffirm any Lease or sublease made subsequent hereto or subordinated to the lien hereof unless a non-disturbance agreement has been executed; (vi) make all necessary or reasonable repairs, decoration, renewals, replacements, alterations and improvements to the Premises that, in its reasonable discretion, may be appropriate; (vii) insure and reinsure the Collateral for all risks incidental to Mortgagee's possession, operation and management thereof; and (viii) receive all such Rents and Proceeds, and perform such other acts in connection with the management and operation of the Collateral, as Mortgagee in its discretion may deem proper, Grantor hereby irrevocably granting Mortgagee full power and authority to exercise each and every one of the rights, privileges and powers contained herein at any and all times after any Default without notice to Grantor or any other person, such power and authority being coupled with an interest. Mortgagee, in the exercise of the rights and powers conferred upon it hereby, shall have full power to use and apply the Rents to the payment of or on account of the following, in the following order: (a) first, to the payment of the operating expenses of the Premises, including the cost of management and leasing thereof (which shall include reasonable compensation to Mortgagee and its agents or contractors, if management be delegated to agents or contractors, and it shall also include lease commissions paid to third parties and other compensation and expenses of seeking and procuring tenants and entering into Leases), established claims for damages, if any, and premiums on insurance hereinabove authorized; (b) second, to the payment of taxes, charges and special assessments, the costs of all repairs, decorating, renewals, replacements, alterations, additions, betterments and improvements of the Collateral, including the cost from time to time of installing, replacing or repairing the Collateral, and of placing the Collateral in such condition as will, in the judgment of Mortgagee, make it

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readily rentable or salable; and (c) third, to the payment of the Credit Agreement Liabilities in the manner provided in Section 3.9. The entering upon and taking possession of the Premises, or any part thereof, and the collection of any Rents and the application thereof as aforesaid shall not cure or waive any Default theretofore or thereafter occurring or affect any notice or Default hereunder or invalidate any act done pursuant to any such Default or notice, and, notwithstanding continuance in possession of the Premises or any part thereof by Mortgagee or a receiver, and the collection, receipt and application of the Rents, Mortgagee shall be entitled to exercise every right provided for in this Mortgage or by law or in equity upon or after the occurrence of a Default. Any of the actions referred to in this Section 3.7 may be taken by Mortgagee irrespective of whether any notice of Default has been given hereunder and without regard to the adequacy of the security for the Credit Agreement Liabilities.

3.8 Personal Property. Whenever there exists an Event of Default hereunder, Mortgagee may exercise from time to time any rights and remedies available to it under applicable law upon default in payment of indebtedness. Grantor shall, promptly upon request by Mortgagee and at Grantor's expense, assemble so much of the Collateral as is personal property under applicable law and make it available to Mortgagee at such place or places designated by Mortgagee. Any notification required by law of intended disposition by Mortgagee of any of the Collateral shall be deemed reasonably and properly given if given at least five (5) days before such disposition. Grantor shall pay all expenses incurred by Mortgagee in the collection of the Proceeds from such disposition, including attorneys' fees and legal expenses, and in the repair of any portion of the Premises to which any of the Goods may be affixed. Without limiting the foregoing, whenever there exists an Event of Default hereunder, Mortgagee may, with respect to so much of the Collateral as is personal property under applicable law, to the fullest extent permitted by applicable law, without further notice, advertisement, hearing or process of law of any kind, (i) notify any person obligated on the Collateral to perform directly for Mortgagee its obligations thereunder, (ii) enforce collection of any of the Collateral by suit or otherwise, and surrender, release or exchange all or any part thereof or compromise or extend or renew for any period (whether or not longer than the original period) any obligations of any nature of any party with respect thereto, (iii) endorse any checks, drafts or other writings in the name of Grantor to allow collection of the Collateral; (iv) take control of any Proceeds of the Collateral; (v) enter upon any premises where any of the Collateral may be located and take possession of and remove such Collateral, (vi) sell any or all of the Collateral, free of all rights and claims of Grantor therein and thereto, at any public or private sale, and (vii) bid for and purchase any or all of the Collateral at any such sale. Any Proceeds of any disposition by Mortgagee of any of the Collateral shall be applied by Mortgagee to the payment of the Credit Agreement Liabilities in the manner provided in Section 3.9. In addition to and not in limitation of the foregoing provisions of this Section 3.8,

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Mortgagee may exercise from time to time any rights and remedies available to it under the Uniform Commercial Code or other applicable law as in effect from time to time or otherwise available to it under this Mortgage or any of the other Loan Documents. Grantor hereby expressly waives presentment, demand, notice of dishonor, protest and notice of protest in connection with the Notes and to the fullest extent permitted by applicable law, any and all other notices, demands, advertisements, hearings or process of law in connection with the exercise by Mortgagee of any of its rights and remedies hereunder. Grantor hereby irrevocably appoints Mortgagee its attorney-in-fact with full power of substitution to take possession of the Collateral upon any Default and, as Mortgagee in its sole discretion deems necessary or proper, to execute and deliver all instruments required by the Mortgage in order to accomplish the disposition of the Collateral. The foregoing power of attorney and power of substitution are coupled with an interest and are irrevocable while any of the Credit Agreement Liabilities are outstanding.

3.9 Application of Proceeds. Any and all Proceeds received by Mortgagee hereunder (unless otherwise specified herein) will be applied by Mortgagee as follows: (i) first, to the payment of Mortgagee's out-of-pocket expenses in connection with the Collateral or this Mortgage and enforcement of Mortgagee's rights with respect thereto or thereunder, including attorneys' fees and legal expenses, (ii) second, toward the payment of the Credit Agreement Liabilities, and (iii) third, any surplus to be paid to Grantor, its successors and assigns, or as a court of competent jurisdiction may direct.

3.10 Performance of Third Party Agreements. Mortgagee may, in its sole discretion at any time after the occurrence of an Event of Default, notify any person obligated to Grantor under or with respect to any Third Party Agreements of the existence of an Event of Default, require that performance be made directly to Mortgagee at Grantor's expense, and advance such sums as are necessary or appropriate to satisfy Grantor's obligations thereunder; and Grantor agrees to cooperate with Mortgagee in all ways requested by Mortgagee (including the giving of any notices requested by, or joining in any notices given by, Mortgagee) to accomplish the foregoing.

3.11 No Liability on Mortgagee. Notwithstanding anything contained herein, Mortgagee shall not be obligated to perform or discharge, and does not hereby undertake to perform or discharge, any obligation, duty or liability of Grantor, whether hereunder, under any of the Third Party Agreements or otherwise, and Grantor shall and does hereby agree to indemnify and hold Mortgagee harmless from and against any and all liabilities, losses or damages which Mortgagee may incur or pay under or with respect to any of the Collateral or under or by reason of its exercise of rights hereunder, and any and all claims and demands whatsoever which may be asserted against Mortgagee by reason of any alleged obligations or undertakings by Mortgagee to perform or discharge any of the terms,

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covenants or agreements contained in any of the Loan Documents or in any of the contracts, documents or instruments evidencing or creating any of the Collateral. Mortgagee shall not have responsibility for the control, care, management or repair of the Premises or be responsible or liable for any negligence in the management, operation, upkeep, repair or control of the Premises resulting in loss, injury or death to any tenant, licensee, employee, stranger or other person. No liability shall be enforced or asserted against Mortgagee in the exercise of the powers herein granted to them, and Grantor expressly waives and releases any such liability. Should Mortgagee incur any such liability, loss or damage under or with respect to any of the Collateral or under or by reason hereof, or in the defense of any claims or demands, Grantor agrees to reimburse Mortgagee immediately upon demand for the full amount thereof, including Mortgagee's costs, expenses and attorneys' fees. Notwithstanding the foregoing, Grantor shall not be liable or responsible for any wilful acts or omissions of Mortgagee in the event Mortgagee voluntarily acquires title, possession or control of the Premises.

3.12 [INTENTIONALLY DELETED].

3.13 Waiver. Grantor, on behalf of itself and all persons now or hereafter interested in the Collateral, to the fullest extent permitted by applicable law hereby irrevocably waives all rights under, all homestead, moratorium, valuation, appraisal, exemption, stay, extension, reinstatement and redemption statutes, laws or equities now or hereafter existing, including, without limitation, any rights of reinstatement and redemption as allowed under Section 5/15-1101(b) of the Illinois Mortgage Foreclosure Law (735 ILCS 5/15-1101 et seq.), or successor statutes, and hereby further irrevocably waives the pleading of any statute of limitations as a defense to any and all Credit Agreement liabilities secured by this Mortgage, such waivers being freely given for good and valuable consideration. Grantor agrees that no defense, claim or right based on any thereof will be asserted, or may be enforced, in any action enforcing or relating to this Mortgage or any of this Collateral. Without limiting the generality of the preceding sentence, Grantor, on its own behalf and on behalf of each and every person acquiring any interest in or title to the Premises subsequent to the date of this Mortgage, hereby irrevocably waives (such waiver being freely given for good and valuable consideration) any and all rights of reinstatement and rights of redemption prior to sale or from sale under any order or decree of foreclosure of this Mortgage or under any power contained herein or under any sale pursuant to any statute, order, decree or judgment of any court. Grantor, for itself and for all persons hereafter claiming through or under it or who may at any time hereafter become holders of liens junior to the lien of this Mortgage, hereby expressly and irrevocably waives and releases (such waiver and release being freely given for good and valuable consideration) all rights to direct the order in which any of the Collateral shall be sold in the event of any sale or sales pursuant hereto and to have any of the Collateral and/or any other

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part of the Premises now or hereafter constituting security for any of the Credit Agreement Liabilities marshalled upon any foreclosure of this Mortgage or of any other security for any of said Credit Agreement Liabilities. Grantor irrevocably waives (such waiver being freely given for good and valuable consideration) any right to a trial by jury in any action or proceeding (i) to enforce or defend any right under this Mortgage, the Notes, or any of the other Loan Documents, or under any amendment, instrument, document, or agreement delivered, or that may be in the future be delivered, in connection herewith or therewith, or (ii) arising from any financing relationship existing in connection with this Mortgage, and Grantor agrees that any such action or proceeding shall be tried before a court and not before a jury.

## IV. GENERAL

4.1 Permitted Acts. Grantor agrees that, without affecting or diminishing in any way the liability of the Grantor or any other person (except any person expressly released in writing by Mortgagee) for the payment or performance of any of the Credit Agreement Liabilities or for the performance of any obligation contained herein or affecting the lien hereof upon the Collateral or any part thereof, Mortgagee may at any time and from time to time, without notice to or the consent of any person, release any person liable for the payment or performance of any of the Credit Agreement Liabilities; extend the time for, or agree to alter the terms of payment of, any indebtedness under or in connection with the Notes, or any of the Credit Agreement Liabilities; modify or waive any obligation; subordinate, modify or otherwise deal with the lien hereof; accept additional security of any kind; release any Collateral or other property securing any or all Credit Agreement Liabilities; make releases of any portion of the Premises; consent to the making of any map or plat of the Premises; consent to the creation of a condominium regime on all or any part of the Premises or the submission of all or any part of the Premises to the provisions of any condominium act or any similar provisions of law of the state where the Premises are located, or to the creation of any easements on the Premises or of any covenants restricting the use or occupancy thereof; or exercise or refrain from exercising, or waive, any right Mortgagee may have.

4.2 Legal Expenses. Grantor agrees to indemnify Mortgagee from all loss, damage and expense, including (without limitation) attorneys' fees, incurred in connection with any suit or proceeding in or to which Mortgagee may be made or become a party for the purpose of protecting the lien or priority of this Mortgage. The legal expenses incurred in connection with any suit or proceeding shall not be computed in accordance with any court schedule, but shall be as necessary to fully reimburse all attorneys' fees and other legal expenses actually incurred in good faith, regardless of the size of any judgment, it being the intention of the

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parties to fully compensate Mortgagee for all the attorneys' fees paid in good faith.

4.3 Defeasance. This Mortgage shall in all respects be a continuing mortgage instrument and shall remain in full force and effect until final payment in full of all of the Credit Agreement Liabilities. Upon full payment and satisfaction of all of the Credit Agreement Liabilities in accordance with their respective terms and at the time and in the manner provided, and when Mortgagee has no further obligation to make any advance, or extend any credit hereunder, under the Notes or any of the other Loan Documents, this conveyance shall be null and void, and thereafter, upon demand therefor, an appropriate instrument of reconveyance or release shall promptly be made by Mortgagee to Grantor at Grantor's expense.

4.4 Notices. Each notice, demand or other communication in connection with this Mortgage shall be in writing and shall be given in the manner set forth in the Credit Agreement. Each notice, demand or other communication so given shall be deemed effective at the time set forth in the Credit Agreement.

4.5 Successors; Grantor; Gender. All provisions hereof shall inure to and bind the parties and their respective successors, vendees and assigns. The word "Grantor" shall include all persons claiming under or through Grantor and all persons liable for the payment or performance of any of the Credit Agreement Liabilities whether or not such persons shall have executed any of the Notes or this Mortgage. Wherever used, the singular number shall include the plural, the plural the singular, and the use of any gender shall be applicable to all genders.

4.6 Care by Mortgagee. Mortgagee shall be deemed to have exercised reasonable care in the custody and preservation of any of the Collateral in its possession if it takes such action for that purpose as Grantor requests in writing, but failure of Mortgagee to comply with any such request shall not be deemed to be (or to be evidence of) a failure to exercise reasonable care, and no failure of Mortgagee to preserve or protect any rights with respect to such Collateral against prior parties, or to do any act with respect to the preservation of such Collateral not so requested by Grantor, shall be deemed a failure to exercise reasonable care in the custody or preservation of such Collateral.

4.7 No Obligation on Mortgagee. This Mortgage is intended only as security for the Credit Agreement Liabilities. Anything herein to the contrary notwithstanding, (i) Grantor shall be and remain liable under and with respect to the Collateral to perform all of the obligations assumed by it under or with respect to any thereof, (ii) Mortgagee shall not have any obligation or liability under or with respect to the Collateral by reason or arising out of this Mortgage, and (iii) Mortgagee shall not be required

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or obligated in any manner to perform or fulfill any of the obligations of Grantor under, pursuant to or with respect to any of the Collateral.

4.8 No Waiver. No delay on the part of Mortgagee in the exercise of any right or remedy shall operate as a waiver thereof, and no single or partial exercise by Mortgagee of any right or remedy shall preclude other or further exercise thereof or the exercise of any other right or remedy. The granting or withholding of consent by Mortgagee to any transaction as required by the terms hereof shall not be deemed a waiver of the right to require consent to future or successive transactions.

4.9 Governing Law. This Mortgage, together with the Notes and the other Loan Documents, shall be construed in accordance with and governed by the internal laws of the State of Illinois. Whenever possible, each provision of this Mortgage shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Mortgage shall be prohibited by or invalid under applicable law, such provision shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remaining provisions of this Mortgage. Nothing in this Mortgage, the Credit Agreement, the Notes, the other Loan Documents, or in any other agreement between the Grantor and the Mortgagee, shall require the Grantor to pay, or the Mortgagee to accept, interest in an amount which would subject the Mortgagee to penalty under applicable law. All agreements between the Grantor and the Mortgagee, whether now existing or hereafter arising and whether written or oral, are hereby limited so that in no contingency, whether by reason of demand or acceleration of the maturity thereof or otherwise, shall be interest contracted for, charged, received, paid or agreed to be paid to the Mortgagee, exceed the maximum amount permissible under applicable law. If, for any circumstance whatsoever, interest would otherwise be payable to the Mortgagee in excess of the maximum lawful amount, the interest payable to the Mortgagee shall be reduced to the maximum amount permitted under applicable law; and if from any circumstances the Mortgagee shall ever receive anything of value deemed interest by applicable law in excess of the maximum lawful amount, an amount equal to any excessive interest shall be applied to the reduction of the principal of the Credit Agreement Liabilities and not to the payment of interest, or if such excessive interest exceeds the unpaid balance of principal of the Credit Agreement Liabilities, such excess shall be refunded to the Grantor. All interest paid or agreed to be paid to the Mortgagee shall, to the extent permitted by applicable law, be amortized, pro-rated, allocated, and spread throughout the full period until the scheduled payment in full of the Credit Agreement Liabilities (regardless of any early payment in full of the Credit Agreement Liabilities, or of any portion thereof not then scheduled to have been paid) so that the interest thereon for such full period shall not exceed the maximum amount permitted by applicable law. This paragraph shall control all agreements between the Grantor and the Mortgagee.

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

4.11 No Merger. It being the desire and intention of the parties hereto that this Mortgage and the liens hereof do not merge in fee simple title to the Premises, it is hereby understood and agreed that should Mortgagee acquire an additional or other interests in or to the Premises or the ownership thereof, then, unless a contrary intent is manifested by Mortgagee as evidenced by an express statement to that effect in an appropriate document duly recorded, this Mortgage and the lien hereof shall not merge in the fee simple title, with the result that this Mortgage may be foreclosed as if owned by a stranger to the fee simple title.

4.12 Mortgagee Not a Joint Venturer or Partner. Grantor and Mortgagee acknowledge and agree that in no event shall Mortgagee be deemed to be a partner or joint venturer with Grantor. Without limitation of the foregoing, Mortgagee shall not be deemed to be such a partner or joint venturer on account of its becoming a mortgagee in possession or exercising any rights pursuant to this Mortgage or pursuant to any other instrument or document evidencing or securing any of the Credit Agreement Liabilities, or otherwise.

4.13 Time of Essence. Time is declared to be of the essence in this Mortgage, the Notes and any other Loan Documents and of every provision hereof and thereof.

4.14 No Third Party Benefits. This Mortgage, the Notes and the other Loan Documents are made for the sole benefit of Grantor, Mortgagee, and the holders of the Credit Agreement Liabilities, and their respective successors and assigns, and no other party shall have any legal interest or rights of any kind under or by reason of any of the foregoing. Whether or not Mortgagee elects to employ any or all the rights, powers or remedies available to it under any of the foregoing, Mortgagee shall have no obligation or liability of any kind to any third party by reason of the foregoing or any of Mortgagee's actions or omissions pursuant thereto or otherwise in connection with this transaction.

4.15 Future Advances. This Mortgage secures present and future advances made by Mortgagee to or for the benefit of Grantor, and the lien of such future advances shall relate back to the date of this Mortgage. This Mortgage secures the payment of all sums and the performance of all covenants to be paid or performed by Grantor under or in connection with the

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Notes and this Mortgage shall remain in effect to secure all such reborrowings.

4.16 Conflict With the Credit Agreement. In the case of irraconcilable conflict between the provisions of this Mortgage and the Credit Agreement, the provisions of the Credit Agreement shall control.

4.17 Recitals. The recitals contained in this Mortgage are incorporated herein and by this reference made a part hereof.

4.18 Captions. The captions or titles to the articles, sections and paragraphs of this Mortgage are not a part of this Mortgage but are inserted for convenience only and shall have no effect upon the construction or interpretation of any part of this Mortgage and do not in any way limit or amplify the provisions of this Mortgage.

4.19 Changes. Neither this Mortgage nor any term hereof may be changed, waived, discharged or terminated orally, or by any action or inaction, but only by an instrument in writing signed by the party against which enforcement of the release, change, waiver, discharge or termination is sought. To the extent permitted by law, any agreement hereafter made by Grantor and Mortgagee relating to this Mortgage shall be superior to the rights of the holder of any intervening lien or superior to the rights of the holder of any intervening lien or encumbrance.

4.20 Consent to Jurisdiction. Any legal action or proceeding with respect to this Mortgage may be brought in the courts of the state in which the Premises are located or, if the requisites of jurisdiction obtain, of the applicable district court of the United States of America, and, by execution and delivery hereof, Grantor hereby accepts for itself and in respect of its property, generally and unconditionally, the jurisdiction of the aforesaid courts. Nothing herein, however, shall affect the right of Mortgagee to commence legal proceedings or otherwise proceed against Grantor in any other jurisdiction.

4.21 Waiver of Trial By Jury. GRANTOR (BY EXECUTION AND DELIVERY OF THIS INSTRUMENT) AND THE MORTGAGEE (BY ITS ACCEPTANCE HEREOF) HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVE THE RIGHT EITHER MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION BASED HEREON, OR ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS INSTRUMENT AND ANY OTHER LOAN DOCUMENTS, OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER VERBAL OR WRITTEN) OR ACTIONS OF EITHER PARTY. THIS PROVISION IS A MATERIAL INDUCEMENT TO THE MAKING OF THE LOAN TO THE GRANTOR BY THE MORTGAGEE, AND TO THE ADVANCE OR OTHER EXTENSION OF CREDIT TO THE GRANTOR PURSUANT TO THE CREDIT AGREEMENT. GRANTOR HEREBY REPRESENTS AND WARRANTS THAT THE WAIVER CONTAINED IN THIS SECTION HAS BEEN FREELY AND VOLUNTARILY MADE AFTER REVIEWING SAME WITH COUNSEL OF THE GRANTOR'S CHOICE.

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4.22 Revolving Credit. This Mortgage is given to secure a "Revolving Credit" loan as defined in Illinois Revised Statutes, Chapter 17, Par. 6405 (and, if amended, any amendment thereto) and secures not only the Credit Agreement Liabilities existing on the date of this Mortgage but also all future advances, whether such advances are obligatory or to be made at the option of Mortgagee, or otherwise, to the same extent as if such future advances were made on the date of the execution of this Mortgage, although there may be no advance made at the time of the execution of this Mortgage, and although there may be no indebtedness outstanding at the time any advance is made. The total amount of the Credit Agreement Liabilities secured by this Mortgage may increase or decrease from time to time, but the total unpaid balance so secured at any one time shall not exceed a maximum amount of \$35,000,000.00, plus interest thereon, and any disbursements made by Mortgagee for the payment of taxes, special assessments, or insurance on the Premises.

4.23 Attorney's Fees. As used in this Mortgage, the term, "attorneys' fees," shall mean reasonable charges and expenses for legal services rendered to or on behalf of the Mortgagee in connection with the collection of the Credit Agreement Liabilities at any time whether prior to the commencement of judicial proceedings and/or thereafter at the trial and/or appellate level and/or in pre- and post-judgment or bankruptcy proceedings.

4.24 Shared Draftsmanship. In the event of any ambiguity in the terms of this Mortgage, the doctrine of construction which holds that the language of the document shall be construed against its drafter shall not apply as all parties have shared in the drafting of this Mortgage.

4.25 Attorneys-in-Fact. Notwithstanding anything stated herein to the contrary, in the event Mortgagee is authorized to act as attorney-in-fact for the Borrower under the terms hereof, Mortgagee shall not execute any documents or take action pursuant to such authorization unless and until either (i) an Event of Default has occurred or (ii) Mortgagee has requested in writing that Borrower execute any documents or otherwise take certain actions and Borrower has failed to execute and deliver such documents to Mortgagee or take such actions on or before ten (10) days after the date of such notice.

4.26 Prior Mortgage. Notwithstanding anything stated to the contrary herein, this Mortgage is subject and subordinate to the lien of a certain Mortgage dated June 20, 1991, (the "Globe Mortgage") and recorded in the Cook County Recorder's Office on June 26, 1991 as document 91313341 made by Vienna to Globe Glass and Mirror Co., an Illinois corporation, to secure a note in the amount of \$164,001.20, solely with respect to Parcel 4 (as described on Exhibit A attached hereto). This Mortgage shall be a first lien and mortgage with respect to all Collateral, other than Parcel 4, which is secured by this Mortgage. Any default by Grantor under the

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provisions of the Globe Mortgage shall be deemed to be an act of default under the provisions of this Mortgage. The principal amount of the Globe Mortgage or any note or notes it secures shall not be increased over the unpaid principal under such Globe Mortgage as it exists on the date hereof. In the event such principal amount is increased, then Mortgagee may, upon Mortgagee's option, after ten (10) days prior written notice to Grantor, declare all sums secured hereby to be immediately due and payable.

\* \* \* \*

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IN WITNESS WHEREOF, the undersigned has executed and delivered this Mortgage in Chicago, Illinois, on the day, month and year first above written.

GRANTOR:

VIENNA BEEF LTD., an Illinois corporation

[Corporate Seal]

By: 

Name: James Eisenberg

Title: Co-Chairman

VIENNA SAUSAGE MANUFACTURING CO., an Illinois corporation

[Corporate Seal]

By: 

Name: James Eisenberg

Title: Co-Chairman

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## ACKNOWLEDGMENT

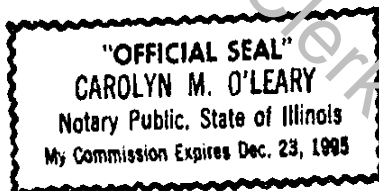
STATE OF ILLINOIS)  
                                           ) SS.  
 COUNTY OF COOK)

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that JAMES BLENBEEK, personally known to me to be the CO-CHAIRMAN of VIENNA BEEF LTD., an Illinois corporation, and personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that as such CO-CHAIRMAN he/she signed, sealed and delivered said instrument as CO-CHAIRMAN of said corporation, and caused the corporate seal of said corporation to be affixed thereto, pursuant to authority, given by the Board of Directors of said corporation as his/her free and voluntary act, and as the free and voluntary act and deed of said corporation, for the uses and purposes therein set forth.

Given under my hand and official seal, this 29<sup>th</sup> day of January, 1993.

Carolyn M. O'Leary  
 Notary Public  
 Name: Carolyn M. O'Leary

My Commission Expires:  
12/23/95



Notary Office

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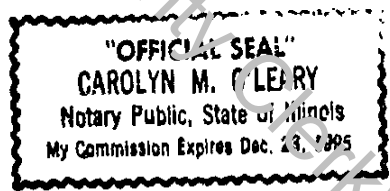
STATE OF ILLINOIS)  
                                  ) SS.  
COUNTY OF COOK)

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that James Elmer Boy, personally known to me to be the Co-Chairman of VIENNA SAUSAGE MANUFACTURING CO., an Illinois corporation, and personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that as such Co-Chairman he/she signed, sealed and delivered said instrument as Co-Chairman of said corporation, and caused the corporate seal of said corporation to be affixed thereto, pursuant to authority, given by the Board of Directors of said corporation as his/her free and voluntary act, and as the free and voluntary act and deed of said corporation, for the uses and purposes therein set forth.

Given under my hand and official seal, this 29<sup>th</sup> day of January, 1993.

Carolyn M. O'Leary  
Notary Public  
Name: Carolyn M. O'Leary

My Commission Expires:  
12/23/95



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## EXHIBIT A (DAMEN)

### LEGAL DESCRIPTION

#### PARCEL 1:

THAT PART OF THE SOUTHWEST 1/4 OF THE SOUTH EAST 1/4 OF SECTION 30, TOWNSHIP 40 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, LYING WEST AND SOUTH OF THE NORTH BRANCH OF THE CHICAGO RIVER, NORTH OF FULLERTON AVENUE, NORTHEAST OF ELSTON AVENUE AND EAST OF THE EAST LINE OF ROBEY STREET, NOW KNOWN AS DAMEN AVENUE, AS NOW LOCATED, EXCEPT THE FOLLOWING:

LOTS 15 TO 32 BOTH INCLUSIVE, IN BLOCK 8 OF FULLERTON'S ADDITION TO CHICAGO IN SAID SOUTHWEST 1/4 OF THE SOUTH EAST 1/4 AND ALSO EXCEPTING THE STREET AND ALLEY ADJOINING SAID LOTS ON THE EAST AND NORTH; ALSO EXCEPTING THAT PART THEREOF LYING EAST OF THE FOLLOWING DESCRIBED LINE:

COMMENCING AT THE NORTHEAST CORNER OF FULLERTON AND WOLCOTT AVES, BEING ALSO THE SOUTHWEST CORNER OF VACATED BLOCK 10, IN SAID FULLERTON'S ADDITION; THENCE NORTH 0 DEGREES 24 MINUTES WEST IN THE EAST LINE OF SAID WOLCOTT AVENUE, A DISTANCE OF 141 FEET TO A POINT IN THE NORTH LINE OF THE EAST AND WEST 16 FEET ALLEY IN SAID BLOCK 8 EXTENDED TO THE EAST LINE OF SAID WOLCOTT AVENUE; THENCE WEST, IN THE NORTH LINE OF SAID ALLEY EXTENDED EAST, A DISTANCE OF 37.80 FEET; THENCE NORTH 17 DEGREES 30 MINUTES EAST, A DISTANCE OF 277.17 FEET; THENCE NORTH 3 DEGREES 07 MINUTES EAST, A DISTANCE OF 117.61 FEET TO THE SOUTHEAST CORNER OF A BRICK BUILDING; THENCE NORTH 4 DEGREES 51 MINUTES WEST ALONG THE EASTERLY FACE OF SAID BRICK BUILDING AND THE SAME EXTENDED NORTHERLY, A DISTANCE OF 47.83 FEET; THENCE NORTH 3 DEGREES 03 MINUTES 36 SECONDS WEST, TO THE THREAD OF THE NORTH BRANCH OF THE CHICAGO RIVER, IN COOK COUNTY, ILLINOIS

#### PARCEL 2:

LOT 15, IN BLOCK 8 IN FULLERTON'S ADDITION TO CHICAGO, SAID FULLERTON ADDITION BEING A SUBDIVISION OF PART OF THE SOUTH EAST 1/4 OF SECTION 30, TOWNSHIP 40 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, LYING WEST OF THE NORTH BRANCH OF CHICAGO RIVER AND THAT PART OF THE NORTH 1/2 OF THE NORTHEAST 1/4 OF SECTION 31, TOWNSHIP 40 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, LYING WEST OF CHICAGO RIVER AND WEST OF CHICAGO AND NORTHWESTERN RAILROAD, IN COOK COUNTY, ILLINOIS

#### PARCEL 3:

LOT 16 IN BLOCK 8 IN FULLERTON'S ADDITION TO CHICAGO, BEING A SUBDIVISION OF THE SOUTH EAST 1/4 OF SECTION 30, AND OF THE NORTHEAST 1/4 OF SECTION 31, TOWNSHIP 40 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

#### PARCEL 4:

LOTS 23 AND 24 IN BLOCK 8 IN FULLERTON'S ADDITION TO CHICAGO IN THE SOUTH EAST 1/4 OF SECTION 30, TOWNSHIP 40 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS

#### PARCEL 5:

LOT 20 IN BLOCK 8 IN FULLERTON'S ADDITION TO CHICAGO IN SECTION 30, TOWNSHIP 40

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## EXHIBIT A (DAMEN cont.)

### LEGAL DESCRIPTION

NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS

#### PARCEL 6:

LOTS 31 AND 32 IN BLOCK 8 IN FULLERTON ADDITION TO CHICAGO, BEING A SUBDIVISION OF PARTS OF SECTION 30 AND SECTION 31, TOWNSHIP 40 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS

#### PARCEL 7:

LOT 18 IN BLOCK 8 IN FULLERTON ADDITION TO CHICAGO A SUBDIVISION OF SECTION 30, TOWNSHIP 40 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS

#### PARCEL 8:

LOTS 28, 29 AND 30 IN BLOCK 8 IN FULLERTON ADDITION TO CHICAGO IN THE SOUTH EAST 1/4 OF SECTION 30, TOWNSHIP 40 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS

#### PARCEL 9:

LOT 19 IN BLOCK 8 IN FULLERTON'S ADDITION TO CHICAGO, A SUBDIVISION IN SECTION 30, TOWNSHIP 40 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS

PN#s: 14-30-401-016-0000; 14-30-401-017-0000;  
14-30-401-019-0000; 14-30-401-028-0000;  
14-30-401-009-0000; 14-30-401-012-0000;  
14-30-401-003-0000; 14-30-401-014-0000;  
14-30-401-004-0000; 14-30-401-013-0000.

Addresses: 2501 N. Damen, Chicago, IL; 1902 W. Fullerton, Chicago, IL; 1904, 1908, 1910, 1912, 1920-22 W. Fullerton, Chicago, IL; 2401, 2407 E. 1st Chicago, IL.

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## EXHIBIT A (DAMEN)

### PERMITTED EXCEPTIONS

RIGHTS OF THE PUBLIC, THE MUNICIPALITY AND THE STATE OF ILLINOIS IN AND TO THAT PART OF THE LAND, IF ANY, FALLING IN STREETS AND ALLEYS.  
(AFFECTS PARCELS 1, 2 AND 3)

RIGHTS OF THE UNITED STATES OF AMERICA, THE STATE OF ILLINOIS, THE MUNICIPALITY AND THE PUBLIC IN AND TO THAT PART OF THE LAND LYING WITHIN THE BED OF THE NORTH BRANCH OF THE CHICAGO RIVER; AND THE RIGHTS OF OTHER OWNERS OF LAND BORDERING ON THE RIVER WITH RESPECT TO THE WATER OF SAID RIVER. (AFFECTS PARCELS 1 AND 2).

EASEMENT OR LICENSE GRANTED BY DEED FROM BESSIE D. GARDNER AND HER HUSBAND AND OTHERS TO THE CHICAGO AND NORTH WESTERN RAILROAD DATED JULY 31, 1906 AND RECORDED AUGUST 9, 1906 AS DOCUMENT 3906534 OVER A STRIP OF LAND, 25 FEET IN WIDTH OVER PARCEL 2, TRACT 4, FOR CONSTRUCTION, MAINTENANCE, AND OPERATION OF A RAILROAD TRACK ETC., AS SHOWN ON A MAP ATTACHED TO SAID DEED. (AFFECTS PARCELS 1 AND 2).

EASEMENT OR LICENSE GRANTED BY DEED FROM BESSIE D. GARDNER AND HER HUSBAND, AND OTHERS, TO THE CHICAGO AND NORTH WESTERN RAILROAD COMPANY DATED JULY 31, 1906 AND RECORDED AUGUST 9, 1906 AS DOCUMENT 3906535 OVER STRIPS OF LAND WITHIN THE LAND AND OTHER PROPERTY OF SUFFICIENT WIDTH FOR THE PROPER CONSTRUCTION, MAINTENANCE AND OPERATION OF TWO RAILROAD TRACKS ETC. AS SHOWN ON A MAP ATTACHED TO SAID DEED. (AFFECTS PARCELS 1 AND 2).

RAILROAD RIGHT OF WAY, SWITCH AND SPUR TRACKS, AND TRACK RIGHTS, IF ANY.  
(AFFECTS PARCELS 1, 2 AND 3)

RIGHTS OF THE PUBLIC, THE STATE OF ILLINOIS AND THE MUNICIPALITY IN AND TO THAT PART OF THE LAND, IF ANY, FALLING IN NORTH KOLBOTT AVENUE.  
(AFFECTS PARCELS 1 AND 2).

A PERMANENT EASEMENT IN FAVOR OF THE METROPOLITAN SANITARY DISTRICT OF GREATER CHICAGO, A MUNICIPAL CORPORATION, ON, UNDER AND THROUGH THE LAND DESCRIBED AS FOLLOWS:: THAT PART OF THE WEST 1/2 OF THE SOUTHWEST 1/4 OF SECTION 30, TOWNSHIP 40 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS:: BEING A 20 FOOT ROADWAY BOUNDED ON THE SOUTH BY A LINE PARALLEL TO AND 345 FEET NORTH OF THE NORTHERLY RIGHT OF WAY LINE OF FULLERTON AVENUE AND BOUNDED ON THE NORTH BY A LINE PARALLEL TO AND 915 FEET NORTH OF THE NORTHERLY RIGHT OF WAY LINE OF FULLERTON AVENUE AND RUNNING GENERALLY PARALLEL TO, EASTERLY OF, AND ADJACENT TO THE EASTERLY RIGHT OF WAY LINE OF DAMEN AVENUE, IN CONNECTION WITH THE IMPROVEMENT DESIGNATED AS THE TUNNEL AND RESERVOIR PLAN FOR THE PURPOSE OF FLOOD CONTROL AS ACQUIRED IN A VESTING ORDER ENTERED ON MARCH 7, 1977 IN CASE NO. 77L2439 AS SHOWN ON A PLAT MARKED EXHIBIT A ATTACHED THERETO AND MADE A PART THEREOF, AND ALL THE TERMS, COVENANTS AND CONDITIONS AS PRESCRIBED IN SAID CASE. (AFFECTS PARCEL 1)

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## EXHIBIT A (DAMEN cont.)

### PERMITTED EXCEPTIONS

A TEMPORARY EASEMENT IN FAVOR OF THE METROPOLITAN SANITARY DISTRICT OF GREATER CHICAGO, A MUNICIPAL CORPORATION, ON, UNDER AND THROUGH THE LAND DESCRIBED AS FOLLOWS: THAT PART OF THE WEST 1/2 OF THE SOUTHWEST 1/4 OF SECTION 30, TOWNSHIP 40 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS:

COMMENCING AT THE INTERSECTION OF THE WEST LINE OF THE EAST 1/2 OF SECTION 30, TOWNSHIP 40 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN AND THE NORTHERLY RIGHT OF WAY LINE OF FULLERTON AVENUE; THENCE NORTHERLY ALONG THE AFORESAID WEST LINE TO A POINT ON A LINE LYING 930 FEET NORTH OF AND PARALLEL TO THE NORTHERLY RIGHT OF WAY LINE OF FULLERTON AVENUE, SAID POINT BEING ALSO THE POINT OF BEGINNING; THENCE EAST 17.00 FEET; THENCE NORTH 0 DEGREES 23 MINUTES 30 SECONDS WEST 23.00 FEET; THENCE EAST 48.00 FEET; THENCE SOUTH 0 DEGREES 23 MINUTES 30 SECONDS, EAST 80.00 FEET; THENCE WEST 65.00 FEET TO A POINT ON THE WEST LINE OF THE EAST 1/2 OF SAID SECTION 30; THENCE NORTH 0 DEGREES 23 MINUTES 30 SECONDS WEST TO THE POINT OF BEGINNING, IN CONNECTION WITH THE IMPROVEMENT DESIGNATED AS THE TUNNEL AND RESERVOIR PLAN FOR THE PURPOSE OF FLOOD CONTROL AS ACQUIRED IN A VESTING ORDER ENTERED ON MARCH 7, 1977 IN CASE 77L2439 AS SHOWN ON A PLAT MARKED EXHIBIT A ATTACHED THERETO AND MADE A PART THEREOF, AND ALL THE TERMS, COVENANTS AND CONDITIONS AS PRESCRIBED IN SAID CASE. (AFFECTS PARCEL 1)

A PERMANENT ACCESS EASEMENT IN FAVOR OF THE METROPOLITAN SANITARY DISTRICT OF GREATER CHICAGO, A MUNICIPAL CORPORATION, ON, UNDER AND THROUGH THE LAND DESCRIBED AS FOLLOWS: THAT PART OF THE WEST 1/2 OF THE SOUTHWEST 1/4 OF SECTION 30, TOWNSHIP 40 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS:

BEING A 20 FOOT ROADWAY BOUNDED ON THE SOUTH BY A LINE PARALLEL TO AND 345 FEET NORTH OF THE NORTHERLY RIGHT OF WAY LINE OF FULLERTON AVENUE AND BOUNDED ON THE NORTH BY A LINE PARALLEL TO AND 915 FEET NORTH OF THE NORTHERLY RIGHT OF WAY LINE OF FULLERTON AVENUE AND RUNNING GENERALLY PARALLEL TO, EASTERLY OF, AND ADJACENT TO THE EASTERLY RIGHT OF WAY LINE OF DAMEN AVENUE, IN CONNECTION WITH THE IMPROVEMENT DESIGNATED AS THE TUNNEL AND RESERVOIR PLAN FOR THE PURPOSE OF FLOOD CONTROL AS ACQUIRED IN A VESTING ORDER ENTERED ON MARCH 7, 1977 IN CASE 77L2439 AS SHOWN ON A PLAT MARKED EXHIBIT A ATTACHED THERETO, AND MADE A PART THEREOF, AND ALL THE TERMS, COVENANTS AND CONDITIONS AS PRESCRIBED IN SAID CASE. (AFFECTS PARCEL 1)

TERMS, PROVISIONS, CONDITIONS, AND RESTRICTIONS CONTAINED IN THE PARKING LICENSE AGREEMENT MADE BY AND BETWEEN VIENNA BEEF LTD. AN ILLINOIS CORPORATION AND GLOBE GLASS AND MIRROR CO., AN ILLINOIS CORPORATION DATED JUNE 20, 1991 AND RECORDED JUNE 26, 1991 AS DOCUMENT 91313342 AND RERECORDED DECEMBER 23, 1991 AS DOCUMENT 91674892 AND RERECORDED FEBRUARY 19, 1992 AS DOCUMENT 92103829.

(AFFECTS PARCELS 2, 3, 4, 5, 6, 7, 8 AND 9 AND OTHER PROPERTY)

TERMS, PROVISIONS, CONDITIONS, AND RESTRICTIONS CONTAINED IN THE SIGNAGE LICENSE AGREEMENT MADE BY AND BETWEEN VIENNA BEEF LTD., AN ILLINOIS CORPORATION, AND GLOBE GLASS AND MIRROR CO., AN ILLINOIS CORPORATION DATED JUNE 20, 1991 AND RECORDED JUNE 26, 1991 AS DOCUMENT 91313342.

(AFFECTS PARCEL 2)

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EXHIBIT B (DAMEN cont.)

## PERMITTED EXCEPTIONS

PURPORTED PERMANENT ACCESS EASEMENT IN FAVOR OF THE METROPOLITAN SANITARY DISTRICT OF GREATER CHICAGO, A MUNICIPAL CORPORATION, UNDER AND BY VIRTUE OF THE ORDER ENTERED ON SEPTEMBER 7, 1977 IN CASE 77L2439 IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS IN ACCORDANCE WITH THE LEGAL DESCRIPTION AND GRAPHIC DELINEATION OF THE PERMANENT ACCESS EASEMENT, AS SET FORTH ON REVISED EXHIBIT 'B' ATTACHED THERETO AND MADE A PART THEREOF, ON, UNDER AND THROUGH THE FOLLOWING:

THAT PART OF THE WEST 1/2 OF THE SOUTHWEST 1/4 OF SECTION 30, TOWNSHIP 40 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS, BEING A 10 FOOT WIDE STRIP OF LAND LYING 10 FEET ON EACH SIDE OF A CENTER LINE, MORE PARTICULARLY DESCRIBED AS FOLLOWS::  
BEGINNING AT A POINT LYING 345 FEET NORTH OF THE NORTH RIGHT OF WAY LINE OF FULLERTON AVENUE, AS MEASURED PERPENDICULAR THERETO, SAID POINT ALSO LYING 10 FEET EAST OF THE EASTERLY RIGHT OF WAY LINE OF DAMEN AVENUE, AS MEASURED PERPENDICULAR THERETO; THENCE NORTHERLY ALONG A LINE PARALLEL TO THE EASTERLY RIGHT OF WAY LINE OF DAMEN AVENUE 210 FEET; THENCE NORTHEASTERLY ALONG A LINE 24 DEGREES 00 MINUTES 00 SECONDS TO THE RIGHT OF THE LAST DESCRIBED LINE EXTENDED, A DISTANCE OF 45 FEET; THENCE NORTHERLY ALONG A LINE FORMING AN ANGLE OF 21 DEGREES 00 MINUTES 00 SECONDS TO THE LEFT OF THE LAST DESCRIBED COURSE EXTENDED, A DISTANCE OF 313 FEET TO A POINT OF TERMINATION.  
(AFFECTS PARCEL 1)

MORTGAGE DATED JUNE 20, 1991 AND RECORDED JUNE 20, 1991 AS DOCUMENT 91313341 MADE BY VIENNA BEEF LTD., AN ILLINOIS CORPORATION TO (SILVER GLASS AND MIRROR CO., AN ILLINOIS CORPORATION TO SECURE A NOTE IN THE AMOUNT OF \$164,601.20.  
(AFFECTS PARCEL 4)

PARTY WALK ON THE WEST LINE ON THE LAND ABOUT 2 FEET.  
(AFFECTS PARCEL 7)

ENCROACHMENT OF A 2 STORY BRICK BUILDING ONTO THE PROPERTY WEST AND ADJOINING BY .03 FEET AS DISCLOSED BY SURVEY.  
(AFFECTS PARCEL 9)

GENERAL REAL ESTATE TAXES NOT YET DUE AND PAYABLE.

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