

UNOFFICIAL COPY

94448321

(ILLINOIS)

COLLATERAL ASSIGNMENT OF LEASE

THIS COLLATERAL ASSIGNMENT OF LEASE (this "Assignment") dated as of this 17th day of May, 1994 is made between MCM Enterprises, Inc., an Indiana corporation ("Borrower"), with an office located at 510 South Oak Street, Crawfordsville, Indiana 47923 and American National Bank and Trust Company of Chicago, a national banking association ("Lender"), with an office located at 33 North LaSalle Street, Chicago, Illinois 60690.

WITNESSETH: 142222 TRAN 2123 05/18/94 16:10:00
40317 REC # - 94-4-48322
COOK COUNTY RECORDER

WHEREAS, Borrower and Lender have entered into that certain Loan and Security Agreement of even date herewith (the "Loan Agreement") pursuant to which Lender may extend certain loans and other financial accommodations to Borrower;

WHEREAS, Borrower is the lessee of certain real property described in Schedule A attached hereto and incorporated herein by reference (the "Premises") under the lease (the lease, together with any and all renewals, extensions, amendments and supplements thereto, are hereinafter referred to as the "Lease") commencing on the 1st day of June 1989, and ending on the 31st day of May, 1999, which has been entered into with MidStates Partnership, an Indiana general partnership ("Lessor");

WHEREAS, pursuant to the Memorandum of Lease attached hereto as Schedule B, the Lease has been recorded in the office of the Recorder of Cook County, Illinois on May 18, 1994 as 94448322; and

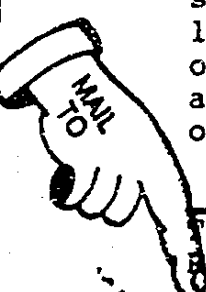
WHEREAS, as a condition to Lender's extension to Borrower of the financial accommodations described in the Loan Agreement, Lender has required that Borrower enter into this Assignment to secure the payment and performance of Borrower's obligations and liabilities to Lender thereunder, and other payment and performance obligations related to this Assignment (the aforesaid obligations and liabilities, together with such other payment and performance obligations, being hereinafter referred to as the "Liabilities");

THIS DOCUMENT WAS PREPARED BY, AND AFTER RECORDING SHOULD BE RETURNED TO:

Brian F. Richards
Winston & Strawn
35 West Wacker Drive
Chicago, Illinois 60601

94448321

53.50
Bank



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FILED 1997
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NOW, THEREFORE, in consideration of the premises and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Borrower hereby agrees with Lender as follows:

1. Subject to the provisions of Paragraphs 1 and 10 of this Assignment, and as collateral security for the payment and performance of Borrower's Liabilities, Borrower hereby assigns, transfers and sets over to Lender all of Borrower's right, title and interest, powers, privileges and other benefits as lessee under the Lease, including, without limitation, the right to enter upon, take possession of and use any and all property leased to Borrower, as lessee, and the right to make all waivers and agreements, to give all notices, consents and releases, to take all action upon the happening of any default giving rise to a right in favor of Borrower under the Lease, to exercise Borrower's rights as lessee under 11 U.S.C. § 365(h), including, without limitation, Borrower's right to remain in possession of the Premises, and to do any and all other things whatsoever which Borrower is or may become entitled to do under the Lease.

2. Upon the occurrence of a default by Borrower under the Loan Agreement (a "Default"), or any event which through the passage of time or the giving of notice or both would mature into a Default (an "Unmatured Default"), or any failure of Borrower to perform or discharge its obligations, covenants, agreements or duties hereunder, Borrower agrees that, at the option of Lender and in addition to such other rights and remedies as may be afforded to Lender under the Loan Agreement, by law or in equity, Lender shall have the right, without giving notice to or obtaining the consent of Borrower, to exercise, enforce or avail itself of any of the rights, powers, privileges, authorizations or benefits assigned and transferred to Lender pursuant to this Assignment, including, without limitation, the right to enter upon and take possession of the Premises by or through its own action or that of any agents or assigns, in which event Borrower agrees to peacefully vacate and surrender the Premises to Lender or its agents or assigns, together with all improvements, appurtenances, machinery, equipment, furniture, furnishings, fixtures and other property of Borrower then situated thereon or attached thereto. Thereafter, any expenses, including, without limitation, rent, incurred by Lender in connection with its entry upon and possession of the Premises and the aforesaid appurtenances thereto and improvements thereon shall be deemed to be additional Liabilities of Borrower pursuant to the Loan Agreement, payable on demand, and shall bear interest at the post-default rate of interest set forth in the Loan Agreement.

3. This Assignment is executed only as security for Borrower's Liabilities and, therefore, the execution and delivery of this Assignment shall not subject Lender to, or transfer or pass to Lender, or in any way affect or modify, the liability of

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Borrower under the Lease, it being understood and agreed that, notwithstanding this Assignment or any subsequent assignment, all of the obligations of Borrower to each and every other party under the Lease shall be and remain enforceable by such other party, its successors and assigns, against, but only against, Borrower or persons other than Lender and its successors and assigns.

4. To protect the security afforded by this Assignment, Borrower agrees as follows:

(a) Borrower shall faithfully abide by, perform and discharge each and every material obligation, covenant, condition, duty and agreement which the Lease provide is to be performed by Borrower.

(b) Without the prior written consent of Lender, Borrower shall not materially amend, modify, otherwise change or terminate either of the Lease. Any amendment, modification, other change or termination made in violation of the provisions of this Paragraph 4(b) shall be void.

(c) Without the prior written consent of Lender, Borrower shall not fail to appear in and defend any action or proceedings arising under, growing out of or in any manner connected with the obligations, covenants, conditions, duties, agreements or liabilities of Borrower under the Lease.

(d) Without the prior written consent of Lender, Borrower shall not in any bankruptcy proceeding or any insolvency or reorganization proceeding wherein the Lessor is the debtor elect to treat the Lease as terminated under 11 U.S.C. § 365(h)(1) and shall not set off against the rent due under the Lease, pursuant to 11 U.S.C. § 365(h)(2), the amount of any damages caused by the nonperformance of the Lessor under the Lease following the rejection of the Lease.

(e) Without the prior written consent of Lender, Borrower shall not commence or compromise any action, suit, proceeding or case, or file any application or make any motion affecting the Lease in any bankruptcy proceeding, or any insolvency or reorganization proceeding wherein the Lessor is the debtor.

(f) Should Borrower fail to perform or discharge its obligations or duties under the Lease as required in Paragraph 4(a) above or under this Assignment, then Lender may, but shall have no obligation to (and shall not thereby release Borrower from any Liability hereunder), perform or discharge any such obligation or duty under the Lease to such extent as Lender may deem necessary or advisable to protect the security provided hereby, including appearing in and defending any action or proceeding purporting to affect the security hereof

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or the rights or powers of Lender hereunder. In exercising any such powers, Lender may pay necessary and advisable costs (including reasonable attorneys' and paralegals' fees and expenses), and all such expenses paid or incurred by Lender shall be additional Liabilities of Borrower pursuant to the Loan Agreement, payable upon demand, and shall bear interest at the post-default rate of interest set forth in the Loan Agreement.

(g) Upon either the occurrence of a Default or the failure of Borrower to perform or discharge its obligations under this Assignment, Lender shall have the right to assign its rights and interests in the Lease.

5. Upon either the occurrence of an Unmatured Default or the failure of Borrower to perform or discharge its obligations under this Assignment, Borrower does hereby irrevocably appoint Lender as Borrower's true and lawful attorney, with full power (in the name of Borrower or otherwise) to ask, require, demand, receive and give acquittance for every payment under or arising out of the Lease to which Borrower is or may become entitled, including, without limitation, any damage resulting from any rejection of the Lease by Lessor in any bankruptcy proceeding involving Lessor, to enforce compliance by any other party with any term or provision of the Lease, to endorse each and every check or other instrument or order in connection therewith, and to file any claim, take any action, or institute any proceeding which Lender may deem to be necessary or advisable.

6. This Assignment and all rights herein assigned to Lender shall terminate upon the earlier of (i) the full discharge and satisfaction of all of Borrower's Liabilities, or (ii) the termination of all financing arrangements and agreements between Lender and Borrower.

7. Borrower will, from time to time, do and perform any other act or acts and will execute, acknowledge, deliver and file, register, record (and will refile, reregister and rerecord whenever required) any further instruments, including any extensions and renewals thereof, required by law or requested by Lender in order to confirm, or further assure, the interests of Lender hereunder.

8. If Lender shall convey or assign its rights under or pursuant to the Loan Agreement to any successor or assign, then Lender may assign to such successor or assign any of the rights assigned to it hereby, or arising under the Lease. In such event, such successor or assign shall enjoy all rights and privileges and be subject to all obligations of the assignor hereunder and there shall be no further liability of Lender hereunder or under the Lease. Lender shall give prompt written notice to Borrower of any such assignment.

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9. Borrower shall cause a copy of every notice or communication received from any of the other parties to the Lease, which notices or communication shall notify Borrower of any default, event of default, breach or other violation, on the part of Borrower under the Lease, to be promptly delivered to Lender in the manner and at the place provided for in the Loan Agreement for the giving of notices thereunder, or at such other address or in such other manner as Lender shall designate. Borrower shall promptly notify Lender upon receiving notice of the filing of any bankruptcy petition by or against, or the institution of any insolvency or reorganization proceeding involving the Lessor, and shall thereafter keep Lender informed of any information which comes to Borrower's attention in connection with such bankruptcy, insolvency or reorganization proceeding. Without limiting the generality of the foregoing, Borrower shall provide Lender with copies of all notices, summonses, pleadings, applications and other documents received by Borrower in connection with any such proceeding.

10. Lender hereby agrees with Borrower that, so long as both (a) no Default or Unmatured Default exists under the Loan Agreement and (b) Borrower is not in default of any of its obligations, covenants, agreements or duties hereunder, (i) Lender shall neither exercise, enforce or avail itself of, nor seek to exercise, enforce or avail itself of any of the rights, powers, privileges, authorizations or benefits assigned and transferred to Lender pursuant to this Assignment, and (ii) Borrower may exercise or enforce, or seek to exercise or enforce such rights, powers, privileges, authorizations or benefits under the Lease.

11. All terms used herein which are not defined herein but are defined in the Loan Agreement shall have the meanings ascribed to them therein.

12. THIS AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED AND ENFORCED IN ACCORDANCE WITH, THE INTERNAL LAWS (AS OPPOSED TO CONFLICT OF LAW PROVISIONS) AND DECISIONS OF THE STATE OF ILLINOIS.

13. If any provision of this Assignment shall be declared 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 Assignment.

14. Whenever in this Assignment there is reference made to any of the parties hereto, such reference shall be deemed to include, wherever applicable, a reference to the successors and assigns of the Borrower, including, without limitation, any successor debtor-in-possession or trustee, and the successors and assigns of the Lender.

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IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed by their respective duly authorized officers all as of the date first above written.

MCM ENTERPRISES, INC.

By: E. M. Moberg

Title: pres

Attest: Mary Barker

Title: Secretary

State of Illinois)
County of Cook) SS.

The foregoing Collateral Assignment of Lease was executed and acknowledged before me this 17 day of May, 1994, by Edwin M. Moberg and Mary Barker personally known to me to be the President and Secretary, respectively, of MCM Enterprises, Inc., an Indiana corporation, on behalf of such corporation.

Carrie A Lullo
Notary Public

My commission expires:

11-26-94

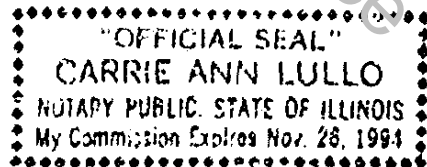
AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO

By: K. H. B. Pauline

Title: VICE PRESIDENT

Attest: M. Marsha Baskin

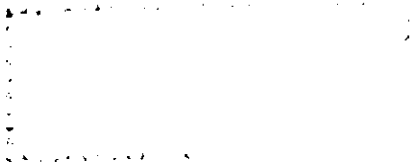
Title: Vice President



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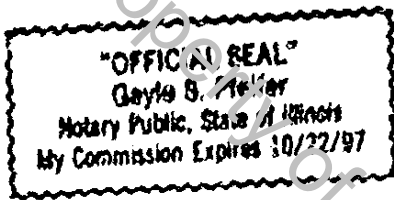


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State of Illinois)
County of Cook) SS.

The foregoing Collateral Assignment of Lease was executed and acknowledged before me this 17 day of May, 1994, by L.S. Pyrdue and M. Martha Buski personally known to me to be the Vice President and Vice President, respectively, of American National Bank and Trust Company of Chicago, a national banking association, on behalf of such bank.

(SEAL)




Notary Public

My commission expires:

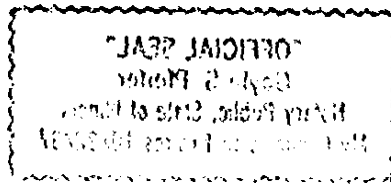
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SCHEDULE A

LEGAL DESCRIPTION

Property of Cook County Clerk's Office

Document Number: 5661
Illinois

54445302

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9 - 4 - 8 3 - 1

Chicago Steel & Wire plant
10257 South Torrence Avenue
Chicago, Illinois 60617

(5 Parcels in S 7, T 37, R 15 E)

PIN NUMBERS

26-07-157-001

012

014-017

003-005

008-010

26-07-201-020

(PK)
A/K

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Property of Cook County Clerk's Office

11/11/11

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EXHIBIT A

Parcel 1

The East 100 feet of Lots 1, 2, 3, 4 and all of Lots 5 to 11 inclusive and the 20 foot alley East and adjoining said Lots 1 to 11 in Block 32 in Notre Dame Addition to South Chicago, a subdivision of the South three-fourths of fractional Section 7, Township 37 North, Range 15 East of the Third Principal Meridian, South of the Indian Boundary Line, in Cook County, Illinois.

Parcel 2

That part of Lots 12 to 17 inclusive and the 20 foot vacated alley East and adjoining said Lots 12 to 17 in Block 32 in Notre Dame Addition to South Chicago, a subdivision of the south three-fourths of fractional Section 7, Township 37 North, Range 15 East of the Third Principal Meridian, South of the Indian Boundary Line, described as follows:

Commencing at a point on the East line of said 20 foot vacated alley a distance of 106 feet 4 1/2 inches North of the South line of Lot 21 extended East (being a point of intersection of the South line of the one story brick building extending East of the East line of the said vacated 20 foot alley) thence westerly along the South line of said one story brick building and extended east 20 foot alley a distance of 76 feet to the South Western corner of said brick building; thence North along the West line of said one story brick building a distance of 61 feet 8 inches to the North Westerly corner of said brick building; thence East along the North line of said one story brick building to its intersection with the West line of an adjoining concrete block building; thence North along the West line of said concrete block building a distance of 38 feet 10 inches to a corner of said concrete block building extending West; thence Westerly along the Southern line of said concrete block building a distance of 25 feet 9 inches to another corner of said concrete block building; thence North along the West line of said portion of said concrete block building a distance of 24 feet 9 inches to another corner of said building (which is also a corner of a one story brick building); thence Westerly along said South line of said one story brick building a distance of 44 feet 10 inches to the South West corner of said one story brick building; thence 16 feet 3 inches to the North West corner, being the North line of said one story brick building; thence Westerly along the North line of said one story brick building extended a distance of 46 feet 10 inches to the west line of Lot 12 aforesaid; thence North along the West line of said Lot 12 to the North West corner of said Lot 12; thence East along the North line of said Lot 12 and continued on the North line extended East to the intersection with the East line of said 20 feet vacated alley; thence South along the East line of the vacated alley to the point of beginning, all in Cook County, Illinois.

Parcel 3

Lots One (1), Two (2), Three (3) and Four (4) (except the East one hundred (100) feet thereof) in Block Thirty-Two (32) in Notre Dame Addition to South Chicago, a Subdivision of the South Three Quarters (S 3/4) of fractional Section Seven (7) South of the Indian Boundary Line, in Township Thirty-Seven (37) North, Range Fifteen (15), East of the Third Principal Meridian Chicago, Cook County, Illinois.

100-115000

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EXHIBIT

Parcel 4

The South 142.01 feet of the following tract of land: A portion of land formerly included in Notre Dame Addition to South Chicago, in Fractional Section 7, South of the Indian Boundary Line, Township 37 North, Range 15, East of the Third Principal Meridian, and now vacated, described as follows: Beginning at a point in the East line of Torrence Avenue, 910 feet North of the intersection thereof with the North line of East 103rd Street; thence North along said East line to a point 250 feet South of the South line of East 100th Street; thence East at right angles to the East line of Torrence Avenue to the West line of the Railroad Right-of-way; thence South along said Right-of-way line to a point 910 feet North of North line of East 103rd Street; thence West to the place of beginning.

Parcel 5

A parcel of land formerly included in the NOTRE DAME ADDITION TO SOUTH CHICAGO (now vacated) in Fractional Section 7, South of the Indian Boundary Line, Town 37 North, Range 15, East of the Third Principal Meridian bounded as follows: Beginning at the point of intersection of the East line of Torrence Avenue, with the North line of East 103rd Street; thence East along said North line one hundred ninety three (193) feet more or less to the West line of the Railroad Right-of-way; thence North along said West line of the Railroad Right-of-way, nine hundred ten (910) feet; thence West to a point in the East line of Torrence Avenue nine hundred ten (910) feet North of the intersection of said East line with the North line of East 103rd Street, thence South along said East line of Torrence Avenue to the point of beginning.

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MEMORANDUM OF LEASE

THIS MEMORANDUM OF LEASE (the "Agreement") is made by and between MidStates Partnership, a partnership organized and existing under the laws of the State of Indiana, ("Lessor") and Chicago Steel & Wire, a division of MCM Enterprises, Inc., a corporation organized and existing under the laws of the State of Indiana and authorized to do business in the State of Illinois, ("Lessee").

W I T N E S S E T H:

The Lessor does hereby lease to the Lessee that certain parcel of land situated in the City of Chicago, Cook County, State of Illinois, commonly known as 10257 South Torrence Avenue, Chicago, Illinois, and more particularly described in Exhibit A attached hereto and made a part hereof, together with all of the improvements located on the land and all of the improvements constructed or to be constructed on the land, and including all easements, improvements, tenements, appurtenances, hereditaments, fixtures, rights and privileges thereto belonging or any way appertaining, and subject to any restrictions, easements, encroachments, and zoning and government regulations now or hereafter in effect (collectively, the "Demised Premises"), all as more specifically set forth in that certain Lease by and between the Lessor and the Lessee effective the 1st day of June, 1989 (the "Lease").

The term of the Lease commenced on June 1, 1989, and, unless terminated sooner as provided therein, shall expire on May 31, 1999.

This Agreement does not alter, amend, modify or change the Lease or the exhibits thereto in any respect. This Agreement is executed by the parties solely for the purpose of recordation in the real estate records of the county where the Demised Premises are located, and it is the intent of the parties that it shall give notice of and confirm the Lease and exhibits thereto to the same extent as if all of the provisions of the Lease and the exhibits thereto were fully set forth herein. The Lease and exhibits thereto are hereby incorporated by reference into this Agreement, and the parties hereby ratify and confirm all of the terms and provisions of the Lease. In the event of any conflict or inconsistency between the provisions of this Agreement and the provisions of the Lease, the provisions of the Lease shall control.

This document was prepared by
and after recording should be
returned to:
James R. Schrier of the firm of
REILING TEDER WITHERED & RUSH
P.O. Box 280
Lafayette, IN 47902-0280

944-25321

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IN WITNESS WHEREOF, the Lessor and the Lessee have caused this Agreement to be duly executed as of the day and year first above written.

LESSOR
MIDSTATES PARTNERSHIP

LESSEE
CHICAGO STEEL & WIRE, a division
of MCM Enterprises, Inc.

by: E. Marberg
Edwin M. Marberg, Partner

by: Edwin M. Marberg
Edwin M. Marberg, President

ATTEST:

Mary E. Barker Secretary
Mary E., Barker, Secretary

STATE OF INDIANA)

BOONE COUNTY)

SS:

Before me, a Notary Public in and for said County and State, personally appeared Edwin M. Marberg, Partner of MidStates Partnership, a Partnership organized and existing under the laws of the State of Indiana, who, for and on behalf of said Partnership, acknowledged the execution of the foregoing Memorandum of Lease.

Witness my hand and Notarial Seal this 16th day of MAY, 1994.

James R. Schrier
(written)
JAMES R. SCHRIER
(printed)

NOTARY PUBLIC

Resident of BOONE County, IN.

My Commission Expires:

6-14-97

STATE OF INDIANA)

BOONE COUNTY)

SS:

Before me, a Notary Public in and for said County and State, personally appeared Edwin M. Marberg and Mary E. Barker, President and Secretary, respectively, of MCM Enterprises, Inc., a corporation organized and existing under the laws of the State of Indiana and authorized to do business in the State of Illinois, who, for and on behalf of said Corporation, acknowledged the execution of the foregoing Memorandum of Lease.

Witness my hand and Notarial Seal this 16th day of MAY, 1994.

James R. Schrier
(written)
JAMES R. SCHRIER
(printed)

NOTARY PUBLIC

Resident of BOONE County, IN.

My Commission Expires:

6-14-97

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Chicago Steel & Wire plant
10257 South Torrence Avenue
Chicago, Illinois 60617

(5 Parcels in S 7, T 37, R 15 E)

PIN NUMBERS

26-07-157-001

012

014-017

003-005

008-010

26-07-201-020

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EXHIBIT A

Parcel 1

The East 100 feet of Lots 1, 2, 3, 4 and all of Lots 5 to 11 inclusive and the 20 foot alley East and adjoining said Lots 1 to 11 in Block 32 in Notre Dame Addition to South Chicago, a subdivision of the South three-fourths of fractional Section 7, Township 37 North, Range 15 East of the Third Principal Meridian, South of the Indian Boundary Line, in Cook County, Illinois.

Parcel 2

That part of Lots 12 to 17 inclusive and the 20 foot vacated alley East and adjoining said Lots 12 to 17 in Block 32 in Notre Dame Addition to South Chicago, a subdivision of the south three-fourths of fractional Section 7, Township 37 North, Range 15 East of the Third Principal Meridian, South of the Indian Boundary Line, described as follows:

Commencing at a point on the East line of said 20 foot vacated alley a distance of 106 feet 4 1/2 inches North of the South line of Lot 21 extended East (being a point of intersection of the South line of the one story brick building extending East of the East line of the said vacated 20 foot alley) thence westerly along the South line of said one story brick building and extended east 20 foot alley a distance of 76 feet to the South Western corner of said brick building; thence North along the West line of said one story brick building a distance of 61 feet 8 inches to the North Westerly corner of said brick building; thence East along the North line of said one story brick building to its intersection with the West line of an adjoining concrete block building; thence North along the West line of said concrete block building a distance of 38 feet 10 inches to a corner of said concrete block building extending west; thence Westerly along the Southern line of said concrete block building a distance of 25 feet 9 inches to another corner of said concrete block building; thence North along the West line of said portion of said concrete block building a distance of 24 feet 9 inches to another corner of said building (which is also a corner of a one story brick building); thence Westerly along said South line of said one story brick building a distance of 44 feet 10 inches to the South West corner of said one story brick building; thence 16 feet 3 inches to the North West corner, being the North line of said one story brick building; thence Westerly along the North line of said one story brick building extended a distance of 46 feet 10 inches to the west line of Lot 12 aforesaid; thence North along the West line of said Lot 12 to the North West corner of said Lot 12; thence East along the North line of said Lot 12 and continued on the North line extended East to the intersection with the East line of said 20 feet vacated alley; thence South along the East line of the vacated alley to the point of beginning, all in Cook County, Illinois.

Parcel 3

Lots One (1), Two (2), Three (3) and Four (4) (except the East one hundred (100) feet thereof) in Block Thirty-Two (32) in Notre Dame Addition to South Chicago, a Subdivision of the South Three Quarters (3 3/4) of fractional Section Seven (7) South of the Indian Boundary Line, in Township Thirty-Seven (37) North, Range Fifteen (15), East of the Third Principal Meridian Chicago, Cook County, Illinois.

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EXHIBIT

Parcel 4

The South 143.03 feet of the following tract of land: A portion of land formerly included in Notre Dame Addition to South Chicago, in Fractional Section 7, South of the Indian Boundary Line, Township 37 North, Range 15, East of the Third Principal Meridian, and now vacated, described as follows: Beginning at a point in the East line of Torrence Avenue, 910 feet North of the intersection thereof with the North line of East 103rd Street; thence North along said East line to a point 250 feet South of the South line of East 100th Street; thence East at right angles to the East line of Torrence Avenue to the West line of the Railroad Right-of-way; thence South along said Right-of-way line to a point 910 feet North of North line of East 103rd Street; thence West to the place of beginning.

Parcel 5

A parcel of land formerly included in the NOTRE DAME ADDITION TO SOUTH CHICAGO (now vacated) in Fractional Section 7, South of the Indian Boundary Line, Town 37 North, Range 15, East of the Third Principal Meridian bounded as follows: Beginning at the point of intersection of the East line of Torrence Avenue, with the North line of East 102nd Street; thence East along said North line one hundred ninety three (193) feet more or less to the West line of the Railroad Right-of-way; thence North along said West line of the Railroad Right-of-way, nine hundred ten (910) feet; thence West to a point in the East line of Torrence Avenue nine hundred ten (910) feet North of the intersection of said East line with the North line of East 103rd Street, thence South along said East line of Torrence Avenue to the point of beginning.

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SCHEDULE B

Memorandum of Lease

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