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COOK COUNTY, ILLINOIS
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1994 AUG -9 AM 11:46

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MICHAEL I. FREEMAN, P.C.
2 North LaSalle Street, Suite 1400
Chicago, Illinois 60602

SPACE ABOVE THIS LINE FOR RECORDER'S USE ONLY

SUBORDINATION, ATTORNMENT, NON-DISTURBANCE,
WAIVER AND PARTIAL RELEASE AGREEMENT

[Handwritten initials]

THIS SUBORDINATION, ATTORNMENT, NON-DISTURBANCE, WAIVER AND PARTIAL RELEASE AGREEMENT (the "Agreement") is made and entered into as of 11/13, 1994 by and between IHOP PROPERTIES, INC., a California corporation, whose principal place of business is located at 525 N. Brand Boulevard, 3rd Floor, Glendale, California 91203-1903 ("Lessee"), and MUTUAL TRUST LIFE INSURANCE COMPANY, an Illinois corporation, whose principal place of business is located at 1200 Jorie Boulevard, Oak Brook, Illinois 60521 ("Lender"), with reference to and based upon the following:

RECITALS:

A. Lessee's predecessor in interest, International House of Pancakes, Inc., entered into that certain Lease dated July 2, 1992 (the "Lease"), with American National Bank and Trust Company of Chicago, as Trustee u/t/a dated May 27, 1987, and known as Trust No. 102637-05 ("Lessor"), demising the real property commonly known as 1 Huntington Lane in the Village of Wheeling, Cook County, Illinois, comprising Spaces 36, 37, and 38, being a portion of the property described on Exhibit A attached hereto (the "Premises").

B. Lender is the mortgagee under that certain Mortgage dated December 15, 1993, made by Lessor as mortgagor, filed for record as Document No. 4153175 in the Office of the Recorder of Deeds, Cook County, Illinois, securing the obligations of Lessor under that certain Promissory Note of even date in the sum of One Million Two Hundred Thirty-five Thousand Dollars (\$1,235,000.00) (the "Mortgage"). Lender is also the assignee under that certain Assignment of Rents and Leases dated December 15, 1993, made by Lessor as assignor, filed for record as Document No. 4153176 in the aforesaid Office (the "Assignment"), further securing the obligations of Lessor under the Promissory Note.

C. Lender wishes to have Lessee subordinate to the Mortgage and Lessee is willing to so subordinate, provided it has certain assurances and agreements from Lender as set forth below.

NOW, THEREFORE, in consideration of the mutual covenants and agreements set forth herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Lender and Lessee hereby agree as follows:

1. Subordination. Lessee covenants and agrees with Lender that the Lease is and shall be subject, subordinate and inferior to the Mortgage as the same may be extended, renewed or modified from time to time, in the same manner and to the same extent as if the Lease had been executed subsequent to the execution, delivery and recordation of the Mortgage.

2. Attornment. If, in the exercise of any rights under the Mortgage, Lender or any other person becomes owner of the Shopping Center or the Premises and Improvements described in the Lease, or Lessor's leasehold interest therein, Lessee shall attorn to and recognize Lender or such purchaser as Lessor under the Lease. In such event Lender or such purchaser shall have all the rights of Lessor under the Lease, including but not limited to the right to receive and collect rent from Lessee, and shall assume and perform all obligations of Lessor under the Lease. Lender agrees that it shall not join Lessee in any foreclosure proceedings but will give Lessee notice of the commencement of any foreclosure proceedings; provided, however, failure to give such notice to Lessee shall not invalidate any such foreclosure proceedings. Notwithstanding anything to the contrary herein, in no event shall Lender or such purchaser be: (a) liable for any act or omission of any previous landlord; (b) subject to any offset, claim or

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counterclaim which Lessee might be entitled to assert against any previous landlord; (c) bound by any payment of rent or additional rent made by Lessee to any previous landlord for more than one (1) month in advance; or (d) bound by any amendment or modification of the Lease hereafter made without the consent of Lender.

3. **Assignment.** Lessee acknowledges that Lessor's rights and obligations under the Lease are subject to the Assignment. Lessee agrees that, upon Lessee's receipt of written notice from Lender that Lender has exercised its rights pursuant to the Assignment to collect and receive rents, Lessee shall pay all rent and additional rent to Lender at the address set forth in the notice.

4. **Non-Disturbance.** So long as Lessee is not in default beyond any notice and cure period provided in the Lease in the payment of rent or additional rent, or in the performance of any other terms, covenants or conditions of the Lease on Lessee's part to be performed, Lessee's possession of the Premises and Lessee's rights and privileges under the Lease, including any extensions or renewals thereof, whether pursuant to options granted in the Lease or otherwise, shall not be diminished or interfered with by Lender, and Lessee's occupancy of the Premises shall not be disturbed by Lender except pursuant to a right to do so granted to the Lessor under the Lease. Lender acknowledges that such rights of Lessee under the Lease include, without limitation, Lessee's rights regarding (a) the application of insurance proceeds in the event of damage to or destruction of the Improvements, and (b) the allocation and application of any condemnation award in the event of a partial or total taking of the Premises.

5. **Lessor's Default.** Notwithstanding anything to the contrary in the Lease, Lessee agrees that it shall concurrently give Lender a copy of any written notice of default given to Lessor, and Lender shall have the right, but not the obligation, to cure any default asserted against Lessor within thirty (30) days from the date of Lender's receipt of such notice or, if the default cannot reasonably be cured within thirty (30) days, within a reasonable period of time, before Lessee may take any action against Lessor by reason of such default.

6. **Lender's Waiver.** Lender acknowledges, consents and agrees that the furniture, fixtures, equipment, machinery and other tangible personal property ("Trade Fixtures") now installed or at any time in the future installed in, on, or at the Premises by Lessee, or any affiliate or sublessee of Lessee, or by an equipment lessor (as defined below) of any of them (collectively, "Trade Fixture Owner") shall be and at all times remain the personal property of the Trade Fixture Owner and may be removed by the Trade Fixture Owner at any time during the term of the Lease, whether or not such Trade Fixtures may be regarded as property of Lessor by operation of law or otherwise; provided, however, that Trade Fixtures shall not include the heating, ventilating, and air-conditioning system, or any electrical or mechanical systems that form an integral part of the building, or any components of such systems. Financing for the Trade Fixtures may be arranged under an equipment lease, conditional sale agreement, security agreement or other security device with an equipment lessor, vendor or lender (collectively referred to herein as "equipment lessor"). Lender hereby waives, disclaims, and releases unto such equipment lessor any rights Lender may have in or to the Trade Fixtures by reason of: (a) the manner or method in which the Trade Fixtures are attached or affixed to the Premises or the Improvements, or (b) any statute or rule of law of the state in which the Premises are located which would, but for this Agreement, permit Lender to distrain against the Trade Fixtures for the non-payment of rent, additional rent, or other charges coming due under the Lease. Lender hereby grants permission to such equipment lessor to remove the Trade Fixtures in the event of a default under the equipment lease, conditional sale agreement, security agreement or other security device, provided it repairs any damage to the Premises resulting therefrom. Such equipment lessor shall be deemed an intended direct beneficiary of the provisions of this Section 6 to the same extent and with the same force as if such equipment lessor were specifically and expressly named herein. If such equipment lessor requires the execution by Lender of a separate waiver which is not inconsistent with the foregoing, Lender agrees to execute and deliver such waiver, subject to Lender's reasonable approval as to form, within a reasonable period of time after receipt of a written request therefor.

7. **Lender's Partial UCC Release.** If at any time, in accordance with any rights of Lender under a security agreement between Lender and Lessor, Lender files or records a financing statement pursuant to the Uniform Commercial Code pertaining to the Premises or any property or fixtures of Lessor installed in or located on the Premises, Lender agrees that it shall release its security interest, if any, in the Trade Fixtures arising under the applicable security agreement and perfected by such financing statement. If requested by Lessee, Lender shall execute and deliver to Lessee the appropriate UCC form evidencing the release, which shall be filed and recorded by Lessee as required to give effect thereto.

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8. **Binding Effect.** This Agreement shall inure to and be binding upon the heirs, successors and assigns of the parties hereto and the equipment lessor referred to in Section 6 above.

9. **Incorporation of Exhibits.** The Lease and all exhibits attached to this Agreement are hereby incorporated herein as though set forth in full in this Agreement itself.

10. **Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be deemed an original but all of which shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first above written.

LESSEE:

IHOP PROPERTIES, INC.,
a California corporation

ATTEST:

Carol Lavender
Carol Lavender, Assistant Secretary

By: Richard K. Herzer
Its: President

LENDER:

MUTUAL TRUST LIFE INSURANCE COMPANY,
an Illinois corporation

ATTEST:

William F. Brush

By: Thomas A. Borow
Its: THOMAS A. BOROW, VICE PRESIDENT
REAL ESTATE INVESTMENTS

[ACKNOWLEDGMENT OF LESSEE]

State of California)
County of Los Angeles)

On May 13, 1994, before me, Mary Jocelyn Gues, a Notary Public, personally appeared **RICHARD K. HERZER**, personally known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

Signature Mary Jocelyn Gues



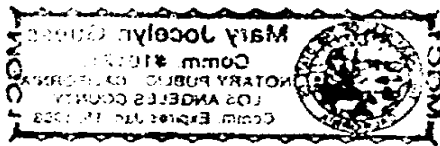
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[ACKNOWLEDGMENT OF LENDER]

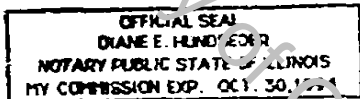
State of Illinois)
County of Cook)
DuPage

I, Diane E. Hundseher, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Thomas A. Boraw, personally known to me to be the Vice President of MUTUAL TRUST LIFE INSURANCE COMPANY, a corporation of the State of Illinois, and William K. Knudsen, personally known to me to be the (Assistant) Secretary of said Corporation, whose names are subscribed to the within instrument, appeared before me this day in person and severally acknowledged that as such Vice President and (Assistant) Secretary, they signed and delivered the said Instrument of writing as Vice President and (Assistant) Secretary of said Corporation and caused the corporate seal of said Corporation to be thereunto affixed, as their 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 Notarial Seal this 8th day of June, A.D. 1994.

Diane E. Hundseher
Notary Public

My Commission expires: _____



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EXHIBIT A

03-04-400-032 & 03-04-400-033

PARCEL A:

THAT PART OF THE EAST 1/2 OF THE EAST 1/2 OF THE SOUTHWEST 1/4 OF SECTION 4, TOWNSHIP 42 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, (EXCEPT THE WEST 50.00 FEET THEREOF TAKEN FOR BUFFALO GROVE ROAD) AND (EXCEPT THE NORTH 580.00 FEET OF THE SOUTH 880.00 FEET OF THE WEST 333.00 FEET THEREOF) AND (EXCEPT THE SOUTH 300.00 FEET OF SAID EAST 1/2 OF THE EAST 1/2 OF THE SOUTHWEST 1/4); ALSO THE WEST 1/2 OF THE SOUTH EAST 1/4 OF SAID SECTION 4; ALSO THE SOUTH 35.25 CHAINS OF THE EAST 1/2 OF THE SOUTH EAST 1/4 OF SECTION 4 (EXCEPT THE EAST 11.67 CHAINS THEREOF) AND (EXCEPT THE SOUTH 275.00 FEET OF THE WEST 1100.00 FEET OF THE EAST 1870.22 FEET OF SAID SOUTH EAST 1/4) AND (EXCEPT THE SOUTH 50.00 FEET THEREOF TAKEN FOR DUNDEE ROAD) ALL IN COOK COUNTY, ILLINOIS, DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHEAST CORNER OF SAID SOUTHWEST 1/4 OF SECTION 4 BEING ALSO THE CENTER LINE OF DUNDEE ROAD; THENCE NORTH 00 DEGREES 11 MINUTES 41 SECONDS EAST ALONG THE EAST LINE OF SAID SOUTHWEST 1/4, A DISTANCE OF 50.00 FEET TO THE PLACE OF BEGINNING; THENCE CONTINUING NORTH 00 DEGREES 11 MINUTES 41 SECONDS EAST, A DISTANCE OF 334.75 FEET; THENCE SOUTH 89 DEGREES 51 MINUTES 03 SECONDS EAST, A DISTANCE OF 245.01 FEET; THENCE SOUTH 21 DEGREES 37 MINUTES 11 SECONDS WEST, A DISTANCE OF 122.04 FEET TO A POINT OF CURVATURE; THENCE SOUTHERLY ALONG A CURVE TO THE LEFT OF THE LAST DESCRIBED COURSE EXTENDED AND HAVING A RADIUS OF 345.00 FEET, A DISTANCE OF 129.28 FEET TO A POINT OF TANGENCY; THENCE SOUTH 00 DEGREES 08 MINUTES 57 SECONDS WEST, A DISTANCE OF 94.90 FEET TO A POINT ON THE NORTHERLY RIGHT OF WAY LINE OF DUNDEE ROAD; THENCE NORTH 89 DEGREES 51 MINUTES 03 SECONDS WEST, ALONG THE NORTHERLY RIGHT OF WAY LINE OF DUNDEE ROAD, A DISTANCE OF 176.67 FEET TO THE PLACE OF BEGINNING, IN COOK COUNTY, ILLINOIS

ALSO KNOWN AS:

LOT 1 IN FINAL PLAT OF ARLINGTON COMMONS SUBDIVISION, BEING A SUBDIVISION OF PART OF THE WEST 1/2 OF THE SOUTHWEST 1/4 OF SECTION 4, TOWNSHIP 42 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PARCEL 2:

THAT PART OF THE EAST 1/2 OF THE EAST 1/2 OF THE SOUTHWEST 1/4 OF SECTION 4, TOWNSHIP 42 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, (EXCEPT THE WEST 50.00 FEET THEREOF TAKEN FOR BUFFALO GROVE ROAD) AND (EXCEPT THE NORTH 580.00 FEET OF THE SOUTH 880.00 FEET OF THE WEST 333.00 FEET THEREOF) AND (EXCEPT THE SOUTH 300.00 FEET OF SAID EAST 1/2 OF THE EAST 1/2 OF THE SOUTHWEST 1/4); ALSO THE WEST 1/2 OF THE SOUTHWEST 1/4 OF SAID SECTION 4; ALSO THE SOUTH 35.25 CHAINS OF THE EAST 1/2 OF THE SOUTHWEST 1/4 OF SECTION 4 (EXCEPT THE EAST 11.67 CHAINS THEREOF) AND (EXCEPT THE SOUTH 275.00 FEET OF THE WEST 1100.00 FEET OF THE EAST 1870.22 FEET OF SAID SOUTHWEST 1/4) AND (EXCEPT THE SOUTH 50.00 FEET THEREOF TAKEN FOR DUNDEE ROAD) ALL IN COOK COUNTY, ILLINOIS, DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHWEST CORNER OF SAID SOUTHWEST 1/4 OF SECTION 4 BEING ALSO THE CENTERLINE OF DUNDEE ROAD; THENCE NORTH 00 DEGREES 11 MINUTES 41 SECONDS EAST ALONG THE EAST LINE OF SAID SOUTHWEST 1/4, A DISTANCE OF 384.75 FEET; THENCE SOUTH 89 DEGREES 51 MINUTES 03 SECONDS EAST, A DISTANCE OF 315.03 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING SOUTH 89 DEGREES 51 MINUTES 03 SECONDS

EAST, A DISTANCE OF 442.19 FEET; THENCE SOUTH 00 DEGREES 36 MINUTES 53 SECONDS WEST, A DISTANCE 334.77 FEET TO A POINT ON THE NORTH RIGHT OF WAY LINE OF DUNDEE ROAD; THENCE NORTH 89 DEGREES 51 MINUTES 03 SECONDS WEST ALONG THE NORTH RIGHT OF WAY LINE OF DUNDEE ROAD, A DISTANCE OF 489.00 FEET; THENCE NORTH 00 DEGREES 08 MINUTES 57 SECONDS EAST, A DISTANCE OF 168.47 FEET TO A POINT OF CURVATURE; THENCE NORTHERLY ALONG A CURVE TO THE RIGHT OF THE LAST DESCRIBED COURSE EXTENDED AND HAVING A RADIUS OF 355.00 FEET, A DISTANCE OF 95.56 FEET TO A POINT OF TANGENCY; THENCE NORTH 21 DEGREES 37 MINUTES 11 SECONDS EAST A DISTANCE OF 86.98 FEET TO THE POINT OF BEGINNING.

ALSO KNOWN AS:

LOT 2 IN FINAL PLAT OF ARLINGTON COMMONS SUBDIVISION, BEING A SUBDIVISION OF PART OF THE WEST 1/2 OF THE SOUTHWEST 1/4 OF SECTION 4, TOWNSHIP 42 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

ADDRESS: 2000 DUNDEE RD
WHEELING, IL

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