

# UNOFFICIAL COPY

## FORBEARANCE AGREEMENT

THIS FORBEARANCE AGREEMENT (the "Agreement") is made and entered into as of this 1<sup>st</sup> day of October, 1995, by and between LASALLE BANK WESTMONT, an Illinois banking corporation (the "Bank") and VALLABH S. PATEL, LILAVATI V. PATEL, JASU S. PATEL and RASHMILLA J. PATEL (collectively, "Patel").

DEPT-01 RECORDING \$49.50  
 70004 TRAN 5208 10/16/95 13:48:00  
 45411 LF \*-95-702406  
 COOK COUNTY RECORDER

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### WITNESSETH:

WHEREAS, on March 22, 1993 the Bank lent Patel the principal amount of Five Hundred Fifteen Thousand Dollars (\$515,000.00) pursuant to the terms and provisions of a Note dated March 22, 1993 ("The Note"); and,

WHEREAS, The Note was for a term of 20 months with a maturity date of December 1, 1994 and charged interest at the rate of ten and 85/100 percent (10.85%) per annum, and at a rate of fourteen and 85/100 percent (14.85%) after the maturity date; and,

WHEREAS, The Note was secured by a Mortgage of even date therewith ("The Mortgage") which granted the Bank a mortgage lien on three (3) separate and distinct parcels of real property, to wit:

<u>Parcel No.</u>	<u>Address</u>
1	2658 W. Devon Avenue Chicago, IL 60647
2	4740 N. LaPorte Avenue Chicago, IL 60630
3	4317 N. Ravenswood Chicago, IL 60613

(hereinafter individually referred to as "Parcel 1", "Parcel 2" and "Parcel 3" and collectively referred to as the "Real Estate"), which Real Estate is legally described on Exhibit "A" attached hereto; and

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WHEREAS, The Mortgage was recorded with the Recorder of Deeds Cook County, Illinois on March 30, 1993 as document no. 93230651; and,

WHEREAS, an Assignment of Leases and Rents upon the real estate dated March 22, 1993, was recorded with the Recorder of Deeds, Cook County, Illinois on March 30, 1993 as document no. 93230652; and,

WHEREAS, on December 1, 1994, The Note and The Mortgage were modified by a Loan Modification Agreement, recorded with the Recorder of Deeds, Cook County, Illinois, as document no. 95061124 ("Loan Modification Agreement 1"). The maturity date of The Note was changed to February 1, 1995 and the interest rate and monthly were also changed; and,

WHEREAS, Parcel 3, 4317 N. Ravenswood, Chicago, Illinois was subsequently sold and released from The Mortgage and the proceeds of the sale used to reduce the principal of The Note, Bank and Patel on or about February 1, 1995 entered into a Second Loan Modification Agreement modifying the following:

Principal as of February 1, 1995: \$385,000.00

Interest Rate: 10% per annum until maturity  
13% per annum after maturity

Maturity Date: February 1, 1996

Secured Property: Parcels 1 and 2

WHEREAS, Bank has taken as additional security the personal guarantees of Vallabh S. Patel and Jasu S. Patel; and,

WHEREAS, Bank has taken as additional collateral a lien on the receivable, inventory goods, chattels and equipment of Jai Hind Foods and Video, Inc.; and,

WHEREAS, Patel is currently in default under the terms and provisions of The Note for failure to timely pay amounts of principal and interest due thereunder to the Bank; and,

WHEREAS, as a result of Patel's defaults, the indebtedness due under The Note, the amounts due and owing have been accelerated by the Bank; and,

WHEREAS, Patel is indebted to the Bank as of August 31, 1995, on The Note as follows:

<u>Principal</u>	<u>Interest</u>	<u>Total</u>	<u>Per diem after 8/31/95</u>
\$380,509.81	\$3,278.72	\$383,788.53	\$105.70

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plus the collection costs incurred by the Bank in connection with its efforts to obtain payment on The Note, including, without limitation, attorneys' fees and costs; and,

WHEREAS, Patel seeks the Bank's forbearance with respect to the Bank's rights with respect to Patel and the Real Estate; and

WHEREAS, the Bank is willing to grant the forbearance sought by Patel, but only on the terms and conditions set forth herein.

NOW, THEREFORE, in and for the consideration of Ten Dollars (\$10.00) paid in hand and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the parties hereto as evidenced by their signatures to this Agreement, the parties hereto do hereby agree as follows:

1. The undersigned stipulates to the truth and accuracy of each statement contained in the preamble of this Agreement, and the preamble hereof is incorporated into and made a part of this Agreement.

2. Patel shall open or cause to be opened at LaSalle Northwest, a business account in the names of Jai Hind Foods & Video, Inc. (hereinafter "JHFV").

This account shall be the sole business account for JHFV. Patel shall cause the Account Application, attached hereto as Exhibit "A", to be filled out and returned to Bank along with all supporting documents and an opening deposit no later than 10 business days after the execution of this Agreement. From these accounts Patel and JHFV agree and acknowledge that:

- a. on the 15th of each month Bank shall directly debit all payments to and loans due Bank from Patel and JHFV;
- b. on the 30th of each month Bank shall directly debit all tax and escrow payments due Bank on any loan to Patel and JHFV.

3. Patel and JHFV agree to fund the accounts with sufficient funds to allow the Bank to draw all current monies due and owing Bank as set forth in Paragraph 2 above. In the event Patel fails to properly fund the accounts, Bank shall at its option have the right to declare a default under The Note and accelerate all monies due under The Note.

4. Patel hereby agrees on or before the execution of this Agreement to pay Bank the sum of \$451.00 in late fees. If the \$451.00 is received the Bank shall forgive an additional \$451.00 in late fees.

5. Patel hereby agrees and acknowledges its obligation to pay all legal fees, expenses and costs associated with the default

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as well as the negotiation, preparation and execution of this Agreement.

6. Upon the execution of this Forbearance Agreement, evidence that the accounts set forth in paragraph 2 have been opened and the receipt by Bank of all sums due herein, Bank shall reinstate both The Note and shall forebear in its suit for collection on The Note and for foreclosure of the Real Estate due to Patel's default under the terms and provisions thereof and from asserting any past defaults but shall only forebear past defaults as long as Patel is in full compliance with the terms of this Agreement.

7. Patel agrees that The Mortgage shall hereby be amended to provide as follows:

(a) The Mortgagor agrees that it shall not apply for or avail itself of and hereby waives the benefit of, for itself and all who may claim through or under it, any appraisal, valuation, stay, moratorium, extension or exemption laws, whether existing on the date of this Mortgage or hereafter enacted, in any enforcement or foreclosure of this Mortgage. Mortgagor, for itself and all who may claim through or under it, waives any and all right to have the Premises or any portion thereof marshalled upon any foreclosure of this Mortgage and Mortgagor agrees that any court having jurisdiction to foreclose this Mortgage may order the Premises sold as an entirety. Mortgagor does hereby waive any and all rights of reinstatement and rights of redemption from sale under any judgment or decree of foreclosure of this Mortgage on behalf of itself and each and every person, except judgment creditors of the Mortgagor, acquiring any interest in or title to the Premises subsequent to the date of this Mortgage.

(b) No action for the enforcement or foreclosure of this Mortgage shall be subject to any defense which would not be good and available to the party interposing the same in an action at law upon the Note.

(c) Acceptance by Mortgagee of any payment which is less than payment in full of all amounts due and payable at the time such payment is made shall not constitute a waiver of Mortgagee's right to declare the entire indebtedness secured by this Mortgage to be immediately due and payable without notice, demand or presentment or to exercise any other right or remedy of Mortgagee under this Mortgage at that time or at any subsequent time nor shall such acceptance nullify any prior exercise by Mortgagee of any right or remedy under this Mortgage without the express written consent of Mortgagee.

(d) The Mortgagee shall have the right to rescind any acceleration of the indebtedness secured by this Mortgage and the right to discharge or dismiss any proceedings brought to enforce any right or remedy of Mortgagee under this Mortgage

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and, in the event Mortgagee elects to exercise either of such rights, the obligations of Mortgagor and the rights and remedies of Mortgagee shall continue as if such acceleration had not been made or such proceedings had not been commenced.

(e) The Mortgagee shall have the right upon any default of this Agreement or any of the underlying documents to enforce its right to collect rents pursuant to the Assignment of Leases and Rents without notice or order of court. Mortgagor shall upon notice by mortgagee of its exercise of its right to collect rents, turn over all rental payments in its possession. Mortgagee may at its sole discretion contact all tenants of mortgagor and request all rents be paid directly to mortgagee. Mortgagor shall within 10 days of the execution of this Agreement supply Mortgagee with a complete list of all tenants along with their respective rental obligations. Mortgagor shall be required to notify Mortgagee of any change in tenancy by supplying Mortgagee with the new tenants names, addresses and rental arrangements. Failure of Mortgagee to supply the list of tenants shall be a default under this Agreement.

8. This Agreement represents the entire Agreement of the undersigned parties with respect to the subject matter set forth herein. No representations of any party, whether oral or written, shall survive the execution of this Agreement.

9. Time is of the essence of this Agreement.

10. This Agreement shall be governed by the laws of the State of Illinois.

11. This Agreement may be executed in several counterparts, each of which shall be deemed an original and all of which taken together shall constitute one and the same instrument.

12. If any term or provision of this Agreement or any application thereof to any entity or circumstance shall to any extent be held in valid and/or unenforceable by a court of competent jurisdiction, the remainder of this Agreement, or the application of such term or provision to entities or circumstances other than those as to which it is held in valid or unenforceable shall not be affected thereby, each term and provision of this Agreement shall be valid and be enforced to the fullest extent permitted by law.

13. **VALLABH S. PATEL, LILAVATI V. PATEL, JASU S. PATEL, RASHMILLA J. PATEL and JAI HIND FOODS & VIDEO, INC.**, individually and collectively, hereby release the Bank and its predecessor, successors, assigns, affiliates, shareholders, officers, directors, employees, agents, representatives, and attorneys from all liabilities and obligations including, without limitation, any cause of action or claim including without limitation any liabilities, controversies, settlements, actions, causes of

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actions, demands, debts, damages, cost, expenses, attorneys' fees, monies due on (or related to) obligations, judgments or obligations of any nature, whether known or unknown, at law or in equity, which they or any of them had or now have or hereafter can, shall or make, have for or by reason which arose prior to the date of this Agreement.

14. The parties hereto agree that this Agreement may be recorded with the Recorder of Deeds of Cook County, Illinois. Patel further agrees that the Bank may take any and all steps which the Bank, in its sole and absolute discretion, deem necessary in order to effectuate and perfect the terms and provisions of this Agreement.

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

Vallabh S. Patel  
VALLABH S. PATEL

Lilavati V. Patel  
LILAVATI V. PATEL

J. S. Patel  
JASU S. PATEL

R. J. Patel  
RASHMILLA J. PATEL

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JAI HIND FOODS & VIDEO, INC., an Illinois corporation

By: Lilavati V. Patel  
Its: President

ATTEST:

By: R. J. Patel  
Its: Secretary

LASALLE BANK WESTMONT, an Illinois banking corporation

By: [Signature]  
Its: Asst. Vice Pres

ATTEST:

By: [Signature]  
Its: Assistant Vice President

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STATE OF ILLINOIS )

SS

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

*Michael*  
I, Mahendra Chatwani, a Notary Public in and for said County, in the State aforesaid, do hereby certify that VALLABH S. PATEL, LILAVATI V. PATEL, JASU S. PATEL and RASHMILLA J. PATEL, personally known to me to be the same persons whose names are subscribed to the foregoing instrument appeared before me this day in person and acknowledged that they signed and delivered the said instrument as their own free and voluntary acts for the uses and purposes therein set forth.

Given under my hand and notarial seal this 21<sup>st</sup> day of September, 1995.

Michael Chatwani  
Notary Public

My commission expires:

2-9-97



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STATE OF ILLINOIS )  
COUNTY OF DuPage ) SS

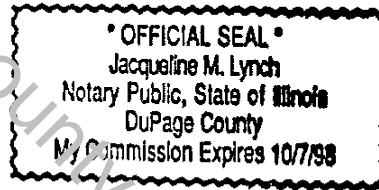
I, Jacqueline M. Lynch, a Notary Public in and for said County, in the State aforesaid, do hereby certify that Coral B. Meyer, Bryn E. Schwenk, and \_\_\_\_\_ appeared before me this day in person and acknowledged that they executed the foregoing instrument, being by me duly sworn, did say that they are the Assistant Vice President and Assistant Vice President, respectively, of **LASALLE BANK WESTMONT**, an Illinois banking association, and acknowledged that they signed and delivered said instrument as their own free and voluntary act and as the free and voluntary act of **LASALLE BANK WESTMONT** for the uses and purposes therein set forth.

Given under my hand and notarial seal this 2nd day of October, 1995.

Jacqueline M. Lynch  
Notary Public

My commission expires:

10/7/98



THIS INSTRUMENT WAS PREPARED BY AND SHOULD BE RETURNED TO:

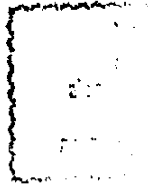
Thomas W. Murphy, Esq.  
JOHNSON & BELL, LTD.  
222 North LaSalle Street  
Suite 2200  
Chicago, IL 60601



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## EXHIBIT A

Parcel 1: Lots 20 and 21 in Block 3 in Devon Rockwell Addition to Rogers Park, being a subdivision of the East 696.75 feet of the Southwest 1/4 of the Southeast 1/4 of Section 36, Township 41 North, Range 13 East of the Third Principal Meridian, in Cook County, Illinois.

PIN: 10 36 426 028 0000 and 10 36 426 027 000

Commonly known as 2658 West Devon Ave., Chicago, Illinois.

Parcel 2: Lot 2 in Block 2 in Rombergs Resubdivision of Lots 11 to 13 both inclusive in Block 1, and Lots 11 to 46 inclusive in Block 2 in subdivision of Blocks 1 and 2 in Silverman's Addition to Irving Park, Montrose and Jefferson, a subdivision of the West 1/2 of the East 1/2 of the Northeast 1/4 and all of that part of the Northwest 1/4 of said Northeast 1/4 which lies North of the Northwest Railroad Track of Section 16, Township 40 North, Range 13 East of the Third Principal Meridian, in Cook County, Illinois.

PIN: 13 16 204 027 0000

Commonly known as 4740 North Laorte Ave., Chicago, Illinois.

Parcel 3: Lots 16 and 17 in Block 24 in Ravenswood, a subdivision of Sections 17 and 18, Township 40 North, Range 14 East of the Third Principal Meridian, in Cook County, Illinois.

PIN: 14 18 403 004 0000

Commonly known as 4317 North Ravenswood, Chicago, Illinois.

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