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

This Mortgage, Security Agreement, Assignment of Leases and Rents, and Financing Statement ("Mortgage") is made as of December L 1997, by ACE BAKING COMPANY LIMITED PARTNERSHIP, a Wisconsin limited partnership duly organized under the provisions of the Uniform Limited Partnership Act of the State of Wisconsin by its general partner, TIL HOLDINGS, INC. ("Mortgagor"), to LASALLE NATIONAL BANK, a national banking association, as mortgagee, assignee and secured party, in its capacity as agent (together with any successors or assigns in such capacity, the "Agent" or "Mortgagee") for the Lenders (as hereinafter defined).

I

**RECITALS**

WHEREAS, Mortgagor is the owner and holder of fee simple title in and to all of the real estate and improvements located thereon in the County of Cook and State of Illinois (the "State"), more fully described in Exhibit A attached hereto (the "Premises") and the owner of the Personal Property (as hereinafter defined), which Premises forms a portion of the Property described below;

WHEREAS, of even date herewith Mortgagor entered into that certain Loan and Security Agreement by and among Mortgagor, the financial institutions named therein (the "Lenders") and the Agent (as the same may be amended, modified or otherwise supplemented from time to time, the "Loan Agreement"), pursuant to which Loan Agreement Agent has agreed to make certain loans (each, a "Loan"; collectively, the "Loans") in the aggregate principal amount of Twenty-Eight Million Five-Hundred Thousand and no/100 Dollars (\$28,500,000), upon the terms and subject to the conditions set forth in the Loan Agreement;

WHEREAS, the Loans are in the form of: (i) a term loan A in the principal amount of Thirteen Million and no/100 Dollars (\$13,000,000) (the "Term A Loan"), which Term A Loan is evidenced by that certain promissory note (the "Term A Note") dated of even date herewith in the principal amount of \$13,000,000 bearing interest at the rates therein provided; and (ii) a term loan B in the principal amount of Nine Million Five-Hundred Thousand and no/100 Dollars (\$9,500,000) (the "Term B Loan"), which Term B Loan is evidenced by a certain promissory note (the "Term B Note"), dated of even date herewith in the principal amount of \$9,500,000 bearing interest at the rates therein provided; and (iii) a revolving credit loan in the aggregate principal amount of Six Million and no/100 Dollars (\$6,000,000)(with a \$1,000,000 letter of credit subfacility)(the "Revolving Credit Loan"), which Revolving Credit Loan is evidenced by that certain promissory note (the "Revolving Credit Note") dated of even date herewith in the aggregate principal amount of \$6,000,000 bearing interest at the rates therein provided (said Term A Note, Term B Note and Revolving Credit Note, together with any and all additional promissory notes executed from time to time under the Loan Agreement to evidence the Loans, collectively, the "Notes");

WHEREAS, the final maturity date of the Notes, unless otherwise earlier provided for therein or in the Loan Agreement, is December 1, 2004;

WHEREAS, Mortgagor wishes to provide further assurance and security to the Agent and the Lenders and as a condition to the Agent and the Lenders executing the Loan Agreement, the Agent and the Lenders are requiring that Mortgagor grant to the Agent, on behalf of the Lenders, a mortgage lien on the Property (as hereinafter defined) to secure the Liabilities (as this and other capitalized terms not otherwise defined herein are defined in the Loan Agreement);

WHEREAS, this Mortgage is being given by Mortgagor to secure (a) the payment of all the Liabilities and (b) the performance of all terms, covenants, conditions, agreements and liabilities contained in this Mortgage and the other Loan Documents (as such term is defined in the Loan Agreement) (collectively, the "Secured Indebtedness");

WHEREAS, this Mortgage also secures the payment of and includes all amounts owing in respect of all future or further advances of Loans and/or Liabilities made pursuant to the Loan Agreement as shall be made at all times, regardless of whether proceeds of Loans and/or Liabilities have or shall be disbursed by Mortgagee herein or its successors or assigns, to and for the benefit of Mortgagor, its successors or assigns, to the same extent as if such future advances were made on the date of the execution of this Mortgage. The total amount of Secured Indebtedness secured by this Mortgage may decrease or increase from time to time but the total unpaid principal balance so secured at any one time shall not exceed the lesser of: (i) the maximum principal sum permitted by the laws of the State in which the Premises are located; or (ii) \$57,000,000.00 (Fifty-Seven Million and No/100 Dollars) together with interest thereon and any and all disbursements made by Mortgagee for the payment of taxes, or insurance on the Mortgaged Property covered by the lien of this Mortgage and for reasonable attorneys fees, loan commissions, service charges, liquidated damages, expenses and court costs incurred in the collection of any or all of such sums of money. Such further or future advances shall be considered obligatory advances and the same shall bear interest at the same rate as specified in the Loan Agreement unless such interest rate shall be modified by subsequent agreement. The parties hereby acknowledge and intend that all advances, including future advances whenever hereafter made, shall be a lien from the time this Mortgage is recorded.

II

THE GRANT

NOW, THEREFORE, in order to secure the payment of the principal amount of the Note and interest thereon and the performance of all of the covenants, provisions, agreements and obligations contained in this Mortgage or in the Loan Documents (whether or not the Mortgagor is personally liable for such payment, performance or observance) and also to secure the payment of any and all Secured Indebtedness, direct or contingent, that may now or hereafter become owing

from Mortgagor to Mortgagee and the performance of all other obligations under the Loan Documents, and in consideration of Ten and No/100 Dollars (\$10.00) in hand paid by the Mortgagee to the Mortgagor, the Recitals above stated, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Mortgagor GRANTS, SELLS, ASSIGNS, RELEASES, ALIENS, TRANSFERS, REMISES, CONVEYS and MORTGAGES to Mortgagee and its successors and assigns forever (and grants to Mortgagee and its successors and assigns forever a continuing security interest in and to) the Premises described on Exhibit A, and all of its estate, right, claim, demand title, and interest therein, together with the following described property, all of which other property is pledged primarily on a parity with the Premises and not secondarily (the Premises and the following described rights, interests, claims and property collectively referred to as "Property"):

(a) all buildings, structures and other improvements of every kind and description now or hereafter erected, situated, or placed upon the Premises ("Improvements"), together with any and all Personal Property (as defined in Paragraph (k) below), attachments now or hereafter owned by Mortgagor and located in or on, forming part of, attached to, used or intended to be used in connection with, or incorporated in any such Improvements including all extensions, additions, betterments, renewals, substitutions and replacements to any of the foregoing;

(b) all estate, claim, demand, right, title and interest of Mortgagor now owned or hereafter acquired, including without limitation, any after-acquired title, franchise, license, remainder or reversion, in and to (i) any land or vaults lying within the right-of-way of any street, avenue, way, passage, highway, or alley, open or proposed, vacated or otherwise, adjoining the Premises; (ii) any and all alleys, sidewalks, streets, avenues, strips and gores of land belonging, adjacent or pertaining to the Premises and Improvements; (iii) storm and sanitary sewer, water, gas, electric, railway and telephone services relating to the Premises and Improvements; (iv) all development rights, air rights, water, water rights, water stock, gas, oil, minerals, coal and other substances of any kind or character underlying or relating to the Premises or any part thereof; and (v) each and all of the tenements, hereditaments, easements, appurtenances, other rights, liberties, reservations, allowances, and privileges relating to the Premises or the Improvements or in any way now or hereafter appertaining thereto, including homestead and any other claim at law or in equity;

(c) all leasehold estates, right, title and interest of the Mortgagor in any and all leases, subleases, management agreements, arrangements, concessions or agreements, written or oral, relating to the use and occupancy of the Premises and Improvements or any portion thereof, now or hereafter existing or entered into (collectively "Leases");

(d) all rents, issues, profits, royalties, revenue, advantages, income, avails, claims against guarantors, all cash or security deposits, advance rentals,

deposits or payments given and other benefits now or hereafter derived directly or indirectly from the Premises and Improvements under the Leases or otherwise (collectively "Rents"), subject to the right, power and authority in the Assignments (as hereinafter defined) to collect and apply the Rents;

(e) all right, title and interest of Mortgagor in and to all options to purchase or lease the Premises or Improvements or any portion thereof or interest therein, or any other rights, interests or greater estates in the rights and properties comprising the Property now owned or hereafter acquired by the Mortgagor;

(f) any interests, estates or other claims of every name, kind or nature, both in law and in equity, which Mortgagor now has or may acquire in the Premises and Improvements or other rights, interests or properties comprising the Property now owned or hereafter acquired;

(g) all goodwill, trademarks, trade names, option rights, books and records, and general intangibles of the Mortgagor relating to the Premises or Improvements, and all accounts, contract rights, instruments, chattel paper and other rights of the Mortgagor for payment of money, for property sold or lent, for services rendered, for money lent, or for advances or deposits made relating to the Premises or Improvements;

(h) all rights of the Mortgagor to any and all plans and specifications, designs, drawing and other matters prepared for any construction on the Premises or to the Improvements;

(i) all rights of the Mortgagor under any contracts executed by the Mortgagor with any provider of goods or services for or in connection with any construction undertaken on or services performed or to be performed in connection with the Premises or Improvements;

(j) all rights of the Mortgagor as seller or borrower under any agreement, contract, understanding or arrangement pursuant to which the Mortgagor has, with the prior written consent of the Mortgagee, obtained the agreement of any person or entity to pay or disburse any money for the Mortgagor's sale (or borrowing on the security) of the Property or any part thereof;

(k) all right, title and interest of the Mortgagor in and to all tangible personal property ("Personal Property"), owned by Mortgagor and now or at any time hereafter located in, on or at the Premises or Improvements or used or useful in connection herewith including, but not limited to:

(i) all furniture, furnishings and equipment furnished by the Mortgagor to occupants of the Premises or Improvements, (but expressly

excluding from the term Personal Property any furniture, equipment, trade fixtures, furnishings or other property of or owned by the occupants of the Property other than Mortgagor);

(ii) all building materials and equipment located upon the Premises and intended for construction, reconstruction, alteration, repair or incorporation in or to the Improvements now or hereafter to be constructed thereon, whether or not yet incorporated in such Improvements, (all of which shall be deemed to be included in the Property upon delivery thereto);

(iii) all machines, machinery, fixtures, apparatus, equipment or articles used in supplying heating, gas, electricity, air-conditioning, water, light, power, plumbing, sprinkler, waste removal, refrigeration, ventilation, and all fire sprinklers, alarm systems, protection, electronic monitoring equipment and devices;

(iv) all window, structural, maintenance and cleaning equipment and rigs;

(v) all furniture, including without limitation, tables, chairs, planters, desks, sofas, shelves, lockers and cabinets, wall beds, wall sofas and other furnishings;

(vi) all rugs, carpets and other floor coverings, curtains, draperies, drapery rods and brackets, awnings, window shades, venetian blinds and curtains;

(vii) all lamps, chandeliers and other lights;

(viii) all recreational equipment and materials;

(ix) all office furniture, equipment and supplies;

(x) all equipment, including without limitation, refrigerators, ovens, stoves, dishwashers, range hoods, exhaust systems and disposal units;

(xi) all laundry equipment and supplies including, without limitation, washers and dryers;

(xii) all tractors, mowers, sweepers, snow removers, motor vehicles and other equipment used in the maintenance of the Premises or Improvements;



(xiii) all fixtures and personal property now or hereafter owned by Mortgagor and attached to or contained in and used or useful in connection with the Premises or the Improvements including any and all air conditioners, antennae, appliances, apparatus, awnings, basins, bathtubs, boilers, bookcases, cabinets, carpets, coolers, curtains, dehumidifiers, disposals, doors, drapes, dryers, ducts, dynamos, elevators, engines, equipment, escalators, fans, fittings, floor coverings, furnaces, furnishings, furniture, hardware, heaters, humidifiers, incinerators, lighting, machinery, motors, ovens, pipes, plumbing, pumps, radiators, ranges, recreational facilities, refrigerators, screens, security systems, shades, shelving, sinks, sprinklers, stokers, stoves, toilets, ventilators, wall coverings, washers, windows, window coverings, wiring, and all renewals, replacements or substitutions, whether or not attached to such Improvements. All such property owned by Mortgagor and placed by it on the Premises or used in connection with the operation or maintenance shall, so far as permitted by law, be deemed for the purposes of this Mortgage to be part of the real estate constituting and located on the Premises and covered by this Mortgage. As to any of the property that is not part of such real estate or does not constitute a "fixture," as such term is defined in the Uniform Commercial Code of the State, this Mortgage shall be deemed to be a security agreement under the Uniform Commercial Code for the purpose of creating hereby a security interest in property, which Mortgagor hereby grants to the Mortgagee as "secured party" as defined in the Code. The enumeration of any specific items of Personal Property set forth herein shall in no way exclude or be held to exclude any items of property not specifically enumerated;

(i) all the estate, interest, right, title or other claim or demand which Mortgagor now has or may hereafter have or acquire with respect to (i) proceeds of insurance in effect with respect to the Property and (ii) any and all awards, claims for damages, judgments, settlements and other compensation made for or consequent upon the taking by condemnation, eminent domain or any like proceeding, or by any proceeding or purchase in lieu thereof, of the whole or any part of the Property, including, without limitation, any awards and compensation resulting from a change of grade of streets and awards and compensation for severance damages (collectively "Awards").

TO HAVE AND TO HOLD the Property hereby mortgaged and conveyed or so intended, together with its rents, issues and profits, unto the Mortgagee, its successors and assigns, forever, for the uses and purposes herein set forth.

The Mortgagor hereby covenants with the Mortgagee and with the purchaser at any foreclosure sale: that at the execution and delivery hereof, Mortgagor owns the Property and has good, indefeasible estate therein, in fee simple; that the Property is free from all encumbrances and exceptions to title (and any claim of any other person) other than those encumbrances and exceptions

permitted by the Mortgagee in writing ("Permitted Exceptions"); that it has good and lawful right to sell, mortgage and convey the Property; and that Mortgagor and its successors and assigns shall forever warrant and defend the Property against all claims and demands whatsoever.

If and when Mortgagor has paid all of the Secured Indebtedness, and has strictly performed and observed all of the agreements, terms, conditions, provisions and warranties contained herein and in all of the Loan Documents, then this Mortgage and the estate, right and interest of the Mortgagee in and to the Property shall cease and shall be released at the cost of Mortgagor, but otherwise shall remain in full force and effect. Mortgagee shall be entitled to charge a reasonable release fee.

### III

#### GENERAL AGREEMENTS

3.01 Payment of Indebtedness. Mortgagor shall pay promptly and when due the principal and interest on the indebtedness evidenced by the Note and all other Secured Indebtedness at the times and in the manner provided in the Note, this Mortgage, or any of the other Loan Documents. Mortgagor shall duly perform and observe all of the covenants, agreements, and provisions contained in the Mortgage, the Note or in the Loan Documents. All sums payable by Mortgagor shall be paid without demand, counterclaim, offset, deduction or defense. Mortgagor waives all rights now or hereafter conferred by statute or otherwise to any such demand, counterclaim, offset, deduction or defense.

3.02 Deposits for Taxes and Insurance. Upon Mortgagee's written request, Mortgagor shall deposit with Mortgagee or a depository designated by Mortgagee, in addition to installments required by the Note, monthly until the principal indebtedness evidenced by the Note is paid:

(a) a sum equal to all real estate and personal property taxes and assessments ("Taxes") next due on the Property, all as reasonably estimated by Mortgagee, divided by the whole number of months to elapse before the month prior to the date when such taxes will become due and payable; and

(b) a sum equal to an installment of the premium or premiums that will become due and payable to renew the insurance as required in Paragraph 3.05, each installment to be in such an amount that the payment of approximately equal installments will result in the accumulation of a sufficient sum of money to pay renewal premiums for such insurance at least one (1) month prior to the expiration or renewal date or dates of the policy or policies to be renewed.

All payments described in this Paragraph or in Paragraph 3.03 shall be held in trust, with interest accruing on behalf of Mortgagor. The aggregate of the funds so deposited, together with payments of interest and/or principal payable on the Note shall be applied to the following items in the order stated: (i) Taxes and insurance premiums; (ii) Secured Indebtedness other than principal and interest on the Note; (iii) interest on the Note; (iv) amortization of the principal balance of the Note. If the funds so deposited are insufficient to pay, when due, all Taxes and premiums, Mortgagor shall, within ten (10) days after receipt of demand from Mortgagee, deposit such additional funds as may be necessary. If the funds so deposited exceed the amounts required to pay such items, the excess shall be applied on a subsequent deposit or deposits.

In the Event of Default (as hereinafter defined), the Mortgagee may, at its option, apply any funds deposited on any of the Secured Indebtedness, in such order and manner as the Mortgagee may elect. When the Secured Indebtedness has been fully paid, then any remaining funds so deposited shall be paid to the Mortgagor. All funds deposited are pledged as additional security for the Secured Indebtedness, and shall be held in trust to be irrevocably applied for the purposes provided, and shall not be subject to the direction or control of the Mortgagor.

Neither Mortgagee nor any depository shall be liable for any failure to make payments of insurance premiums or taxes unless Mortgagor, while not in default, has requested Mortgagee or such depository, in writing, to make application of such deposits to the payment of particular insurance premiums or taxes, accompanied by the bills for such insurance premiums or Taxes. Mortgagee may, at its option, make or cause such depository to so apply the deposits without any direction or request by Mortgagor.

**3.03 Impositions.** Mortgagor shall pay immediately, when first due and owing, all general taxes, special taxes, special assessments, water charges, sewer charges, and any other charges, fees, taxes, claims, levies, expenses, liens and assessments, ordinary or extraordinary, governmental or nongovernmental, statutory or otherwise (all of the foregoing being herein collectively referred to as "Impositions"), that may be asserted against the Property or any part thereof or interest therein. Notwithstanding anything to the contrary herein, to the extent any Impositions may be paid in installments, Mortgagor may pay such amount by installment, provided no Event of Default has occurred and remains uncured. Mortgagor shall furnish to Mortgagee duplicate receipts for payment within thirty (30) days after payment. In the event Mortgagee requires that Mortgagor provide monthly deposits in accordance with Mortgagee's rights pursuant to Paragraph 3.02, Mortgagee, at its option, shall either make such deposits available to Mortgagor for the payments required under this Paragraph 3.03 or make such payments on behalf of Mortgagor.

Mortgagor may, in good faith and with reasonable diligence, contest the validity or amount of any Impositions, provided that:

- (a) such contest shall have the effect of preventing the collection of the Impositions so contested and the sale or forfeiture of the Property or any sub-part or interest;

(b) Mortgagor has notified Mortgagee in writing of the intention of Mortgagee to prosecute the contest before any Impositions have been increased by any interest, penalties, or costs;

(c) At Mortgagee's option: (i) Mortgagor has obtained a title insurance endorsement over such contested Impositions insuring the Mortgagee against all loss or damages by reason of the existence of such contested Impositions; or (ii) Mortgagor has deposited with Mortgagee, at such place as Mortgagee may from time to time in writing designate, a sum of money or other security acceptable to Mortgagee that, when added to the monies or other security, if any, deposited with Mortgagee pursuant to Paragraph 3.02, is sufficient, in Mortgagee's sole judgment, to pay in full such contested Impositions and all penalties and interest that might become due thereon. Mortgagor shall keep on deposit with Mortgagee or a depository designated by Mortgagee an amount sufficient, in Mortgagee's judgment, to pay in full such contested Impositions, increasing such amount to cover additional penalties and interest thereon whenever, in Mortgagee's judgment, such increase is advisable; and

(d) Mortgagor shall diligently prosecute the contest of such Impositions by appropriate legal proceedings and shall permit Mortgagee to be represented in any such contest and shall pay all reasonable expenses incurred by Mortgagee in so doing, including fees and expenses of Mortgagee's counsel and all expenses thus incurred together with interest thereon until paid at the Default Rate (as defined in Paragraph 5.02) shall constitute additional Secured Indebtedness and shall be payable upon demand.

In the event Mortgagor fails to prosecute such contest with reasonable diligence or fails to maintain sufficient funds on deposit as required, Mortgagee may, at its option, apply the monies and liquidate any securities deposited with Mortgagee, in payment of, or on account of, such Impositions, including all penalties and interest thereon. If the amount of the deposited money and security is insufficient for the full payment of Impositions, together with all penalties and interest thereon, Mortgagor shall, upon demand, either (i) deposit with Mortgagee a sum that, when added to such funds then on deposit, is sufficient to make such full payment, or, (ii) if Mortgagee has applied funds on deposit on account of such Impositions, restore such deposit to an amount satisfactory to Mortgagee. If Mortgagor is not then in default, Mortgagee shall, if so requested in writing by Mortgagor, after final disposition of such contest and upon Mortgagor's delivery to Mortgagee of an official bill for such taxes, apply the money deposited in full payment of such Taxes then unpaid, together with all penalties and interest thereon.

3.04 Payment of Impositions by Mortgagee. Mortgagee is hereby authorized to make or advance, in the place and stead of Mortgagor, any payment relating to Impositions. Mortgagee may do so according to any bill, statement, or estimate procured from the appropriate public office without inquiry into the accuracy or the validity of any Impositions, lien, sale, forfeiture, or related title or claim. Mortgagee is further authorized to make or advance, in place of

Mortgagor, any payment relating to any apparent or threatened adverse title, lien, statement of lien, encumbrance, claim, charge, or payment otherwise relating to any other purpose herein and hereby authorized, but not enumerated in this Paragraph, whenever, in Mortgagee's judgment and discretion, such advance seems necessary or desirable to protect the full security intended to be created by this Mortgage. In connection with any such advance, Mortgagee is further authorized, at its option, to obtain a continuation report of title or title insurance policy prepared by a title insurance company of Mortgagee's choosing. All such advances and indebtedness authorized by this Paragraph shall constitute additional Secured Indebtedness and shall be repayable by Mortgagor upon demand with interest at the Default Rate (as defined in Paragraph 5.02).

3.05 Insurance.

(A). Coverage. The Mortgagor shall insure the Property in accordance with the terms of the Loan Agreement.

(B). Notice of Damage or Destruction. If the Property or any portion thereof shall be damaged or destroyed by any casualty whatsoever, Mortgagor shall immediately notify Mortgagee in writing of such fact. In Mortgagor's said written notice, Mortgagor shall indicate: (i) whether the damage or destruction is covered by insurance; and (ii) Mortgagor's best estimate of the cost of restoring, repairing, replacing or rebuilding the Property or part thereof damaged or destroyed.

(C). Settlement and Application of Proceeds. In case of loss covered by insurance ("Insured Casualty"), the Mortgagee (or, after entry of decree of foreclosure, the purchaser at the foreclosure sale or decree creditor, as the case may be) is hereby authorized at its option either (i) to settle and adjust any claim under such policies without Mortgagor's consent, or (ii) allow the Mortgagor to agree with the insurance company or companies on the amount to be paid upon the loss. Mortgagor may itself adjust losses aggregating not in excess of Five Thousand Dollars (\$5,000). In any case the Mortgagee shall, and is hereby authorized to, collect and receipt for any such insurance proceeds. The expenses incurred by the Mortgagee in the adjustment and collection of insurance proceeds shall be so much additional Secured Indebtedness and shall be reimbursed to the Mortgagee upon demand.

(a) in the event of the occurrence of any Insured Casualty, the proceeds of insurance paid on account of such Insured Casualty shall be applied to reimburse the Mortgagor for the cost of restoring, repairing, replacing or rebuilding (herein collectively called "Restoring") the Property or the part thereof damaged or destroyed, provided that each and every of the following conditions are satisfied or are waived in writing by Mortgagee, namely:

(i) if in the sole judgment of Mortgagee the Property can be restored to an architectural and economic unit of the same character and not less valuable than existed immediately prior to the occurrence of the Insured Casualty;

(ii) if in the sole judgment of Mortgagee the outstanding balance of the Secured Indebtedness will be adequately secured by the lien of this Mortgage;

(iii) if the insurers do not deny liability to the insureds with respect to the Insured Casualty;

(iv) if no Event of Default shall have occurred and be then continuing;

(v) if all then existing Leases shall continue in full force and effect without reduction or abatement of rentals (except during the period of untenability of the Improvements); and

(vi) if Mortgagor obtains and delivers to Mortgagee within sixty (60) days after the date of occurrence of the Insured Casualty, a certificate of an architect acceptable to Mortgagee, wherein the architect certifies to Mortgagee that in the opinion of the architect reasonably exercised, the Property may be reconstructed within the one hundred eighty (180) calendar days next following the date of the certificate of said architect.

(b) If in the sole judgment of Mortgagee, the Property cannot be restored to an architectural and economic unit as provided and within the time set forth above, then within (60) days after Mortgagee's receipt of written notice of such Insured Casualty upon ninety (90) days prior written notice to Mortgagor, Mortgagee may declare the entire balance of the Secured Indebtedness to be, and at the expiration of such ninety (90) day period the Secured Indebtedness shall be and become immediately due and payable.

(c) Except as may be otherwise provided herein, Mortgagee shall apply the proceeds of insurance (including amounts not required for Restoring) resulting from any Insured Casualty upon the Secured Indebtedness in such order or manner as the Mortgagee may elect, provided that no premium or penalty shall be payable in connection with any prepayment of the Secured Indebtedness from insurance proceeds.

(d) In the event that proceeds of insurance shall be made available to the Mortgagor for the Restoring of the Property, Mortgagor hereby covenants to restore the same to at least equal value and substantially the same character as prior to the occurrence of such Insured Casualty in accordance with plans and specifications to be first submitted to and approved by Mortgagee. In the event Mortgagor shall fail to restore or rebuild the Improvements within a reasonable time, subject to delays beyond its control, then Mortgagee, at its option, may, but shall not be obligated to, restore and rebuild the Improvements, for or on behalf of the Mortgagor, and for

such purpose may do all necessary acts including, using the insurance proceeds or any other amounts deposited by the Mortgagor.

(e) Any portion of the insurance proceeds remaining after deduction for all expenses incurred in the collection and administration of the insurance proceeds (including attorney's fees) and after payment in full of the Secured Indebtedness shall be paid to Mortgagor or as ordered by a court of competent jurisdiction.

(f) No interest shall be payable by Mortgagee on account of any insurance proceeds at any time held by Mortgagee.

(g) In the event of foreclosure of this Mortgage or other transfer of title to the Premises in extinguishment of the Secured Indebtedness, all right, title, and interest of Mortgagor in and to any such insurance policies then in force, and any claims for payment of insurance proceeds and any proceeds, shall pass to Mortgagee or any purchaser or grantee. Mortgagee may, at any time and in its sole discretion, procure and substitute for any and all of the insurance policies, such other policies of insurance, in such amounts, and carried in such companies, as it may select.

3.06 Condemnation and Eminent Domain. Mortgagor shall give Mortgagee prompt notice of all proceedings, instituted or threatened, seeking condemnation or a taking by eminent domain or like process (herein collectively called "Taking"), of all or any part of the Property or affecting any related easement or appurtenance (including severance of, consequential damage to, or change in grade of streets), and shall deliver to Mortgagee copies of any and all papers served in connection with any such proceeding.

(a) Mortgagor hereby assigns, transfers and sets over unto Mortgagee the entire proceeds of any and all Awards resulting from any Taking. Mortgagee is hereby authorized to collect and receive from the condemnation authorities all Awards and is further authorized to give appropriate receipts and acquittances;

(b) If in the sole judgment of the Mortgagee (i) the Property can be restored to an architectural and economic unit of the same character and not less valuable than existed prior to such Taking; (ii) the Property as thus restored will adequately secure the outstanding balance of the Secured Indebtedness; and (iii) if and for so long as no Event of Default shall exist; the Award shall be applied to reimburse Mortgagor for the cost of Restoring the portion of the Property remaining after such Taking as provided below;

(c) If in the sole judgment of Mortgagee the Property cannot be restored to such an architectural and economic unit, then within sixty (60) days after Mortgagee's receipt of notice of such Taking, upon ninety (90) days' prior written notice to Mortgagor, Mortgagee may declare the entire balance of the Secured

Indebtedness to be due and at the expiration of such ninety (90) day period the Secured Indebtedness shall be and become immediately due and payable;

(d) Except as provided in Subparagraph (b) above, Mortgagee shall apply any Award (including the amount not required for Restoring in accordance with Subparagraph (b)) upon the Secured Indebtedness in such order or manner as Mortgagee may elect; provided that no premium or penalty shall then be payable in connection with any prepayment of the Secured Indebtedness made out of any Award;

(e) In the event that any Award shall be made available to the Mortgagor for Restoring the portion of the Property remaining after a Taking, Mortgagor hereby covenants to restore the remaining portion of the Property to a condition of at least equal value and of substantially the same character as existed prior to such Taking all in accordance with the provisions for disbursement as set forth below. In the event the Mortgagor shall fail to commence and complete the Restoring within a reasonable time, subject to delays beyond its control, Mortgagee may, but shall not be obligated to, rebuild the Property for or on behalf of the Mortgagor and for such purpose may do all necessary acts including, without limitation, using the Award;

(f) Any portion of any Award remaining after deduction for all expenses incurred in the collection and administration of the Award (including attorneys' fees) and after payment in full of the Secured Indebtedness shall be paid to Mortgagor or as ordered by a court of competent jurisdiction;

(g) No interest shall be payable by Mortgagee on account of any Award at any time held by Mortgagee;

(h) Mortgagor agrees to make, execute and deliver to Mortgagee, at any time upon request, free and clear of any encumbrances of any kind whatsoever, any and all further assignments and other instrument deemed necessary by the Mortgagee for the purpose of validly and sufficiently assigning all Awards and other compensation heretofore and hereafter made to Mortgagor for any Taking, either permanent or temporary, under any such proceeding.

In the event the Mortgagor is entitled to reimbursement out of insurance proceeds or any Award held by the Mortgagee, such proceeds shall be disbursed by Mortgagee if and only if Mortgagor shall have first delivered to Mortgagee: (i) satisfactory evidence of the estimated cost of completion of the Restoring, with funds (or assurances satisfactory to the Mortgagee that such funds are available) sufficient in addition to the proceeds of insurance or Award, to complete the proposed Restoring; and (ii) such architect's certificates, waivers of lien, contractor's sworn statements and such other evidences of cost and of payment as the Mortgagee may reasonably require and approve. Mortgagee may require that all contractors and subcontractors, in addition to all plans and specifications for such Restorings, be



approved by the Mortgagee prior to commencement of work. No payment made prior to the final completion of the Restoring shall exceed ninety percent (90%) of the value of the work performed from time to time. Funds other than proceeds of insurance or the Award shall be disbursed prior to disbursement of such proceeds, except as may otherwise be provided in any loan agreement expressly approved by the Mortgagee. At all times the undisbursed balance of such proceeds remaining in the hands of the Mortgagee, together with funds deposited for the purpose of the Restoring or irrevocably committed to the satisfaction of the Mortgagee by or on behalf of the Mortgagor for the Restoring, shall be at least sufficient in the reasonable judgment of the Mortgagee to pay for the cost of completion of the Restoring, free and clear of all liens or claims for lien.

3.07 Maintenance of Property. Mortgagor shall:

- (a) promptly repair, restore, replace or rebuild any portion of the Property which may become damaged, destroyed, altered, removed, severed, or demolished, whether or not proceeds of insurance are available or sufficient for the purpose, with replacements at least equal in quality and condition as previously existed, free from any security interest in, encumbrances on or reservation of title thereto;
- (b) keep the Property in good condition and repair, without waste, and free from mechanics', materialmen's or like liens or claims whatsoever;
- (c) complete, within a reasonable time, any Improvements now or hereafter in the process of erection upon the Property;
- (d) comply with all statutes, rules, regulations, orders, decrees and other requirements of any governmental body, federal, state or local, having jurisdiction over the Property and the use thereof and observe and comply with all conditions and requirements necessary to preserve and extend any and all rights, licenses, permits (including without limitation zoning variances, special exceptions and non-conforming uses), privileges, franchises and concessions that are applicable to the Property or its use and occupancy;
- (e) not make any material alterations in the Property, except as required by law or municipal ordinance or as approved by Mortgagee, which approval shall not be unreasonably delayed or withheld;
- (f) not suffer or permit any change in the general nature of the occupancy of the Property without the Mortgagee's prior written consent;
- (g) pay when due all operating costs of the Property;

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- (h) not initiate or acquiesce in any zoning reclassification with respect to the Property without Mortgagee's prior written consent;
- (i) provide, improve, grade, surface and maintain, clean, repair, and adequately light parking areas within the Property of sufficient size to accommodate not less than the amount of standard-size American-made automobiles as may be required by law, ordinance or regulation (whichever may be greater), together with any sidewalks, aisles, streets, driveways and sidewalk cuts and sufficient paved areas for ingress, egress and right-of-way to and from the adjacent thoroughfares necessary or desirable for the use thereof;
- (j) reserve and use all such parking areas solely and exclusively for the purpose of providing ingress, egress and parking facilities for automobiles and other passenger vehicles of Mortgagor and tenants of the Property and their invitees and licensees;
- (k) not reduce, build upon, obstruct, redesignate or relocate any such parking areas, sidewalks, aisles, streets, driveways, sidewalk cuts or paved areas or rights-of-way or lease or grant any rights to the use the same to any person (except tenants and invitees of tenants of the Property) without the prior written consent of the Mortgagee;
- (l) not abandon the Property nor do anything whatsoever to depreciate or impair the value of the Property or the security of this Mortgage;
- (m) refrain from any action and correct any condition which would increase the risk of fire or other hazard to the Improvements;
- (n) cause the Property to be managed in a competent and professional manner;
- (o) not permit the granting of any easements, licenses, covenants, conditions or declarations of use against the Property other than use restrictions provided for or contained in Leases previously approved by the Mortgagee;
- (p) not permit the execution of any Leases without the prior written consent of the Mortgagee;
- (q) not permit any unlawful use or nuisance to exist upon the Property; and
- (r) pay when due all ground rents and other sums payable under any Ground Lease affecting or relating to the Premises and observe and perform each and every of the covenants and agreements required to be observed and performed by the lessee or tenant of and under any Ground Lease.

3.08 Compliance with Laws. Mortgagor shall comply with all statutes, ordinances, regulations, rules, orders, decrees, and other requirements by any federal, state, or local authority relating to the Property. Mortgagor shall observe and comply with all conditions and requirements necessary to preserve and extend any and all rights, licenses, permits (including without limitation zoning variances, special exceptions, and nonconforming uses), privileges, franchises, and concessions that are applicable to the Property or that have been granted to or contracted for by Mortgagor in connection with any existing or presently contemplated use of the Property.

3.09 Prohibited Liens and Transfers.

(a) Liens. Mortgagor shall not create, suffer, or permit to be created or filed against the Property any mortgage lien or other lien superior or inferior to the lien created by this Mortgage. Mortgagor may, within thirty (30) days after the filing thereof, contest any lien claim arising from any work performed, material furnished, or obligation incurred by Mortgagor upon furnishing Mortgagee security and indemnification satisfactory to Mortgagee for the final payment and discharge of the lien. In the event Mortgagor otherwise suffers or permits any lien to be attached to the Property, Mortgagee shall have the unqualified right, at its option, to accelerate the maturity of the Note, causing the entire principal balance and all interest accrued to be immediately due and payable, without notice to Mortgagor.

(b) Prohibited Transfers. Mortgagor shall not (1) dispose of all or any portion of the Property in violation of Section 7.6 of the Loan Agreement, or cause or permit a transfer to occur of all or any portion of any beneficial interest of Mortgagor which would result in a Change of Control; or (2) contract to do any of the foregoing ("Prohibited Transfers"). If a Prohibited Transfer occurs, Mortgagee shall have the unqualified right, at its option, to accelerate the maturity of the Note, causing the entire principal balance of the Note, all interest accrued, and prepayment premium, if any, to be immediately due and payable, without notice to Mortgagor.

This Paragraph 3.09 shall not apply (i) to liens securing the Secured Indebtedness, (ii) to the lien of current Taxes not in default or (iii) to any transfers of the Property, or part thereof, or interest therein, or any beneficial interests, or shares of stock or partnership or joint venture interests as the case may be, in the Mortgagor or any beneficiary of a Trustee Mortgagor by or on behalf of an owner thereof who is deceased or declared judicially incompetent, to such owner's heirs, legatees, devisees, executors, administrators, estate, personal representatives or committee. This Paragraph 3.09 shall be operative with respect to, and shall be binding upon, any persons who, in accordance with the terms hereof or otherwise, shall acquire any part of or interest in or encumbrance upon the Property, or such beneficial interest in, share of stock of or partnership or joint venture interest in the Mortgagor or any beneficiary of a Trustee Mortgagor. Any waiver by Mortgagee of this Paragraph 3.09 shall not be deemed to be a waiver of the right of the Mortgagee in the future to insist upon strict compliance with its provisions. Mortgagee may condition any consent upon such increase in rate of interest payable upon the Secured Indebtedness, change in

monthly payments thereon, change in maturity thereof or the payment of a fee, all as Mortgagee may in its sole discretion require.

3.10 Subrogation to Prior Lienholder's Rights. If the proceeds of the Loans, or any amount paid out by Mortgagee, are used directly or indirectly to pay off or satisfy, in whole or in part, any prior lien or encumbrance upon the Property, then Mortgagee shall be subrogated to the rights of the holder of such other lien or encumbrance and any additional security held by such holder, and shall have the benefit of the priority of the same.

3.11 Mortgagee's Dealings with Transferee. In the event of the sale or transfer, by operation of law, voluntarily, or other wise, of all or any part of the Property, Mortgagee shall be authorized and empowered to deal with the vendee or transferee with regard to the Property, the Secured Indebtedness, and the Mortgage as fully and to the same extent as it might with Mortgagor, without in any way releasing or discharging Mortgagor's obligations, specifically including Paragraph 3.09 and without waiving Mortgagee's right of acceleration pursuant to such Paragraph 3.09.

3.12 Stamp Taxes. If at any time the United States government, or any federal, state, or municipal governmental subdivision, requires Internal Revenue or other documentary stamps or levies any tax on this Mortgage or on the Note, or requires payment of any tax in the nature of or comparable to the United States Interest Equalization Tax on the Secured Indebtedness then Mortgagor shall pay such tax, including interest and penalties, in the required manner.

3.13 Change in Tax Laws. In the event of the enactment, after the date of this Mortgage, of any law of the United States of America, or any state or political subdivision thereof (i) deducting from the value of the Premises, for the purpose of taxation, the amount of any lien thereon; (ii) imposing upon Mortgagee the payment of all or any part of the taxes, assessments, charges, or liens hereby required to be paid by Mortgagor, or (iii) changing in any way the laws relating to the taxation of mortgages or debts secured by mortgages or Mortgagor's interest in the Property, or the manner of collection of taxes, so as to affect this Mortgage or the Secured Indebtedness; then Mortgagor, upon demand by Mortgagee, shall pay such taxes, assessments, charges, or liens or reimburse Mortgagee therefor. If, in the opinion of counsel for Mortgagee, it might be unlawful to require Mortgagor to make such payment or the making of such payment might result in the imposition of interest beyond the maximum amount permitted by law, then Mortgagee may elect, by notice in writing given to Mortgagor, to declare all of the Secured Indebtedness to become due and payable within sixty (60) days after the giving of such notice. Nothing contained in this Paragraph 3.13 shall be construed as obligating Mortgagor to pay any portion of Mortgagee's federal income tax.

3.14 Inspection of Property. Mortgagor shall permit Mortgagee and its representatives and agents to inspect the Property from time to time during normal business hours and as frequently as Mortgagee considers reasonable as set forth in the Loan Agreement.

3.15 Inspection of Books and Records. Mortgagor shall keep and maintain full and correct books and records showing in detail the income and expenses of the Property as set forth in the Loan Agreement. Mortgagor shall produce and permit Mortgagee or its agents to examine such books and records and all supporting vouchers as specified in the Loan Agreement.

3.16 Certified Annual Operating Statements. Within ninety (90) days after the close of each fiscal year, Mortgagor shall furnish to Mortgagee an annual balance sheet and operating statement of income and expenses of the Property and also of Mortgagor, if so required by Mortgagee, signed and certified by a certified public accountant. Such report shall contain such detail and embrace such items as Mortgagee may reasonably require.

3.17 Acknowledgment of Debt. Mortgagor shall furnish from time to time, within fifteen (15) days after Mortgagee's request: (i) a written statement, duly acknowledged, specifying the amount due under the Note and this Mortgage and disclosing whether any alleged offsets or defenses exist against the Secured Indebtedness; and (ii) a certificate of Mortgagor setting forth the names of all lessees under any Leases, the terms of their respective leases, the space occupied, the rents payable thereunder, and the dates through which any and all rents have been paid.

3.18 Other Amounts Secured. At all times, regardless of whether any loan proceeds have been disbursed, this Mortgage secures (in addition to any loan proceeds disbursed from time to time and any advances pursuant to Paragraphs 3.04 and 3.05) litigation expenses pursuant to Paragraph 5.05, and any other specified amounts, the payment of any and all loan commissions, service charges, liquidated damages, expense, and advances due to or paid or incurred by Mortgagee in connection with the Loan, the application and loan commitment, if any, and the other Loan Documents.

3.19 Assignment of Rents. All right, title and interest of the Mortgagor in and to all present Leases affecting the Property and including and together with any and all future Leases, written or oral, upon all or any part of the Property and together with all of the rents, income, receipts, revenues, issues, avails and profits from or due or arising out of the Property are hereby transferred and assigned simultaneously herewith to the Mortgagee as further security for the payment of the Secured Indebtedness. All future Leases affecting the Property shall be submitted by the Mortgagor to the Mortgagee for its approval prior to execution. All approved and executed Leases shall be specifically assigned to Mortgagee by an instrument satisfactory to Mortgagee. Each Lease, shall, at the option of Mortgagee, be paramount or subordinate to this Mortgage. Although it is the intention of the parties that the assignment contained in this paragraph shall be a present assignment, it is expressly understood and agreed, anything to the contrary notwithstanding, that Mortgagee shall not exercise any of the rights or powers conferred upon it by this paragraph until an Event of Default shall exist under this Mortgage. From time to time, Mortgagor shall furnish Mortgagee with executed copies of each of the Leases and with estoppel letters from each tenant under each of the Leases, which estoppel letters shall be in a form satisfactory to Mortgagee and shall be delivered within thirty (30) days after Mortgagee's written demand. In the event Mortgagee requires that Mortgagor execute and record a separate collateral Assignment of Rents or separate

collateral Assignment of Leases to Mortgagee, the terms and provisions of those assignments shall control in the event of a conflict between the terms of this Mortgage and the terms thereof.

The Mortgagor expressly covenants and agrees that: (i) if the Mortgagor, as lessor under any Lease or Leases so assigned, fails to perform and fulfill any term, covenant, condition, or provision in said Lease or Leases; (ii) suffers or permits to occur any breach or default under the provisions of any assignment of any such Lease or Leases given as additional security for the Secured Indebtedness; (iii) fails to perform or fulfill any of the terms, covenants, or provisions in said Lease or Leases; (iv) fails to fully protect, insure, preserve, and cause continued performance or fulfillment of the terms, covenants, or provisions, which are required to be performed by the lessee or lessor of any other Lease or Leases hereafter assigned to Mortgagee; (v) cancels, terminates, amends, modifies or voids any Lease without Mortgagee's prior written consent; or (vi) without Mortgagee's prior written agreement, permits or approves an assignment by lessee of the said Lease or Leases or a subletting of all or any part of the Premises demised in the said Lease or Leases; then in any such event, at the option of the Mortgagee, or of the then holder of the Note, and without notice to the Mortgagor, such breach or default shall constitute an Event of Default hereunder and all unpaid Secured Indebtedness shall, notwithstanding anything in the Note or Mortgage to the contrary, become immediately due and payable at the Default Interest Rate.

Mortgagee shall have the right to assign Mortgagor's right, title and interest in any Leases to any subsequent holder of this Mortgage or the Note or any participating interest therein or to any person acquiring title to all or any part of the Premises through foreclosure or otherwise. Subsequent assignees shall have all the rights and powers herein provided to Mortgagee. Upon an Event of Default, Mortgagee shall have the rights and powers as are provided herein. Upon Event of Default, this Mortgage shall constitute a direction to each lessee under the Leases and each guarantor thereof to pay all Rents directly to Mortgagee without proof of the Event of Default. Mortgagee shall have the authority, as Mortgagor's attorney-in-fact, (such authority being coupled with an interest and irrevocable), to sign the name of Mortgagor and to bind Mortgagor on all papers and documents relating to the operation, leasing and maintenance of the Property.

If Mortgagor, as lessor in the Lease or Leases, shall neglect or refuse to perform, observe, and keep all of the covenants, provisions, and agreements contained in the Lease or Leases, then the Mortgagee may perform and comply with any such Lease covenants, agreements, and provisions. All costs and expenses incurred by the Mortgagee in complying with such covenants, agreements, and provisions shall become a part of the principal secured by this Mortgage and shall become immediately due and payable with interest at the Default Rate.

The Mortgagee, however, shall not be obligated to perform or discharge any obligation, duty or liability under any Leases, and the Mortgagor shall and does hereby agree to indemnify and hold the Mortgagee harmless of and from any and all liability, loss or damage which it may or might incur under the Leases or under or by reason of their assignments and of and from any and all claims and demands whatsoever which may be asserted against it by reason of all alleged obligations or undertakings on its part to perform or discharge any of the terms, covenants or agreements contained in the Leases. Should the Mortgagee incur any such liability, loss or damage

under the Leases or under or by reason of their assignment, or in the defense of any claims or demands, the amount thereof, including costs, expenses and reasonable attorneys' fees, shall be secured hereby, at the Default Interest Rate. Mortgagor shall reimburse the Mortgagee therefor immediately upon demand.

3.20 Assignment of Leases. As additional security for the payment of the Secured Indebtedness, Mortgagor hereby assigns to Mortgagee, any and all interest of the Mortgagor as lessor under those Leases listed on Exhibit C attached hereto and made a part hereof. Although the parties intend that this assignment shall be a present assignment, it is expressly understood and agreed, anything herein to the contrary notwithstanding, that Mortgagor shall not exercise any of the rights or powers conferred upon it by this paragraph until an Event of Default shall exist under this Mortgage. From time to time, Mortgagor shall furnish Mortgagee with executed copies of each of the Leases and with estoppel letters from each tenant under each of the Leases, which estoppel letters shall be in a form satisfactory to Mortgagee and shall be delivered within thirty (30) days after Mortgagee's written demand. In the event Mortgagee requires that Mortgagor execute and record separate collateral Assignments of Leases to Mortgagee, the terms and provisions of those assignments shall control in the event of a conflict between the terms of this Mortgage and their terms.

The Mortgagor expressly covenants and agrees that if the Mortgagor, as lessor, shall fail to perform and fulfill any term, covenant, condition or provision in said Lease or Leases, or if Mortgagor shall suffer or permit to occur any breach or default under the provisions of any assignment of any Lease or Leases of the Property given as additional security, then, such breach or default shall constitute an Event of Default and all unpaid Secured Indebtedness by this Mortgage shall, notwithstanding anything in the Note or in this Mortgage to the contrary, become immediately due and payable at the Default Interest Rate.

Mortgagee shall have the right to assign Mortgagor's right, title and interest in any Leases to any subsequent holder of this Mortgage or the Note or any participating interest therein or to any person acquiring title to all or any part of the Property through foreclosure or otherwise. Any subsequent assignee shall have all the rights and powers provided to Mortgagee. Upon the occurrence of any Event of Default, Mortgagee shall have such rights and powers as provided herein. Mortgagee shall have the authority, as Mortgagor's attorney-in-fact, (such authority being coupled with an interest and irrevocable), to sign the name of Mortgagor and to bind Mortgagor on all papers and documents relating to the operation, leasing and maintenance of the Property.

In the event Mortgagor, as the lessor in each Lease, shall neglect or refuse to perform, observe and keep all of the covenants, provisions and agreements contained therein, Mortgagee may perform and comply with any such Lease, in which event all costs and expenses incurred by Mortgagee in complying with said covenants, agreements and provisions shall become a part of the principal secured by this Mortgage and shall be immediately due and payable to the Mortgagee at the Default Interest Rate.

The Mortgagee shall not be obligated to perform or discharge any obligation, duty or liability under any Leases. Mortgagor shall and does hereby agree to indemnify and hold the Mortgagee harmless of and from any and all liability, loss or damage which it may or might incur under the Leases or under or by reason of the Lease assignments and of and from any and all claims and demands whatsoever which may be asserted against it by reason of all alleged obligations or undertakings on its part to perform or discharge any of the terms, covenants or agreements contained in the Leases. Should the Mortgagee incur any such liability, loss or damage under the Leases or under or by reason of the assignment thereof, or in the defense of any claims or demands, the amount thereof, including costs, expenses and reasonable attorneys' fees, shall be secured hereby, at the Default Interest Rate, and the Mortgagor shall reimburse the Mortgagee therefor immediately upon demand.

3.21 Mortgagee in Possession. Nothing herein contained shall be construed as constituting the Mortgagee as a Mortgagee in possession in the absence of the actual taking of possession of the Property by the Mortgagee.

3.22 Declaration of Subordination. At the option of Mortgagee, this Mortgage shall become subject and subordinate in whole or in part (but not with respect to priority of entitlement to insurance proceeds or any condemnation or eminent domain award) to any and all Leases upon Mortgagee's executing and recording a unilateral subordination declaration in the appropriate official records of the county in which the Property is situated.

3.23 Uniform Commercial Code. This Mortgage constitutes a Security Agreement as that term is used in the Code of the State in which the Property is located with respect to: (i) all sums at any time on deposit for the benefit of the Mortgagee pursuant to any of the provisions of this Mortgage or any of the Loan Documents; and (ii) any part of the Property which may or might now or hereafter be or be deemed to be personal property, fixtures or property (including all replacements, additions and substitutions) other than real estate (collectively "Collateral"). All of Mortgagor's right, title and interest in the Collateral are hereby assigned to the Mortgagee to secure the payment of the Secured Indebtedness and the performance of all of the Mortgagor's obligations. All of the terms, provisions, conditions and agreements contained in this Mortgage apply to the Collateral as fully and to the same extent as to any other property comprising the Property. The following provisions of this Paragraph shall not limit the generality or applicability of any other provision of this Mortgage but shall be in addition thereto:

(a) The Mortgagor (being the Debtor as that term is used in the Code) is and shall be the true and lawful owner of the Collateral, or lessee in the event any Collateral is the subject of an equipment or capital lease subject to no liens, charges or encumbrances other than the lien hereof;

(b) The Collateral is to be used by the Mortgagor solely for business purposes, being installed upon the Premises for Mortgagor's own use or as the equipment and furnishings furnished by Mortgagor, as landlord, to tenants of the Property;



(c) The Collateral shall be kept at the Premises and shall not be removed therefrom without the consent of the Mortgagee which consent shall not be unreasonably withheld. Notwithstanding anything to the contrary herein, Mortgagor is authorized to move Collateral between the Premises and other real property facilities which are the subject of a mortgage, deed of trust or deed to secure debt by and between Mortgagor and Mortgagee in connection with this transaction. The Collateral may be affixed to such Premises but shall not be affixed to any other real estate;

(d) No Financing Statement as that term is used in the Code covering any of the Collateral or any proceeds thereof is on file in any public office (except Financing Statements showing Mortgagee as the sole Secured Party, or such other liens and encumbrances as have been expressly permitted by Mortgagee in writing ("Permitted Exceptions")) Mortgagor shall at its own cost and expense, upon demand furnish to the Mortgagee such further information, shall execute and deliver to the Mortgagee such Financing Statements and other documents in form satisfactory to the Mortgagee, and shall do all such acts and things as the Mortgagee may reasonably request or as may be necessary or appropriate to establish and maintain a perfected security interest in the Collateral as security for the Secured Indebtedness, subject to no adverse liens or encumbrances (except Financing Statements showing Mortgagee as the sole Secured Party, or Permitted Exceptions). Mortgagor shall pay the cost of filing the same or filing or recording such Financing Statements or other documents as well as this instrument, in all public offices wherever filing or recording is deemed by the Mortgagee to be necessary or desirable;

(e) At any time after an Event of Default Mortgagee at its option may declare the Secured Indebtedness immediately due and payable. Thereupon Mortgagee shall have the remedies of a Secured Party under the Code, including without limitation the right to take immediate and exclusive possession of the Collateral, or any part thereof. For that purpose, Mortgagee may, so far as the Mortgagor can give authority therefor, with or without judicial process, enter (if this can be done without breach of the peace) upon any place which the Collateral or any part thereof may be situated and remove the Collateral if the Collateral is affixed to the Premises, such removal shall be subject to Code conditions). Mortgagee shall be entitled to hold, maintain, preserve and prepare the Collateral for sale, until disposed of, or may propose to retain the Collateral subject to the Mortgagor's right of redemption in satisfaction of the Mortgagor's obligations. Mortgagee without removal may render the Collateral unusable and dispose of the Collateral on the Property. The Mortgagee may require the Mortgagor to assemble the Collateral and make it available to the Mortgagee for its possession at a place to be designated by Mortgagee which is reasonably convenient to both parties. The Mortgagee will give Mortgagor at least five (5) days' notice of the time and place of any public sale or of the time after which any private sale or any other intended disposition is made. The

requirements of reasonable notice shall be met if such notice is mailed, by certified mail or equivalent, postage prepaid, to the address of Mortgagor as provided below, at least five (5) days before the time of the sale or disposition. The Mortgagee may buy at any public sale, and, if the Collateral is a type customarily sold in a recognized market or is of type which is the subject of widely distributed standard price quotations, Mortgagee may buy at any private sale. Any such sale may be held as part of and in conjunction with any foreclosure sale of the Premises comprised within the Property, the Collateral and the Premises to be sold as one lot if Mortgagee so elects. The net proceeds realized upon any such disposition, after deduction for the expenses of retaking, holding, preparing for sale, selling or the like and the reasonable attorneys' fees and legal expenses incurred by Mortgagee shall be applied in satisfaction of the Secured Indebtedness. The Mortgagee will account to the Mortgagor for any surplus realized on such disposition;

(f) The remedies of the Mortgagee hereunder are cumulative and the exercise of any one or more of the remedies provided for herein or under the Code shall not be construed as a waiver of any of the other remedies of the Mortgagee, including having the Collateral deemed part of the realty upon any foreclosure so long as any part of the Secured Indebtedness remains unsatisfied;

(g) The terms and provisions contained in this Paragraph shall, unless the context otherwise requires, have the meanings and be construed as provided in the Code;

(h) To the extent permitted by applicable law, the security interest created hereby is specifically intended to cover and include all Leases between the Mortgagor, as lessor, and various tenants, as lessee, including all extensions and renewals of the Lease terms, as well as any amendments to or replacements of the Leases, together with all of the right, title and interest of the Mortgagor as lessor, including, without limiting the generality of the foregoing, the present and continuing right to: (i) make claim for, collect, receive and receipt for any and all of the Rents, and moneys payable as damages or in lieu of the Rents and moneys payable as the purchase price of the Property or any part thereof or claims for money and other sums of money payable or receivable thereunder howsoever payable; and (ii) bring actions and proceedings thereunder or for the enforcement thereof, and to do any and all things which Mortgagor or any lessor is or may become entitled to do under the Leases.

3.24 Releases. Without notice and without regard to the consideration therefor, and to the existence at that time of any inferior liens, Mortgagee may release from the lien all or any part of the Property, or release from liability any person obligated to repay any Secured Indebtedness, without affecting the liability of any party to any of the Note, this Mortgage, or any of the other Loan Documents (including without limitation any guaranty given as additional security) and without in any way affecting the priority of the Lien. Mortgagee may agree with any

liable party to extend the time for payment of any part or all of the Secured Indebtedness. Such agreement shall not in any way release or impair the lien created by this Mortgage or reduce or modify the liability of any person or entity obligated personally to repay the Secured Indebtedness, but shall extend the Lien as against the title of all parties having any interest, subject to the Secured Indebtedness in the Property.

3.25 Interest Laws. Mortgagee and Mortgagor intend to comply with the laws of the state in which the Premises are located. Notwithstanding any provision to the contrary in the Note, this Mortgage, or any of the other Loan Documents, no such provision shall require the payment or permit the collection of any amount ("Excess Interest") in excess of the maximum amount of interest permitted by law to be charged for the use or detention, or the forbearance in the collection, of all or any portion of the indebtedness evidenced by the Note. If any Excess Interest is provided for, or is adjudicated to be provided for, in the Note, this Mortgage, or any of the other Loan Documents, then in such event (a) the provisions of this Paragraph shall govern and control; (b) neither Mortgagor nor any of the other Obligors (as defined in the Note) shall be obligated to pay any Excess Interest; (c) any Excess Interest that Mortgagee may have received hereunder shall, at the option of Mortgagee, be (i) applied as a credit against the then unpaid principal balance under the Note, accrued and unpaid interest not to exceed the maximum amount permitted by law, (ii) refunded to the payor thereof, or (iii) any combination of the foregoing; (d) the Interest Rate (as defined in the Note) shall be automatically subject to reduction to the maximum lawful contract rate allowed under the applicable usury laws of the State. The Note, this Mortgage, and the other Loan Documents shall be deemed to have been, and shall be, reformed and modified to reflect such reduction in the Interest Rate; and (e) neither Mortgagor nor any of the other Obligors shall have any action against Mortgagee for any damages whatsoever arising out of the payment or collection of any Excess Interest.

3.26 Future Advances. To such extent as may be provided in the Loan Agreement, Mortgagee has bound itself and by the acceptance hereof does hereby bind itself to make advances pursuant to and subject to the terms of the Loan Agreement. The total amount of Secured Indebtedness secured by this Mortgage may decrease or increase from time to time but the total unpaid principal balance so secured at any one time shall not exceed the lesser of: (i) the maximum principal sum permitted by the laws of the State in which the Premises are located; or (ii) \$57,000,000.00 (Fifty-Seven Million Dollars) together with interest thereon and any and all disbursements made by Mortgagee for the payment of taxes, or insurance on the Mortgaged Property covered by the lien of this Mortgage and for reasonable attorneys' fees, loan commissions, service charges, liquidated damages, expenses and court costs incurred in the collection of any or all of such sums of money. The parties hereby acknowledge and intend that all such advances, including future advances whenever hereafter made, shall be a lien from the time this Mortgage is recorded, as provided in Section 15-1302(b)(1) of the Act.

3.27 Environmental Compliance. Mortgagor hereby represents and warrants to Mortgagee, as of the date of the execution of this Mortgage and continuing so long as any Liabilities or Secured Indebtedness remain outstanding, those certain representations and warranties set forth in Sections 5.13 and 5.14 of the Loan Agreement.

## IV

REPRESENTATIONS

To induce the Mortgagee to make the Loan secured hereby, in addition to any representations and warranties contained in the Note, in this Mortgage or in any Loan Documents, Mortgagor hereby further represents that as of the date hereof and until the Secured Indebtedness is paid in full and all obligations under this Mortgage are performed:

4.01 Power and Authority. Mortgagor is duly organized and validly existing and, if Mortgagor is a corporation, is qualified to do business and is in good standing in the State in which the Premises are located, and has full power and due authority to execute, deliver and perform this Mortgage, the Note, and all Loan Documents in accordance with their terms. Such execution, delivery and performance has been fully authorized by all necessary corporate or partnership action and approved by each required governmental authority or other party. The obligations of Mortgagor and every other party under each such document are the legal, valid and binding obligations of each, enforceable by the Mortgagee in accordance with their terms, subject to applicable bankruptcy, insolvency, reorganization, moratorium and other similar laws applicable to the enforcement of creditors' rights generally.

4.02 No Event of Default or Violations. No Event of Default or event which, with notice or the passage of time or both, would constitute an Event of Default has occurred nor is continuing under this Mortgage, the Note, or any of the Loan Documents. Neither Mortgagor, nor any party constituting Mortgagor, nor any general partner in any such party, is in violation of any governmental regulation (including any applicable securities law) or in default under any agreement to which it is bound, or which affects it or any of its property, and the use and occupancy of the Premises. The execution, delivery and performance of this Mortgage, the Note, or any of the Loan Documents, in accordance with their terms, shall not violate any governmental requirement (including any applicable usury law), or conflict with, be inconsistent with or result in any default under any of the representations or warranties, covenants, conditions or other provisions of any indenture, mortgage, deed of trust, easement, restriction of record, contract, document, agreement or instrument of any kind to which any of the foregoing is bound or which affects it or any of its property.

4.03 No Litigation or Governmental Controls. No proceedings of any kind are pending, or threatened against or affecting Mortgagor, the Property (including any attempt or threat by any governmental authority to condemn or re-zone all or any portion of the Property), any party constituting Mortgagor or any general partner in any such party, or involving the validity, enforceability or priority of this Mortgage, the Note or any of the Loan Documents or enjoining or preventing or threatening to enjoin or prevent the use and occupancy of the Premises or the performance by Mortgagor of its obligations hereunder. No rent controls, governmental moratoria or environment controls presently in existence threaten or affect the Property.

4.04 Liens. Title to the Premises, or any part thereof, is not subject to any liens, encumbrances or defects of any nature whatsoever, whether or not of record and whether or not customarily shown on title insurance policies, except as identified as a Permitted Exception.

4.05 Financial and Operating Statements. All financial and operating statements submitted to Mortgagee in connection with the Loan are true and correct in all respects and fairly present the respective financial conditions of their subjects and the results of their operations as of the respective dates shown thereon. No materially adverse changes have occurred in the financial conditions and operations reflected therein since their respective dates, and no additional borrowings have been made since the date thereof other than the borrowing secured by this Mortgage.

4.06 Other Statements to Mortgagee. Neither this Mortgage, the Note, any Loan Document, nor any document, agreement, report, schedule, notice or other writing furnished to the Mortgagee by or on behalf of any party constituting Mortgagor or any general partner or any such party, contains any material omission or misleading or untrue statement of any fact.

4.07 Leases. The only persons having any interest in the Property are the Mortgagor, Mortgagee and persons, if any, occupying the Property as tenants only. Mortgagor represents and warrants as to each of the Leases now covering all or any part of the Premises that: (i) each of the Leases is in full force and effect; (ii) no default exists on the part of any of the lessees of the Leases or the Mortgagor; (iii) no Rents have been collected more than one month in advance under more than ten percent (10%) of the Leases; (iv) none of the Leases or any interest therein has been previously assigned or pledged; (v) no lessee under any of the Leases has any defense, setoff or counterclaim against Mortgagor; (vi) except as previously approved by Mortgagee in writing, all Rents due to date under each of the Leases has been collected and no concession has been granted to any lessee in the form of a waiver, release, reduction, discount or other alteration of Rents due or to become due; (vii) the lessee's interests under each of the Leases is as lessee only, with no options to purchase or rights of first refusal; and (viii) except as approved by Mortgagee in writing, the term under each of the Leases is no greater than one (1) year, with no options to extend the term of any such Lease being greater than one year.

V

#### EVENT OF DEFAULT AND REMEDIES

5.01 Event of Default. Unless otherwise expressly permitted under the Loan Agreement, each of the following shall constitute an event of default ("Event of Default" or "Default") under this Mortgage:

- (a) Failure of Mortgagor to pay any amount due herein or secured hereby, interest thereon, or any installment of principal or interest when due and payable

whether at maturity or by acceleration or otherwise under the Note, this Mortgage, or any of the other Loan Documents.

(b) Failure of Mortgagor to perform or observe any other covenant, agreement, representation, warranty or other provision contained in the Note, this Mortgage, or the other Loan Documents after the expiration of any grace period expressly allowed in said instrument relative to curing such default.

(c) Untruth or material deceptiveness of any representation, covenant or warranty contained in any of the Note, this Mortgage, or the other Loan Documents.

(d) If (and for the purpose of this Subparagraph (d) only the term Mortgagor shall mean and include not only Mortgagor, but also any beneficiary of a Trustee Mortgagor, any general partner in a partnership Mortgagor or in a partnership which is a beneficiary of a Trustee Mortgagor, any owner of more than ten percent (10%) of the stock in a corporate Mortgagor or a corporation which is the beneficiary of a Trustee Mortgagor and each person who, as guarantor, co-maker or otherwise, shall be or become liable for or obligated upon all or any part of the Secured Indebtedness or any of the covenants or agreements contained herein or in the Note or in any of the Loan Documents):

(i) Mortgagor shall file a voluntary petition in bankruptcy, insolvency, debtor relief or for arrangement, reorganization or other relief under any chapter of the Federal Bankruptcy Act or any similar law, state or federal, now or hereafter in effect, shall consent to the appointment of or taking possession by a receiver, liquidator, assignee, trustee, custodian, sequestrator (or similar official) of the Mortgagor or for any part of the Premises or any substantial part of the Mortgagor's property, shall make any general assignment for the benefit of Mortgagor's creditors, shall fail generally to pay Mortgagor's debts as they become due, or shall take any action in furtherance of any of the foregoing;

(ii) Mortgagor shall admit in writing or shall file an answer or other pleading in any proceeding admitting insolvency, bankruptcy, or inability to pay its debts as they mature;

(iii) A court having jurisdiction shall enter a decree or order for relief in respect of the Mortgagor in any involuntary case brought under any bankruptcy, insolvency, debtor relief, or similar law now or hereafter in effect, and Mortgagor shall consent to or shall fail to oppose any such proceeding court shall enter a decree or order appointing a receiver, liquidator, assignee, custodian, trustee, sequestrator (or similar official) of the Mortgagor or for any part of the Premises or any substantial part of the Mortgagor's property, or ordering the winding up or liquidation of the affairs

of the Mortgagor, and such decree or order shall not be dismissed within twenty-eight (28) days after the entry thereof;

(iv) Mortgagor shall fail to pay any money judgment against it within fourteen (14) days following the day it becomes a lien against the Property;

(v) Any termination or voluntary suspension of the transaction of the business of the Mortgagor. All or a substantial part of Mortgagor's assets are attached, seized, subjected to a writ or distress warrant, or are levied upon, unless such attachment, seizure, writ, warrant or levy is vacated within fourteen (14) days,

(vi) Mortgagor shall abandon the Premises.

(e) A Change in Control occurs.

(f) The Premises or any part thereof at any time are or become located in a designated flood or mudslide hazard area, and the insurance required by Mortgagee pursuant to the Loan Agreement is not available or becomes unavailable, either because the local governmental authority having jurisdiction over the Premises is a "non-participating" community in any governmental program providing or subsidizing such flood or mudslide hazard insurance, or for any other reason.

(g) Any other event occurring (including, without limitation, a default in order to avoid any prepayment penalty or premium) or failing to occur which, under this Mortgage, under the Note, under any of the Loan Documents or under any document or instrument referenced herein or related hereto, constitutes a default by Mortgagor or gives Mortgagee the right to accelerate the maturity of the Secured Indebtedness or any part thereof.

5.02 Acceleration of Maturity. At any time during the existence of any Event of Default, Mortgagee is hereby authorized and empowered, at its option, and without affecting the lien hereby created or the priority of said lien or any right of the Mortgagee hereunder, to declare, without further notice, all Secured Indebtedness (which shall include any prepayment premium or penalty provided in the Note) to be immediately due and payable, whether or not such Event of Default is thereafter remedied by the Mortgagor. Upon acceleration, all Secured Indebtedness shall bear interest thereon at the annual rate ("Default Rate") of four percent (4.0%) in excess of the rate of interest from time to time prevailing under the Note, and the Mortgagee may immediately proceed to foreclose this Mortgage and/or exercise any right, power or remedy provided by this Mortgage, the Note, the Assignment of Rents, the Assignment of Leases, or any of the Loan Documents or by law or in equity conferred.

5.03 Foreclosure of Mortgage. Upon occurrence of any Event of Default, or at any time thereafter, Mortgagee may, at its option, proceed to foreclose the lien of this Mortgage and pursue all remedies afforded to a mortgagee under and pursuant to the Act.

5.04 Remedies Cumulative and Non-Waiver. No remedy or right of the Mortgagee hereunder or under the Note, or any Loan Documents or otherwise, or available under applicable law, shall be exclusive of any other right or remedy. 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 the occurrence of any Event of Default shall impair any such remedy or right or be construed to be a waiver of any such Event of Default or an acquiescence therein, nor shall it affect any subsequent Event of Default of the same or a different nature, nor shall it extend or affect any grace period. Every remedy or right may be exercised concurrently or independently, when and as often as may be deemed expedient by the Mortgagee. All obligations of the Mortgagor, and all rights, powers and remedies of the Mortgagee shall be in addition to, and not in limitation of, those provided by law or in the Note or any Loan Documents or any other written agreement or instrument relating to any of the Secured Indebtedness or any security therefor.

5.05 Litigation Expenses. In any proceeding to foreclose the lien of this Mortgage or enforce any other remedy of Mortgagee under the Note, this Mortgage, and the other Loan Documents, or in any other proceeding in connection with any of the Loan Documents or any of the Property in which Mortgagee is named as a party, there shall be allowed and included, as additional indebtedness in the judgment or decree resulting all related expenses paid or incurred by or on behalf of Mortgagee. Such expenses shall include: attorney's fees, appraiser's fees, outlays for documentary and expert evidence, stenographer's charges, publication costs, survey costs, and costs of procuring all abstracts of title, title searches and examinations, title insurance policies, Torrens certificates, and any similar data and assurances with respect to title to the Property as Mortgagee may deem reasonably necessary either to prosecute or defend in such proceeding or to evidence to bidders at any sale pursuant to such decree the true condition of the title to or value of the Premises or the Property. All foregoing expenses, and such expenses as may be incurred in the protection of any of the Property and the maintenance of the lien of this Mortgage, including the fees of any attorney employed by Mortgagee in any litigation affecting the Note, this Mortgage or the Property, or in preparation for the commencement or defense of any proceeding or threatened suit or proceeding (which may be estimated as to items to be expended after entry of such judgment or decree), shall be immediately due and payable by Mortgagor with interest thereon at the Default Rate.

5.06 Mortgagee's Performance of Mortgagors' Obligations. In case of the occurrence of any Event of Default, the Mortgagee, either before or after acceleration of the Secured Indebtedness or the foreclosure of the lien hereof and during the period of redemption, if any, may, but shall not be required to, make any payment or perform any act herein, in the Note, any of the Loan Documents or any document or instrument related thereto which is required of the Mortgagor (whether or not the Mortgagor is personally liable therefor) in any form and manner deemed expedient to the Mortgagee; and the Mortgagee may, but shall not be required to, make full or partial



payments of principal or interest on any permitted prior mortgage or encumbrances and purchase, discharge, compromise or settle any tax lien or other prior lien or title or claim thereof, or redeem from any tax sale or forfeiture affecting the Premises, or contest any Impositions and may, but shall not be required to, complete construction, furnishing and equipping of the Improvements upon the Premises and rent, operate and manage the premises and such Improvements and pay operating costs and expenses, including management fees, of every kind and nature in connection therewith, so that the Premises and Improvements shall be operational and usable for their intended purposes. The Mortgagee may, but shall not be required to, notify any person obligated to the Mortgagor under or with respect to any third party agreements of the existence of the Event of Default and require that performance be made directly to the Mortgagee at the Mortgagor's expense and advance such sums as are necessary or appropriate to satisfy the Mortgagor's obligations thereunder; and Mortgagor agrees to co-operate with the Mortgagee to accomplish the foregoing. All monies paid for any of the purposes herein authorized, and all expenses paid or incurred in connection therewith, including attorneys' fees and any other monies advanced by the Mortgagee to protect the Premises and the lien hereof, or to complete construction, furnishing and equipping or to rent, operate and manage the Premises and such Improvements or to pay any such operating costs and expenses thereof or to keep the Premises and Improvements operational and usable for their intended purposes, shall be so much additional Secured Indebtedness, whether or not they exceed the amount of the Note, and shall become immediately due and payable without notice, and with interest thereon at the Default Rate. The Mortgagee, in making any payment hereby authorized: (a) for the payment of Impositions, may do so according to any bill, statement or estimate, without inquiry into the validity of any tax, assessment, sale, forfeiture, tax lien or title or claim thereof; or (b) for the purchase, discharge, compromise or settlement of any other prior lien, may do so without inquiry as to the validity or amount of any claim for lien which may be asserted; or (c) for the completion of construction, furnishing or equipping of the Improvements or the Premises or the rental, operation or management of the Premises or the payment of operating cost and expenses thereof, may do so in such amounts and to such persons as Mortgagee may deem appropriate and may enter into such contracts therefor as Mortgagee may deem appropriate or may perform the same itself.

All advances, disbursements and expenditures (collectively "advances") made by Mortgagee before and during foreclosure, prior to sale, and where applicable, after sale, for the following purposes, including interest thereon at the Default Rate, are hereinafter referred to as "Protective Advances";

- (1) Advances pursuant to this Section 5.06.
- (2) Excess Restoration Costs which shall be any amount expended by Mortgagee in Restoring the Property in excess of the actual or estimate proceeds of insurance or condemnation, which excess shall constitute additional Secured Indebtedness;
- (3) Advances in accordance with the terms of this mortgage to: (a) protect, preserve or restore the mortgaged real estate; (b) preserve the lien of this mortgage or the priority thereof; or (c) enforce this Mortgage, as referred to in Subsection (b)(5) of Section 15-1302 of the Act;

(4) Payments of when due installments of principal, interest or other obligations in accordance with the terms of any senior mortgage (as described in Subsection (a) of Section 15-1505 of the Act) or other lien or encumbrance upon the Property or any part thereof on a parity with or prior or superior to the lien hereof ("Prior Encumbrance"); when due installments of real estate taxes and other impositions; ground rents and other sums payable under any Ground Lease and other obligations authorized by this Mortgage; or, with court approval any other amounts in connection with other liens, encumbrances or interests reasonably necessary to preserve the status of title, all as referred to in this Paragraph 5.06 of this Mortgage and in Section 15-1505 of the Act;

(5) Attorneys' fees and other costs incurred in connection with: (a) exercise of Mortgagee's rights to make Protective Advances; (b) the foreclosure of this Mortgage as referred to in Sections 1504 (d) (2) and 15-1510 of the Act; (c) any other litigation or administrative proceeding to which the Mortgagee may be or become or be threatened or contemplated to be a party, including probate and bankruptcy proceedings; or (d) in the preparation for the commencement or defense of any such suit or proceeding; including filing fees, appraisers' fees, outlays for documents and expert evidence, witness fees, stenographer's charges, publication costs, and costs (which may be estimated as to items to be expended after entry of judgment) of procuring all such abstracts of title, title charges and examinations, foreclosure minutes, title insurance policies, Torrens certificates, appraisals, and similar data and assurances with respect to title and value as Mortgagee may deem reasonably necessary either to prosecute or defend such suit or, in case of foreclosure, to evidence to bidders at any sale which may be had pursuant to the foreclosure judgment the true condition of the title to or the value of the Property;

(6) Mortgagee's fees and costs arising between the entry of judgment of foreclosure and the confirmation hearing as referred to in Subsection (b)(1) of Section 15-1508 of the Act;

(7) Payment by Mortgagee of any Impositions as may be required by this Mortgage;

(8) Mortgagee's advances of any amount required to make up a deficiency in deposits for installments of Impositions as may be required by this Mortgage;

(9) Expenses deductible from proceeds of sale referred to in Subsections (a) and (b) of Section 15-1512 of the Act.

(10) Expenses incurred and expenditures made by Mortgagee for any one or more of the following: (a) if the Property or any portion thereof constitutes one or more units under a condominium declaration, assessments imposed upon the owner thereof; (b) if any of the Property consists of an interest in a leasehold estate under a lease or sublease, rentals or other payments required to be made by the lessee under the terms of the lease or sublease; (c) premiums upon casualty and liability insurance made by Mortgagee whether or not Mortgagee or a receiver is in possession, if reasonably required without regard to the limitation to maintaining of insurance in effect at the time any receiver or mortgagee takes possession of the Property imposed by Subsection

(c)(1) of Section 15-1704 of the Act; (d) expenditures in connection with restoration in excess of available insurance proceeds or condemnation awards; (e) payments required or deemed by Mortgagee to be for the benefit of the Property or required to be made by the owner of the Property under any grant or declaration of easement, easement agreement, agreement with any adjoining land owners or instruments creating covenants or restrictions for the benefit of or affecting the Property; (f) shares or common expense assessments payable to any association or corporation in which the owner of the Property is a member in any way affecting the Property; (g) operating deficits incurred by Mortgagee in possession or reimbursed by Mortgagee to any receiver; (h) if the Loan secured hereby is a construction loan, costs incurred by Mortgagee for completion of construction as may be authorized by the applicable commitment or loan agreement more fully described in this Mortgage; (i) all amounts paid to any public authority for the use or occupancy of any street, alley, or public way; and (j) any monies expended in excess of the Note.

All Protective Advances shall be so much additional Secured Indebtedness secured by this Mortgage, and shall become immediately due and payable without notice and with interest thereon until paid at the Default Rate.

This Mortgage shall be a lien for all Protective Advances as to subsequent purchasers and judgment creditors from the time the Mortgage is recorded pursuant to Subsection (b)(1) of Section 15-1302 of the Act.

The Protective Advances shall, except to the extent, if any, that any of the same is clearly contrary to or inconsistent with the provisions of the Act, apply to:

(a) Determination of amount of the Secured Indebtedness of this Mortgage at any time;

(b) Inclusion of the same in the indebtedness found due and owing to the Mortgagee in the judgment of foreclosure and any subsequent amendment of such judgment, supplemental judgments, orders, adjudications or findings by the court of any additional indebtedness becoming due after such entry of judgment, it being hereby agreed that in any foreclosure judgment, the court may reserve jurisdiction for such purpose;

(c) If right of redemption has not been waived by this Mortgage, computation of amount required to redeem, pursuant to Subsections (d)(2) and (e) of Section 15-1603 of the Act;

(d) Determination of amounts deductible from sale proceeds pursuant to Section 15-1512 of the Act;

(e) Application of income in the hands of any receiver or mortgagee in possession; and

(f) Computation of any deficiency judgment pursuant to Subsections (e) and (b)(2) of Section 15-1508 and Section 15-1511 of the Act.

5.07 **Right of Possession.** In any case in which Mortgagee has a right to institute foreclosure proceedings (whether or not the entire principal sum secured hereby becomes immediately due and payable or whether before or after the institution of foreclosure proceedings or whether before or after judgment thereunder and at all times until the confirmation of sale) and upon Mortgagee's request to the court, Mortgagor shall, immediately upon Mortgagee's demand, surrender to Mortgagee, and Mortgagee shall be entitled to take actual possession of the Property or any part thereof, personally or by its agent or attorneys. As provided in Subsections (b)(2) and (c) of Section 1701 of the Act, Mortgagee may enter upon and take and maintain possession or may apply to the court in which a foreclosure is pending to be placed in possession of all or any part of the Property, together with all documents, books, records, papers, and accounts of Mortgagor or the then owner of the Property relating thereto. Mortgagee may exclude Mortgagor, such owner, and any agents and servants from the Property. As attorney-in-fact or agent of Mortgagor or such owner, or in its own name Mortgagee may:

(a) hold, operate, manage, and control all or any part of the Property and conduct the business thereof, either personally or by its agents. Mortgagee shall have full power to use such measures, legal or equitable, as it may deem proper or necessary to enforce the payment or security of the rents, issues, deposits, profits, and avails of the Property, including actions for recovery of rent, actions in forcible detainer, and actions in distress for rent, all without notice to Mortgagor;

(b) cancel or terminate any lease or sublease of all or any part of the Property for any cause or on any ground that would entitle Mortgagor to cancel the same;

(c) elect to disaffirm any lease or sublease of all or any part of the Property made subsequent to this Mortgage or subordinated to the lien of this Mortgage;

(d) extend or modify any then existing leases and make new leases of all or any part of the Property. Such extensions, modifications, and new leases may provide terms or options to lessees to extend or renew terms, beyond the maturity date of the Loan evidenced by the Note and the issuance of a deed or deeds to a purchaser or purchasers at a foreclosure sale. Any such leases shall be binding upon Mortgagor, all persons whose interests in the Property are subject to the lien of this Mortgage, and the purchaser or purchasers at any foreclosure sale, notwithstanding any redemption from sale, discharge of the Secured Indebtedness, satisfaction of any foreclosure decree, or issuance of any certificate of sale or deed to any such purchaser; and

(e) make all necessary or proper repairs, decoration, renewals, replacements, alterations, additions, betterments, and improvements in connection with the Property as may seem judicious to Mortgagee; insure and reinsure the Property and all risks incidental to Mortgagee's possession, operation, and management; and receive all rents, issues, deposits, profits, and avails.

Without limiting the generality of the foregoing provisions of this Paragraph 5.07, Mortgagee shall also have all power, authority and duties as provided in Section 15-1703 of the Act.

**5.08 Priority of Rent Payments.** Any rents, issues, deposits, profits, and avails of the Property received by Mortgagee after taking possession of the Property, or pursuant to any assignment to Mortgagee under the provisions of this Mortgage or any of the other Loan Documents, shall be applied in payment of or on account of the following, in such order as Mortgagee or, in case of a receivership, as the court, may determine:

(a) operating expenses of the Property (including reasonable compensation to Mortgagee, any receiver of the Property, any agent or agents to whom management of the Property has been delegated, and also including lease commissions and other compensation for and expenses of seeking and procuring tenants and entering into leases, establishing claims for damages, if any, and paying premiums on insurance hereinabove authorized);

(b) Impositions, and water and sewer charges now due or that may become due on the Property, or that may become a lien prior to the lien of this Mortgage;

(c) any and all repairs, decorating, renewals, replacements, alterations, additions, betterments, and improvements of the Property (including without limitation the cost, from time to time, of installing or replacing ranges, refrigerators, and other appliances and other personal property, and of placing the Property in such condition as will, in the judgment of Mortgagee or any receiver, make it readily rentable or salable);

(d) any Secured Indebtedness or any deficiency that may result from any foreclosure sale; and

(e) any remaining funds to Mortgagor or its successors or assigns, as their interests and rights may appear.

**5.09 Appointment of Receiver.** Upon, or at any time after, the filing of a complaint to foreclose this Mortgage, the court in which such complaint is filed shall appoint a receiver of the Property whenever Mortgagee when entitled to possession so requests pursuant to Section 15-1702(a) of the Act. Such receiver shall have all powers and duties prescribed by Section 15-1704 of the Act, including the power to make leases to be binding upon all parties, including the

Mortgagor after redemption, the purchaser at a sale pursuant to a judgment of foreclosure and any person acquiring an interest in the mortgaged real estate after entry of a judgment of foreclosure, all as provided in Subsection (g) of Section 15-1701 of the Act. In addition, such receiver shall also have the following powers: (a) to extend or modify any then existing leases, which extensions and modifications may provide for terms to expire, or for options to lessees to extend or renew terms to expire, beyond the maturity date of the Secured Indebtedness and beyond the date of the issuance of a deed or deeds to a purchaser or purchasers at a foreclosure sale, it being understood and agreed that any such leases, and the options or other such provisions to be contained therein, shall be binding upon Mortgagor and all persons whose interests in the Property are subject to the lien hereof and upon the purchaser or purchasers at any foreclosure sale, notwithstanding any redemption, discharge of the mortgage indebtedness, satisfaction of any foreclosure judgment, or issuance of any certificate of sale or deed to any purchaser; and (b) all other powers which may be necessary or are usual in such cases for the protection, possession, control, management and operation of the Property during the whole of the period of receivership. The court from time to time, either before or after entry of judgment of foreclosure, may authorize the receiver to apply the net income in his hands in payment in whole or in part of: (a) the Secured Indebtedness, or any amounts included in any judgment of foreclosure or supplemental judgment or other item for which Mortgagee is authorized to make a Protective Advance, and (b) the deficiency in case of a sale and deficiency.

5.10 Foreclosure Sale. In the event of any foreclosure sale, the Property may be sold in one or more parcels. Mortgagee may be the purchaser at any foreclosure sale.

5.11 Application of Proceeds. The proceeds of any foreclosure sale of the Property shall be distributed and applied in accordance with the provisions of Subsection (c) of Section 15-1512 of the Act. The judgment of foreclosure or order confirming the sale shall provide (after application pursuant to Subsections (a) and (b) of said Section 15-1512) for application of sale proceeds in the following order of priority: First, all items not covered by the provisions of said Subsections (a) and (b), which under the terms hereof constitute Secured Indebtedness additional to that evidenced by the Note, with interest thereon as herein provided; and Second, all principal and interest remaining unpaid on the Note.

5.12 Application of Deposits. In the event of any Event of Default, Mortgagee may, at its option, apply any monies or securities that constitute deposits made to or held by Mortgagee or any depository pursuant to this Mortgage toward payment of any of Mortgagor's obligations under the Note, this Mortgage, or any of the other Loan Documents, in such order and manner as Mortgagee may elect. When the Secured Indebtedness has been fully paid, any remaining deposits shall be paid to Mortgagor or to the then owner or owners of the Property. Such deposits are pledged as additional security for the prompt payment of the indebtedness evidenced by the Note and any other Secured Indebtedness and shall be held to be applied irrevocably by such depository for the intended purposes and shall not be subject to the direction or control of Mortgagor.

5.13 Insurance Upon Foreclosure. In case of an insured loss after foreclosure proceedings have been instituted, the proceeds of any insurance policy or policies, if not applied in Restoring the Improvements, shall be used to pay the amount due in accordance with any decree of

foreclosure that may be entered in any such proceedings, and the balance, if any, shall be paid as the court may direct. In case of the foreclosure of this Mortgage, the court in its judgment may provide that the judgment creditor may cause a new or additional loss clause to be attached to each of said policies making the loss thereunder payable to said judgment creditor; and any such foreclosure judgment may further provide unless the right of redemption has been waived pursuant to Section 15-1601(b) of the Act, that in case of redemption under said judgment, pursuant to the Act, then, and in every such case, the redemptory may cause the preceding loss clause attached to each insurance policy to be canceled and a new loss clause to be attached thereto, making the loss thereunder payable to such redemptory. In the event of foreclosure sale, Mortgagee is hereby authorized, but not required, without the consent of Mortgagor, to assign or cause a receiver to assign any and all insurance policies to the purchaser at the sale, or to take such other action as Mortgagee may deem advisable, to cause the interest of such purchaser to be protected by any of the said insurance policies.

5.14 Waiver of Statutory Rights. Mortgagor shall not apply for or avail itself of any appraisement, valuation, redemption, stay, extension, or exemption laws, or any so-called "moratorium laws," now existing or hereafter enacted, in order to prevent or hinder the enforcement or foreclosure of this Mortgage, and Mortgagor hereby waives the benefit of such laws. Mortgagor, for itself and all who may claim through or under it, waives any and all rights to have the Property and estates comprising the Property marshaled upon any foreclosure of the lien of this Mortgage, and agrees that any court having jurisdiction to foreclose such lien may order the Property sold in its entirety. Mortgagor further waives any and all rights of redemption from foreclosure and from sale under any order or decree of foreclosure of the lien created by this Mortgage, for itself and on behalf of: (i) any trust estate of which the Premises are a part, all beneficially interested persons; (ii) each and every person acquiring any interest in the Property or title to the Premises subsequent to the date of this Mortgage; and (iii) all other persons to the extent permitted by the provisions of laws of the State in which the Premises are located. Mortgagor acknowledges that the Premises do not constitute agricultural real estate, as said term is defined in Section 15-1201 of the Act or residential real estate as defined in Section 15-1219 of the Act. Mortgagor hereby waives any and all right of redemption pursuant to Section 15-1601 (b) of the Act.

VI

MISCELLANEOUS

6.01 Notices. Any notice that Mortgagee or Mortgagor may desire or be required to give to the other shall be in writing and shall be mailed or delivered to the intended recipient at its address set forth below, or at such other address as the intended recipient may in writing designate to the sender:

Mortgagee: LaSalle National Bank  
135 South LaSalle Street  
Chicago, Illinois 60603

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Attn: Jennifer Bailey  
Telecopy: (312) 904-4605  
Telephone: (312) 904-8939

With a copy to:

Winston & Strawn  
35 West Wacker Drive  
Chicago, Illinois 60601  
Attn: Brian S. Hart, Esq.  
Telecopy: (312) 558-5700  
Telephone: (312) 558-5702

Mortgagor: Ace Baking Company  
1122 Lincoln Street  
Greenbay, Wisconsin 54306  
Attn: Dean P. Jacobson  
Telecopy: (920) 497-1893  
Confirmation: (920) 497-7062

With a copy to:

Godfrey & Kahn  
780 N. Water Street  
Milwaukee, Wisconsin 53202  
Attn: John Gaebler  
Telecopy: (414) 273-5198  
Telephone: (414) 287-9662

Such notice shall be deemed to have been delivered two (2) business days after mailing by United States registered or certified mail, return receipt requested, or when delivered in person with written acknowledgment of the receipt. Except as otherwise specifically required, notice of the exercise of any right or option granted to Mortgagee by this Mortgage is not required to be given.

6.02 Time of Essence. Time is of the essence of this Mortgage.

6.03 Covenants Run with Land. All of the covenants of this Mortgage shall run with the land constituting the Premises.

6.04 Governing Law. **MORTGAGOR AGREES THAT THIS MORTGAGE IS TO BE CONSTRUED, GOVERNED AND ENFORCED IN ACCORDANCE WITH THE LAWS OF THE STATE OF ILLINOIS; PROVIDED, HOWEVER, THAT MATTERS OF CREATION, PERFECTION, PRIORITY OR ENFORCEABILITY OF ANY AND ALL RIGHTS AND REMEDIES PROVIDED FOR HEREIN WITH RESPECT TO THE**



**PROPERTY LOCATED IN THE STATE, SHALL BE GOVERNED BY THE LAWS OF THE STATE. TO THE EXTENT THAT THIS MORTGAGE MAY OPERATE AS A SECURITY AGREEMENT UNDER THE CODE, MORTGAGEE SHALL HAVE ALL RIGHTS AND REMEDIES CONFERRED THEREIN FOR THE BENEFIT OF A SECURED PARTY AS SUCH TERM IS DEFINED IN THE CODE.**

6.05 Rights and Remedies Cumulative. All rights and remedies in this Mortgage are cumulative. The holder of the Note and of every other obligation secured hereby may recover judgment, issue execution therefor, and resort to every other right or remedy available at law or in equity, without first exhausting and without affecting or impairing the security of any right or remedy.

6.06 Severability. If any provision of this Mortgage, or any paragraph, sentence, clause, phrase, or word, or their application, in any circumstance, is held invalid, the validity of the remainder of this Mortgage shall be construed as if such invalid part were never included.

6.07 Non-Waiver. Unless expressly provided in this Mortgage to the contrary, no consent or waiver, express or implied, by any party, to or of any breach or default by any other party shall be deemed a consent to or waiver of the performance by such defaulting party of any other obligations or the performance by any other party of the same, or of any other, obligations.

6.08 Headings. The headings of sections and paragraphs in this Mortgage are for convenience or reference only and shall not be construed in any way to limit or define the content, scope, or intent of the provisions.

6.09 Grammar. As used in this Mortgage, the singular shall include the plural, and masculine, feminine, and neuter pronouns shall be fully interchangeable, where the context so requires.

6.10 Deed in Trust. If title to the Property or any part thereof is now or hereafter becomes vested in a trustee, any prohibition or restriction against the creation of any lien on the Property shall be construed as a similar prohibition or restriction against the creation of any lien on or security interest in the beneficial interest of such trust.

6.11 Successors and Assigns. This Mortgage shall be binding upon Mortgagor, its successors, assigns, legal representatives, and all other persons or entities claiming under or through Mortgagor. "Mortgagor," when used herein, shall include all such persons and entities and any others liable for the payment of the Secured Indebtedness, or any part thereof, whether or not they have executed the Note or this Mortgage. The word "Mortgagee," when used herein, shall include Mortgagee's successors, assigns, and legal representatives, including all other holders, from time to time, of the Note.

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6.12 Mortgagee in Possession. Nothing contained in this Mortgage shall be construed as constituting Mortgagee a mortgagee in possession in the absence of the actual taking of possession of the Property.

6.13 Business Loans. Mortgagor certifies and agrees that the proceeds of the Note secured by this Mortgage will be held for the purposes specified in Illinois Revised Statutes, Chapter 17, Section 6404(1)(c), and that the principal obligation secured hereby constitutes a "business loan" within the definition and purview of that Section.

6.14 Indemnity. Mortgagor shall indemnify and save Mortgagee harmless from and against any and all liabilities, losses, damages, claims, expenses (including attorneys' fees and court costs) which may be imposed on, incurred by or asserted against Mortgagee at any time by any third party which relate to or arise from: the Mortgage; any suit or proceeding (including probate and bankruptcy proceedings), or the threat thereof, in or to which Mortgagee may or does become a party, either as plaintiff or as a defendant, by reason of this Mortgage or for the purpose of protecting the lien of this Mortgage; the offer for sale or sale of all or any portion of the Property; the ownership, use, operation or maintenance of the Property.

6.15 Maximum Amount. The maximum Secured Indebtedness is Fifty-Seven Million and No/100 Dollars (\$57,000,000).

6.16 Compliance with the Act. Anything elsewhere herein contained to the contrary notwithstanding,

(a) In the event that any provision in this Mortgage shall be inconsistent with any provision of the Act, the provisions of the Act shall take precedence over the provisions of this Mortgage, but shall not invalidate or render unenforceable any other provision of this Mortgage that can be construed in a manner consistent with the Act.

(b) If any provision of this Mortgage shall grant to Mortgagee any rights or remedies upon default of the Mortgagor which are more limited than the rights that would otherwise be vested in Mortgagee under the Act in the absence of said provision, Mortgagee shall be vested with the rights granted in the Act to the full extent permitted by law, and

(c) Without limiting the generality of the foregoing, all expenses incurred by Mortgagee to the extent reimbursable under Sections 15-1510 and 15-1512 of the Act, whether incurred before or after any decree or judgment of foreclosure, and whether enumerated in Paragraph 5.05 or Paragraph 5.06 of this Mortgage, shall be added to the indebtedness secured by this Mortgage or by the judgment of foreclosure.

6.17 Incorporation of Loan Agreement. The terms of the Loan Agreement are incorporated by reference herein as though set forth in full detail. In the event of any conflict between the terms and provisions of this Mortgage, the Loan Agreement and any other Loan Document, the terms and provisions of the Loan Agreement or such other Loan Document shall control.

In Witness Whereof, Mortgagor has duly signed and delivered this Mortgage as of the date first above written.

ACE BAKING COMPANY LIMITED PARTNERSHIP  
a Wisconsin limited partnership

By: TJL HOLDINGS, INC.,  
its General Partner

By: Thomas J. Lutsey  
Thomas J. Lutsey

Its: Pres.

Property of Cook County Clerk's Office

STATE OF ILLINOIS )  
 ) SS.  
COUNTY OF COOK )

I, Laura Alpers, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Thomas J. Lutsey, President of TJL HOLDINGS, INC., a Wisconsin corporation and general partner of ACE BAKING COMPANY LIMITED PARTNERSHIP, a limited partnership, 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 he signed and delivered said instrument as a general partner of said partnership, as his free and voluntary act, and as the free and voluntary act of said partnership, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 25<sup>th</sup> day of ~~December~~<sup>November</sup>, 1997.

Laura Alpers  
Notary Public

My Commission Expires: 7/22/01

.....  
"OFFICIAL SEAL"  
LAURA L. ALPERS  
Notary Public, State of Illinois  
My Commission Expires 7/22/01  
.....

EXHIBIT A

PARCEL 1:

THAT PART OF THE NORTHWEST ¼ OF THE SOUTHWEST OF SECTION 32, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT OF INTERSECTION OF A LINE 1166 FEET EAST OF THE WEST LINE WITH A LINE 33 FEET NORTH OF THE SOUTH LINE OF SAID NORTHWEST ¼ OF THE SOUTHWEST ¼ OF SECTION 32 AFORESAID; THENCE EAST ALONG LAST MENTIONED LINE 72.44 FEET; THENCE NORTHERLY ON A CURVE CONVEX TO THE EAST WITH A RADIUS OF 380.5 FEET A DISTANCE OF 181.3 FEET MORE OR LESS TO A POINT OF INTERSECTION OF A LINE 208 FEET NORTH OF THE SOUTH LINE WITH A LINE PARALLEL TO AND 1278.87 FEET EAST OF THE WEST LINE OF SAID NORTHWEST ¼ OF THE SOUTHWEST ¼ OF SECTION 32 AFORESAID; THENCE NORTH ON LAST DESCRIBED LINE 160 FEET; THENCE WEST ON A LINE PARALLEL TO AND 368 FEET NORTH OF THE SOUTH LINE OF SAID NORTHWEST ¼ OF THE SOUTHWEST ¼ OF SECTION 32 AFORESAID, 112.87 FEET TO THE EAST LINE OF A PRIVATE STREET KNOWN AS LOOMIS PLACE, BEING A LINE PARALLEL TO AND 1166 FEET EAST OF THE WEST LINE OF SECTION 32 AFORESAID; THENCE SOUTH ON LAST DESCRIBED LINE 335 FEET TO THE POINT OF BEGINNING, IN COOK COUNTY, ILLINOIS

PARCEL 2:

PERPETUAL NON-EXCLUSIVE EASEMENT FOR THE BENEFIT OF PARCEL 1 CONTAINED IN DEED DATED JANUARY 17, 1937 AND RECORDED FEBRUARY 25, 1937 AS DOCUMENT 11954481 FROM THE TRUSTEES OF THE CENTRAL MANUFACTURING DISTRICT UNDER AN INDENTURE AND DECLARATION OF TRUST DATED FEBRUARY 1, 1916 TO THE NORTHWEST CONE COMPANY TO USE THE 40 FOOT PRIVATE STREET KNOWN AS SOUTH LOOMIS PLACE ADJOINING ON THE WEST OF PARCEL 1 AND ALSO THE 66 FOOT PRIVATE STREET KNOWN AS WEST 37TH STREET ADJOINING ON THE SOUTH OF PARCEL 1 TO THE EAST LINE OF THE PUBLIC STREET KNOWN AS SOUTH ASHLAND AVENUE.

PARCEL 3:

PERPETUAL NON-EXCLUSIVE EASEMENT FOR THE BENEFIT OF PARCEL 1 CONTAINED IN DEED DATED JANUARY 17, 1937 AND RECORDED FEBRUARY 25, 1937 AS DOCUMENT 11954481 FROM THE TRUSTEES OF THE CENTRAL MANUFACTURING DISTRICT UNDER AN INDENTURE AND DECLARATION OF TRUST DATED FEBRUARY 1, 1916 TO THE NORTHWEST CONE COMPANY TO USE THE PRIVATE ALLEY OVER AND UPON THE SOUTH 10 FEET OF THE PREMISES ADJOINING ON THE NORTH OF PARCEL 1.

PARCEL 4:

NON-EXCLUSIVE SWITCHTRACK EASEMENT FOR THE BENEFIT OF PARCEL 1 AS CREATED BY GRANT CONTAINED IN DEED DATED JANUARY 17, 1937 AND RECORDED FEBRUARY 25, 1937 AS DOCUMENT 11954481 FROM THE TRUSTEES OF THE CENTRAL MANUFACTURING DISTRICT UNDER AN INDENTURE AND DECLARATION OF TRUST DATED FEBRUARY 1, 1916 TO THE NORTHWEST CONE COMPANY, OVER THE EAST 17 FEET OF FOLLOWING DESCRIBED PROPERTY:

PART OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 32, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN IN CHICAGO, COOK COUNTY, ILLINOIS DESCRIBED AS FOLLOWS:

BEGINNING AT THE POINT OF INTERSECTION OF A LINE 1166 FEET EAST OF THE WEST LINE WITH A LINE 368 FEET NORTH OF THE SOUTH LINE OF SAID NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 32 AFORESAID; THENCE EAST ON THE LAST DESCRIBED LINE 112.87 FEET; THENCE NORTH 59 FEET ON A LINE PARALLEL TO AND 1278.87 FEET EAST OF THE WEST LINE OF SAID NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 32 AFORESAID; THENCE NORTHEASTERLY ON A CURVE TANGENT TO LAST DESCRIBED LINE AND CONVEX TO THE NORTHWEST WITH A RADIUS OF 200 FEET A DISTANCE OF 105.88 FEET TO ITS INTERSECTION WITH A LINE PARALLEL TO AND 528 FEET NORTH OF THE SOUTH LINE OF SAID NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 32 AFORESAID; THENCE WEST ON LAST DESCRIBED LINE 140.25 FEET TO ITS INTERSECTION WITH A LINE PARALLEL TO AND 1166 FEET EAST OF THE WEST LINE OF SAID NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 32 AFORESAID; THENCE SOUTH 160 FEET TO A POINT OF BEGINNING.

PARCEL 1

PROPERTY ADDRESS: 1400 W. 37th Street  
Chicago, Illinois

PERMANENT TAX I.D. NUMBER: 17-32-300 039-0000