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43955310 6:00
Portes, Sharp, Herbst & Kravets
333 W. Wacker Dr, Suite 500
Chicago, Ill. 60606

MORTGAGE AND SECURITY AGREEMENT

THIS MORTGAGE is made November 9, 1988, by and between WHITE HEN PANTRY, INC., a Delaware corporation, herein referred to as "Mortgagor", and AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO, a national banking association, herein referred to as "Mortgagee".

WITNESSETH:

THAT, WHEREAS Mortgagor has concurrently herewith executed and delivered a promissory note bearing even date herewith ("Note") in the principal sum of FOUR MILLION AND NO/100 DOLLARS (\$4,000,000.00), made payable to the order of the Mortgagee, in and by which the Mortgagor promises to pay (1) any additional advances and escrows (if any), with interest thereon as provided in the Note, made by the Mortgagee to protect the security hereunder, at any time before the release and cancellation of this Mortgage, and (2) the principal sum and interest thereon at the rate and at the times and amounts as provided in the Note, to be applied first to advances and, then to interest, and the balance to principal until said indebtedness is paid in full. All of said principal and interest are made payable at such place as the holders of the Note may, from time to time, in writing appoint, and in the absence of such appointment, then at the office of AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO, 33 North LaSalle Street, Chicago, Illinois. The indebtedness evidenced by the Note is due and payable on or before April 1, 1996.

NOW, THEREFORE, the Mortgagor, to secure the payment of (i) all sums payable under the Note and all sums payable in accordance with the terms, provisions and limitations of this Mortgage; and (ii) any judgment rendered on the Note by any court to the extent that said judgment has not been otherwise satisfied by payment, and also in consideration of the sum of One Dollar (\$1.00) in hand paid, the receipt and sufficiency of

LILLIAN A. BLASTICK
RECORDER, LAKE COUNTY
CROWN POINT, INDIANA 46307
STATE OF INDIANA
LAKE COUNTY
RECORDS SECTION
NOV 10 2 47 PM '88

CHICAGO TITLE INSURANCE COMPANY
INDIANA DIVISION

This instrument was prepared by, and after recording return to:

Key Number: 33-95-18
Property Address:
7448 Columbia Avenue
Hammond, Indiana

Sean P. Kennedy, Esq.
Portes, Sharp, Herbst & Kravets, Ltd.
333 West Wacker Drive, Suite 500
Chicago, Illinois 60606
File No. 22500-02-014

OK
4300

which are hereby acknowledged, does by these presents MORTGAGE, GRANT, REMISE, RELEASE, ALIENATE and CONVEY unto the Mortgagee, its successors and assigns, the following described real estate and all of its estate, right, title and interest therein, situate, lying and being in the County of Lake, and State of Indiana, to-wit:

(SEE EXHIBIT A ATTACHED HERETO AND MADE A PART HEREOF)

which, with the property hereinafter described, is referred to herein as the "premises" (and any individual parcel thereof, together with the property pertaining thereto, shall be referred to as a "parcel").

TOGETHER with all buildings, improvements, tenements, easements, fixtures, and appurtenances thereto belonging, and all rents, issues and profits thereof for so long and during all such times as Mortgagor may be entitled thereto (which are pledged primarily and on a parity with said real estate and not secondarily), and all awnings, partitions, attached floor coverings, now or hereafter therein or thereon, and all fixtures, apparatus, equipment or articles now or hereafter therein or thereon used to supply heat, gas, air conditioning, water, light, power, sprinkler protection, waste removal, and ventilation, and all other similar fixtures, apparatus, equipment and articles, it being understood and agreed that, the provisions of this Mortgage shall not apply or attach to refrigeration or other equipment pertaining to the business operated on the premises, and shall not apply or attach to any trade fixtures of Mortgagor or any trade fixtures or personal property of any tenant of the premises. All of the land, estate and property hereinabove described, real, personal and mixed, whether affixed or annexed or not (except where otherwise hereinabove specified) and all rights hereby conveyed and mortgaged are intended so to be as a unit and are hereby understood, agreed and declared to form a part and parcel of the real estate and to be appropriated to the use of the real estate, and shall for the purposes of this Mortgage be deemed to be real estate and conveyed and mortgaged hereby.

TO HAVE AND TO HOLD the premises unto the said Mortgagee, its successors and assigns, forever, for the purposes and uses herein set forth, free from all rights and benefits under any statute of limitation, which said rights and benefits the Mortgagor does hereby release and waive.

TO PROTECT THE SECURITY OF THIS MORTGAGE, MORTGAGOR HEREBY COVENANTS, AGREES AND WARRANTS THAT:

1. Maintenance, Repair and Restoration of Improvements, Payment of Prior Lines, Etc. Mortgagor shall (a) promptly repair, restore or rebuild any buildings or improvements now or

the affairs, finances and accounts of any of such corporations with the principal officers of Mortgagor, all at such reasonable times and as often as Mortgagee may reasonably request. Mortgagee agrees to keep confidential and not to disclose any non-public or proprietary information relating to Mortgagor acquired pursuant to this paragraph 14B or pursuant to any other documents or information delivered under this paragraph 14; provided that nothing herein shall restrict Mortgagee's rights to disclose such information to Mortgagee's respective officers, directors and representatives in the ordinary course of business nor to any regulatory body having jurisdiction over Mortgagee upon the request of said regulatory body.

15. Use and Substitution of Property. Mortgagor represents and warrants that the premises hereunder are or will be in use on the date hereof principally as White Hen Pantry stores. Mortgagor covenants and agrees that should any of the premises not be in use as a White Hen Pantry store for a period of 120 consecutive days, then upon Mortgagee's request, a portion of the indebtedness under the Note in the amount of the Loan Value of such parcel shall become immediately due and payable. Notwithstanding the above provision, Mortgagor shall have the right to substitute properties reasonably acceptable to Mortgagee at any time during the above 120 day period, upon delivery to Mortgagee of an appraisal by an independent MAI designated member of the American Institute of Real Estate Appraisers, for the replacement property and additional documentation satisfactory to Mortgagee including, without limitation, a mortgage and assignment of rents in the replacement property. Upon such satisfactory delivery, Mortgagee shall not accelerate the indebtedness under the Note except to the extent that the appraised value of the replacement property is less than the greater of (i) the original appraised value of the property being replaced, or (ii) the current appraised value of the property being replaced. Mortgagee further agrees to consider the substitution of additional collateral in the form of assignments of leases and rents and other documentation satisfactory to Mortgagee in lieu of acceleration the indebtedness under the Note as provided in the first sentence of this paragraph 15. Such consideration shall be in Mortgagee's sole discretion and shall be based on, among other things, the creditworthiness of the lessee thereunder and an updated appraisal of the premises to be leased.

16. Acceleration of Indebtedness in Case of Default. If (a) default be made in the due and punctual payment of the Note, or any installment due in accordance with the terms thereof, either of principal or interest for a period of five (5) days following the giving of written notice thereof from Mortgagee to Mortgagor, or (b) the Mortgagor shall file a

petition in voluntary bankruptcy under the United States Bankruptcy Code or any similar law, state or federal, whether now or hereafter existing, or an answer admitting insolvency or inability to pay its debts, or fail to obtain a vacation or stay of involuntary proceedings within ten (10) days, as hereinafter provided; or (c) the Mortgagor shall be adjudicated a bankrupt, or a trustee or a receiver shall be appointed for the Mortgagor or for all of its property or the major part thereof in any involuntary proceeding, or any court shall have taken jurisdiction of the property of the Mortgagor or the major part thereof in any involuntary proceeding for the reorganization, dissolution, liquidation or winding up of the Mortgagor, and such trustee or receiver shall not be discharged or such jurisdiction relinquished or vacated or stayed on appeal or otherwise stayed within ten (10) days; or (d) the Mortgagor shall make an assignment for the benefit of creditors, or shall admit in writing its inability to pay its debts generally as they become due, or shall consent to the appointment of a receiver or trustee or liquidator of all of its property or the major part thereof; or (e) default shall be made in the due observance or performance of any other of the covenants, agreements or conditions hereinbefore or hereinafter contained, required to be kept or performed or observed by the Mortgagor and the same shall continue for fifteen (15) days following the giving of notice by Mortgagee to Mortgagor, unless such default is not reasonably capable of being cured within such period and Mortgagor is diligently pursuing the cure thereof by appropriate means for a period of not more than sixty (60) days; or (f) any Event of Default shall have been declared and not theretofore cured under that certain Credit and Note Purchase Agreement (the "Prudential Agreement") dated March 22, 1985 among Robodaks, Ltd. (the predecessor to Mortgagor), The Prudential Insurance Company of America and Prudential Interfunding Corp.; or (g) any event of default shall occur under any other documents, whether currently existing or hereafter executed by Mortgagor, given as security for the indebtedness evidenced by the Note, then and in every such case (herein referred to as an "Event of Default") the whole of said principal sum hereby secured shall, at once, at the option of the Mortgagee, become immediately due and payable, together with accrued interest thereon, without notice to Mortgagor at the default rate of interest (commencing on the day of default) as specified in the Note.

17. Foreclosure; Expense of Litigation. When the indebtedness hereby secured, or any part thereof, shall become due, whether by acceleration or otherwise, Mortgagee shall have the right to foreclose the lien hereof for such indebtedness or part thereof. In any suit to foreclose the lien hereof, there shall be allowed and included as additional indebtedness in the decree for sale all reasonable expenditures and expenses which

may be paid or incurred by or on behalf of Mortgagee for attorneys' fees, appraiser's fees, outlays for documentary and expert evidence, stenographers' charges, publication costs, and costs (which may be estimated as to items to be expended after entry of the decree) of procuring all such abstracts of title, title searches and examinations, title insurance policies, Torrens certificates, and similar data and assurances with respect to title as Mortgagee may deem reasonably necessary either to prosecute such suit or to evidence to bidders at any sale which may be had pursuant to such decree the true condition of the title to or the value of the premises. Without limiting the foregoing, Mortgagor hereby agrees that, in the event that a judgment of foreclosure is entered by a court having jurisdiction over the premises, Mortgagee shall be entitled to recover all costs and expenses reasonably incurred in connection with the preservation and maintenance of the property, including sums expended to clear prior liens in the premises, during the applicable period of redemption. All expenditures and expenses of the nature in this paragraph mentioned, and such expenses and fees as may be incurred in the protection of said premises and the maintenance of the lien of this mortgage, including the fees of any attorney employed by Mortgagee in any litigation or proceeding affecting this Mortgage, the Note or said premises, including probate and bankruptcy proceedings, or in preparation for the commencement or defense of any proceeding or threatened suit or proceedings, whether or not actually commenced, shall be immediately due and payable by Mortgagor, with interest thereon at the rate applicable to the indebtedness secured by this Mortgage and the same shall be secured by this Mortgage.

18. Application of Proceeds of Foreclosure Sale. The proceeds of any foreclosure sale of the premises shall be distributed and applied in the following order of priority: first, on account of all costs and expenses incident to the foreclosure proceedings, including all such items as are mentioned in the preceding paragraph hereof; second, all other items which under the terms hereof constitute secured indebtedness additional to that evidenced by the Note, with interest thereon as herein provided; third, all principal and interest remaining unpaid on the Note; and fourth, any overplus to Mortgagor, its successors or assigns, as their rights may appear.

19. 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 may appoint a receiver of said premises. Such appointment may be made either before or after sale, without notice, without regard to the solvency or insolvency of Mortgagor at the time of application for such receiver and without regard to the then value of the premises

or whether the same shall be then occupied as a homestead or not, and the Mortgagee hereunder or any holder of the Note may be appointed as such receiver. Such receiver shall have power to collect the rents, issues and profits of said premises during the pendency of such foreclosure suit and in case of a sale and a deficiency, during the full statutory period of redemption, whether there be redemption or not, as well as during any further times when Mortgagor, except for the intervention of such receiver, would be entitled to collect such rents, issues and profits, and all other powers which may be necessary or are usual in such cases for the protection, possession, control, management and operation of the premises during the whole of said period. The court from time to time may authorize the receiver to apply the net income in his hands in payment in whole or in part of: (a) the indebtedness secured hereby, or by any decree foreclosing this Mortgage, or any tax, special assessment or other lien which may be or become superior to the lien hereof or of such decree, provided such application is made prior to foreclosure sale; (b) the deficiency in case of a sale and deficiency.

20. Assignment of Rents and Leases. To further secure the indebtedness secured hereby, Mortgagor does hereby sell, assign and transfer unto the Mortgagee all the rents, issues and profits now due and which may hereafter become due under or by virtue of any lease, whether written or verbal, or any letting of, or of any agreement for the use or occupancy of the premises or any part thereof, which may have been heretofore or may be hereafter made or agreed to or which may be made or agreed to by the Mortgagee under the powers herein granted, it being the intention hereby to establish an absolute transfer and assignment of all of such leases and agreements, and all the avails thereunder, unto the Mortgagee, and Mortgagor does hereby appoint irrevocably the Mortgagee its true and lawful attorney in its name and stead (with or without taking possession of the premises as provided in paragraph 21 herein) to rent, lease or let all or any portion of said premises to any party or parties at such rental and upon such terms as said Mortgagee shall, in its discretion, determine, and to collect all of said avails, rents, issues and profits arising from or accruing at any time hereafter, and all now due or that may hereafter become due under each and every of the leases and agreements, written or verbal, or other tenancy existing, or which may hereafter exist on said premises, with the same rights and powers and subject to the same immunities, exoneration of liability and rights of recourse and indemnity as the Mortgagee would have upon taking possession pursuant to the provisions of paragraph 22 hereof.

The Mortgagor represents and agrees that the payment of none of the rents to accrue for any portion of the said

premises has been or will be waived, released, reduced, discounted or otherwise discharged or compromised by the Mortgagor. The Mortgagor waives any rights of set-off against any person in possession of any portion of the above described premises. If any lease pertaining to any parcel of which 20% or more is used for other than a White Hen Pantry store provides for the abatement of rent during repair of the premises demised thereunder by reason of fire or other casualty, the Mortgagor shall furnish to the Mortgagee rents insurance, the policies to be in amount and form and written by such insurance companies as shall be satisfactory to the Mortgagee. Mortgagor agrees that it will not assign any of the rents or profits of said premises, except to a purchaser or grantee of the premises.

Nothing herein contained shall be construed as constituting the Mortgagee a mortgagee in possession in the absence of the taking of actual possession of the premises by the Mortgagee pursuant to paragraph 22 hereof. In the exercise of the power herein granted the Mortgagee, no liability shall be asserted or enforced against the Mortgagee, all such liability being expressly waived and released by Mortgagor.

The Mortgagor further agrees to assign and transfer to the Mortgagee all future leases upon all or any part of the premises hereinabove described and to execute and deliver, at the request of the Mortgagee, all such further assurances and assignments in the premises as the Mortgagee shall from time to time require.

Although it is the intention of the parties that the assignment contained in this paragraph 20 shall be a present assignment, it is expressly understood and agreed, anything herein contained to the contrary notwithstanding, that the Mortgagee shall not exercise any of the rights or powers conferred upon it by this paragraph until a default shall exist hereunder beyond any applicable cure period.

21. Observance of Lease Assignment. Upon the request of Mortgagee, Mortgagor, as additional security for the payment of the indebtedness described in and secured hereby, shall assign to the Mortgagee, its successors and assigns, pursuant to documentation reasonably satisfactory to Mortgagee, Mortgagor's interest as lessor in any lease or leases pertaining to any parcel if more than 20% of such parcel is used for other than a White Hen Pantry store. The Mortgagor expressly covenants and agrees that if the Mortgagor, as lessor under said lease or leases, shall fail to perform and fulfill any term, covenant, condition or provision in said lease or leases, or any of them, on its part to be performed or fulfilled, at the times and in the manner in said lease or leases provided, 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 premises given as additional security for the payment of the indebtedness secured hereby, then and in any such event, if such default or breach is not cured within fifteen (15) days following the giving of notice to Mortgagor by Mortgagee (unless such default cannot be cured within such period and Mortgagor is diligently pursuing its cure by appropriate means for a period of not more than sixty (60) days) such breach or default shall constitute a default hereunder and at the option of the Mortgagee, and without notice to the Mortgagor, all unpaid indebtedness secured by this Mortgage shall, notwithstanding anything in the Note or in this Mortgage to the contrary, become due and payable as in the case of other defaults.

22. Mortgagee's Right of Possession in Case of Default.

In any case in which under the provisions of this Mortgage the Mortgagee has a right to institute foreclosure proceedings, whether before or after the whole principal sum secured hereby is declared to be immediately due as aforesaid, or whether before or after the institution of legal proceedings to foreclose the lien hereof or before or after sale thereunder, forthwith, upon demand of Mortgagee, Mortgagor shall surrender to Mortgagee and Mortgagee shall be entitled to take actual possession of the premises or any part thereto personally, or by its agents or attorneys, as for condition broken, and Mortgagee in its discretion may, with or without force and with or without process of law, enter upon and take and maintain possession of all or any part of said premises, together with all documents, books, records, papers and accounts of the Mortgagor or then owner of the premises relating thereto, and may exclude the Mortgagor, its agents or servants, wholly therefrom and may as attorney in fact or agent of the Mortgagor, or in its own name as Mortgagee and under the powers herein granted, hold, operate, manage and control the premises and conduct the business, if any, thereof, either personally or by its agents, and with full power to use such measures, legal or equitable, as in its discretion or in the discretion of its successors or assigns may be deemed proper or necessary to enforce the payment or security of the avails, rents, issues, and profits of the premises, including actions for the recovery of rent, actions in forcible detainer and actions in distress for rent, hereby granting full power and authority to exercise each and every of the rights, privileges and powers herein granted at any and all times hereafter, without notice to the Mortgagor, and with full power to cancel or terminate any lease or sublease for any cause or on any ground which would entitle Mortgagor to cancel the same, to elect to disaffirm any lease or sublease made subsequent to this Mortgage or subordinated to the lien hereof, to make all necessary or proper repairs,

decorating, renewals, replacements, alterations, additions, betterments and improvements to the premises as to it may seem judicious, insure and reinsure the same and all risks incidental to Mortgagee's possession, operation and management thereof and to receive all of such avails, rents, issues and profits.

The Mortgagee shall not be obligated to perform or discharge, nor does it hereby undertake 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 said leases or under or by reason of the assignment thereof and of and from any and all claims and demands whatsoever which may be asserted against it by reason of any alleged obligations or undertakings on its part to perform or discharge any of the terms, covenants or agreements contained in said leases. Should the Mortgagee incur any such liability, loss or damage, under said 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, and the Mortgagor shall reimburse the Mortgagee therefor immediately upon demand.

23. Application of Income Received by Mortgagee. The Mortgagee in the exercise of the rights and powers hereinabove conferred upon it by paragraph 20 and paragraph 22 hereof shall have full power to use and apply the avails, rents, issues and profits of the premises to the payment of or on account of the following, in such order as the Mortgagee may determine:

(a) to the payment of the operating expenses of said property, including cost of management and leasing thereof (which shall include reasonable compensation to the Mortgagee and its agent or agents, if management be delegated to an agent or agents, and shall also include lease commissions and other compensation and expenses of seeking and procuring tenants and entering into leases), established claims for damages, if any, and premiums on insurance hereinabove authorized;

(b) to the payment of taxes and special assessments now due or which may hereafter become due on said premises;

(c) to the payment of all repairs, decorating, renewals, replacements, alterations, additions, betterments, and improvements of said premises, including the cost from time to time of installing or replacing refrigeration and gas or electric stoves therein, and of placing said property in such condition as will, in the judgment of the Mortgagee, make it readily rentable; and

(d) to the payment of any indebtedness secured hereby or any deficiency which may result from any foreclosure sale.

24. Environmental Matters. Mortgagor represents, warrants, covenants and agrees unto the Mortgagee as follows:

(a) Except for substances legally and appropriately used in connection with its ongoing business, Mortgagor will not use, generate, manufacture, produce, store, release, discharge, or dispose of on, under or about the premises, or transport to or from the premises any Hazardous Substance (as defined herein) or allow any other person or entity to do so;

(b) Mortgagor shall keep and maintain the premises in compliance with, and shall not cause or permit the premises to be in violation of any Environmental Law (as defined herein) or allow any other person or entity to do so;

(c) Mortgagor shall give prompt written notice to the Mortgagee of:

(i) any proceeding or inquiry by any governmental authority whether Federal, state or local, with respect to the presence of any Hazardous Substance on the premises or the migration thereof from or to other property;

(ii) all claims made or threatened by any third party against the Mortgagor or the premises relating to any loss or injury resulting from any Hazardous Substance; and

(iii) Mortgagor's discovery of any occurrence or condition on any real property adjoining or in the vicinity of the premises that could cause the premises or any part thereof to be subject to any restrictions on the ownership, occupancy, transferability or use of the premises under any Environmental Law;

(d) Mortgagee shall have the right to join and participate in, as a party if it so elects, any legal proceedings or actions initiated in connection with any Environmental Law and the Mortgagor hereby agrees to pay any attorneys' fees thereby incurred by the Mortgagee in connection therewith;

(e) Mortgagor shall indemnify, defend and hold harmless the Mortgagee, its directors, officers, employees, agents, contractors, attorneys, other representatives, successors and assigns from and against any and all loss, damage, cost, expense or liability, including, by way of illustration and not limitation, reasonable attorneys' fees and court costs, directly or indirectly arising out of or attributable to the use, generation, manufacture, production, storage, release, threatened release, discharge, disposal, or presence of a

Hazardous Substance on, under or about the premises including without limitation (a) all foreseeable consequential damages; and (b) the costs of any required or necessary repair, cleanup or detoxification of the premises, and the preparation and implementation of any closure, remedial or other required plans. This indemnity and covenant shall survive the reconveyance of the lien of this Mortgage, or the extinguishment of such lien by foreclosure or action in lieu thereof;

(f) In the event that any investigation, site monitoring, containment, cleanup, removal, restoration or other remedial work of any kind or nature whatsoever (the "Remedial Work") is reasonably necessary under any applicable local, state or federal law or regulation, any judicial order, or by any governmental or nongovernmental entity or person because of, or in connection with, the current or future presence, suspected presence, release or suspected release of a Hazardous Substance in or into the air, soil, ground water, surface water or soil vapor at, on, about, under or within the premises, or any portion thereof, the Mortgagor shall within thirty (30) days after written demand for performance thereof by the Mortgagee or other party or governmental entity or agency (or such shorter period of time as may be required under any applicable law, regulation, order, or agreement), commence to perform, or cause to be commenced, and thereafter diligently prosecuted to completion, all such Remedial Work. All Remedial Work shall be performed by one or more contractors, approved in advance in writing by the Mortgagee, and under the supervision of a consulting engineer approved in advance in writing by the Mortgagee. All costs and expenses of such Remedial Work shall be paid by the Mortgagor, including, without limitation, the charges of such contractor and the consulting engineer, and the Mortgagee's reasonable attorneys' fees and costs incurred in connection with the monitoring or review of such Remedial Work. In the event that the Mortgagor shall fail to timely commence, or cause to be commenced, or fail to diligently prosecute to completion, such Remedial Work, the Mortgagee may, but shall not be required to, cause such Remedial Work to be performed and all costs and expenses thereof incurred in connection therewith shall become part of the indebtedness secured hereby;

(g) Without the Mortgagee's prior written consent, which shall not be unreasonably withheld, the Mortgagor shall not take any remedial action in response to the presence of any Hazardous Substance on, under, or about the premises, nor enter into any settlement agreement, consent decree, or other compromise in respect to any Hazardous Substance claims. Said consent may be withheld, without limitation, if the Mortgagee, in its reasonable judgment, determines that said remedial

action, settlement, consent, or compromise might impair the value of the Mortgagee's security hereunder; provided, however, that the Mortgagee's prior consent shall not be necessary in the event that the presence of Hazardous Substances in, on, under, or about the premises either poses an immediate threat to the health, safety, or welfare of any individual or is of such a nature that an immediate remedial response is necessary, and it is not possible to obtain the Mortgagee's consent before taking such action, provided that in such event the Mortgagor shall notify the Mortgagee as soon as practicable of any action so taken. Mortgagee agrees not to withhold its consent, when such consent is required hereunder, if either (a) a particular remedial action is ordered by a court of competent jurisdiction, or (b) the Mortgagor establishes to the reasonable satisfaction of the Mortgagee that there is no reasonable alternative to such remedial action that would result in materially less impairment of the Mortgagee's security hereunder.

For purposes of this Section, the following terms shall have the meanings as set forth below:

(a) "Environmental Laws" shall mean any federal, state or local law, statute, ordinance, or regulation pertaining to health, industrial hygiene, or the environmental conditions on, under or about the premises, including, without limitation, the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 ("CERCLA") as amended, 42 U.S.C. Sections 9601 et seq., and the Resource Conservation and Recovery Act of 1976 ("RCRA") as amended, 42 U.S.C. Sections 6901 et seq.

(b) The term "Hazardous Substance" shall include without limitation:

(i) Those substances included within the definitions of any one or more of the terms "hazardous substances," "hazardous materials," "toxic substances," and "solid waste" in CERCLA, RCRA, and the Hazardous Materials Transportation Act as amended, 49 U.S.C. Sections 1801 et seq., and in the regulations promulgated pursuant to said laws or under applicable state law;

(ii) Those substances listed in the United States Department of Transportation Table (49 CFR 172.101 and amendments thereto) or by the Environmental Protection Agency (or any successor agency) as hazardous substances (40 CFR Part 302 and amendments thereto);

(iii) Such other substances, materials and wastes which are or become regulated under applicable local, state or federal laws, or which are classified as hazardous or toxic under federal, state, or local laws or regulations; and

hereafter located on the premises which may become damaged or be destroyed; (b) keep said premises in good condition and repair, without waste, and free from mechanics' liens or other liens or claims for lien not expressly subordinated to the lien hereof; (c) pay when due any indebtedness which may be secured by a lien or charge on the premises superior to the lien hereof, and upon request exhibit satisfactory evidence of the discharge of such prior lien to Mortgagee; (d) complete within a reasonable time any building or buildings now or at any time in process of erection upon said premises; (e) comply with all requirements of law, municipal ordinances, or restrictions of record with respect to the premises and the use thereof; (f) not initiate or acquiesce in any zoning reclassification, without Mortgagee's prior written consent, other than any zoning reclassification in the ordinary course of Mortgagor's operation of the premises or which would not in any way diminish or impair the value of the premises; (g) pay each item of indebtedness secured by this Mortgage when due according to the terms hereof or of the Note; (h) not suffer or permit any unlawful use of or any nuisance to exist upon the premises; (i) not diminish or impair the value of the premises or the security intended to be effected by virtue of this Mortgage by any act or omission to act, including the making of any material alterations to the premises which would have such effect; or (j) appear in and defend any proceeding which in the opinion of the Mortgagee affects its security hereunder, and to pay all costs, expenses and attorney's fees incurred or paid by the Mortgagee in any proceeding in which Mortgagee may participate in any capacity by reason of this Mortgage.

2. Sale or Transfer of Premises or Interest Therein.

Mortgagor agrees and understands that it shall constitute an event of default under this Mortgage and the Note entitling the remedies herein and in the Note to be exercised if (a) the Mortgagor shall convey title to or otherwise suffer or permit any interest in the premises to become vested in any person or persons, firm or corporation or other entity other than (i) the Mortgagor, or (ii) any subsidiary of Mortgagor or a land trust of which Mortgagor is the sole owner of the beneficial interest thereof, upon delivery of documents satisfactory to Mortgagee, (b) the Mortgagor shall allow any lien or security interest to attach to the premises other than (i) the lien of this Mortgage (excluding taxes and assessment not yet due and payable) or (ii) any construction lien which is being contested in good faith and by appropriate means, or (c) any articles of agreement for deed or other installment contract in the premises are entered into; provided, however, that it shall not constitute an event of default hereunder if any of the above conditions occur with respect to any parcel and Mortgagor prepays an amount of the loan equal to the Loan Value (as defined in the Note) of such parcel or delivers substitute collateral in accordance with paragraph 15 hereof.

(iv) Any material, waste or substance which is (A) petroleum, (B) asbestos, (C) polychlorinated biphenyls, (D) designated as a "hazardous substance" pursuant to Section 311 of the Clean Water Act, 33 U.S.C. §§1251 et seq. (33 U.S.C. §1321), or listed pursuant to Section 307 of the Clean Water Act (33 U.S.C. §1317); (E) flammable explosives; or (F) radioactive materials.

25. Cross Default Mortgages. THE INDEBTEDNESS EVIDENCED BY THE NOTE IS SECURED BY, AMONG OTHER THINGS, MORTGAGES GIVEN BY MORTGAGOR TO OR FOR THE BENEFIT OF MORTGAGEE, WHICH MORTGAGES ARE IDENTIFIED IN SCHEDULE A OF THE NOTE, WHICH SCHEDULE A MAY FROM TIME TO TIME HEREAFTER BE AMENDED TO INCLUDE ADDITIONAL PROPERTY (the "Cross Default Mortgages"). Upon the occurrence of a Default, Mortgagee may proceed under this Mortgage or the Cross Default Mortgages against any of such property or the premises in one or more parcels and in such manner and order as Mortgagee shall elect. Mortgagor hereby irrevocably waives and releases, to the extent permitted by law, and whether now or hereafter in force, any right to have the premises or the property covered by the Cross Default Mortgages marshalled upon any foreclosure of this Mortgage or the Cross Default Mortgages.

26. Partial Foreclosure. Mortgagee may from time to time, if permitted by law, take action to recover any sums, whether interest, principal or any other sums, required to be paid under this Mortgage, the Cross Default Mortgages or any other loan document given to secure the indebtedness evidenced by the Note, as the same become due, without prejudice to the right of Mortgagee thereafter to bring an action of foreclosure, or any other action, for a default or defaults by Mortgagor existing when such earlier action was commenced. Mortgagee may also foreclose this Mortgage for any sums due under this Mortgage, the Cross Default Mortgages or any other loan document given to secure the payment of the indebtedness evidenced by the Note and the lien of this Mortgage shall continue to secure the balance of any obligations not then due.

27. Late Charge. In the event the Mortgagee shall, from time to time, accept payment of any installment required on the Note and under this Mortgage which is in arrears, Mortgagee may collect a "late charge" as provided for in the Note to cover the extra expense involved in handling delinquent payments; provided, however, that nothing in this paragraph contained shall authorize the Mortgagee to collect or demand any payment which would result in the imposition of interest in excess of the maximum amount allowed by law.

28. Condemnation. Mortgagor hereby assigns, transfers and sets over unto Mortgagee the entire proceeds of any award or any claim for damages for any of the mortgaged property taken or damaged under the power of eminent domain or by

condemnation. In the event any such condemnation has a material adverse effect on the operation of any parcel, Mortgagee may elect to apply the proceeds of the award upon or in reduction of the indebtedness secured hereby, whether due or not, or to require Mortgagor to restore or rebuild, in which event the proceeds shall be held by Mortgagee and used to reimburse Mortgagor for the cost of the rebuilding or restoring of buildings or improvements on said premises, in accordance with plans and specifications to be submitted to and approved by Mortgagee. If the Mortgagor is obligated to restore or replace the damaged or destroyed buildings or improvements under the terms of any lease or leases which are or may be prior to the lien of this Mortgage and if such taking does not result in cancellation or termination of such lease, the award shall be used to reimburse Mortgagor for the cost of the rebuilding or restoring of buildings or improvements on said premises, provided Mortgagor is not then in default under this Mortgage. In the event Mortgagor is required or authorized, either by Mortgagee's election as aforesaid, or by virtue of any such lease, to rebuild or restore, the proceeds of the award shall be paid out in the same manner as is provided in paragraph 8 hereof for the payment of insurance proceeds toward the cost of rebuilding or restoration. If the amount of such award is insufficient to cover the cost of rebuilding or restoration, Mortgagor shall pay such cost in excess of the award, before being entitled to reimbursement out of the award. Any surplus which may remain out of said award after payment of such cost of rebuilding or restoration shall, at the option of Mortgagee, be applied on account of the indebtedness secured hereby or be paid to any other party entitled thereto. Any condemnation award or claim pertaining to a taking which does not have a material adverse effect on any parcel may be retained by Mortgagor, or if paid directly to Mortgagee, shall be returned to Mortgagor. In applying the proceeds of any award on account of the indebtedness secured hereby, Mortgagee shall not be entitled to collect any premium on the amount prepaid.

29. Security Agreement. It is the intention of the Mortgagor and the Mortgagee that this Mortgage shall also constitute a security agreement (with the Mortgagee being the secured party thereunder) with respect to all fixtures and equipment owned by Mortgagor and now or hereafter erected on the premises, and the Mortgagor hereby grants to the Mortgagee a security interest in such portions of the premises, and all proceeds thereof. Mortgagee may file this Mortgage, or a copy thereof, or a financing statement given pursuant hereto in the real estate records or other appropriate index as a financing statement for any of such portions of the premises and so filed, such shall constitute a fixture filing. Mortgagor agrees to execute and deliver to the Mortgagee, upon the Mortgagee's request, any financing statements as well as

extensions, renewals and amendments thereof, and copies of this Mortgage in such form as the Mortgagee may require to perfect a security interest in such portions of the Premises. Mortgagor shall pay all costs of preparation and filing such financing statements and any extensions, renewals, amendments, or releases thereof, and shall pay all reasonable costs and expenses of any record searches for financing statements which the Mortgagee may reasonably require. Mortgagor shall not, without the prior written consent of the Mortgagee, create or suffer to be created, any other security interest in said portions of the premises, including any replacements or additions thereto. In the event of the Mortgagor's default under the terms and provisions of either of the Note or this Mortgage, in addition to all other rights and remedies enumerated herein or otherwise available to the Mortgagee at law, in equity, or under said documents, the Mortgagee shall have all of the rights and remedies available to a secured party under the UCC, in effect from time to time. With respect to any portion of the premises subject to the UCC, any reference to foreclosure in this Mortgage shall also be deemed to include any method of disposition of collateral authorized under Article 9 of the UCC, whether judicial or non-judicial. The Mortgagee, at its sole and unfettered option, may dispose of any portion of the premises subject to the UCC, separately from or together with other portions of the premises, and in any order whatsoever. Written notice, when required by law, given to the Mortgagor at least ten (10) business days before the date of a proposed disposition of the premises, or any part thereof, shall be reasonable notice.

30. Release upon Payment and Discharge of Mortgagor's Obligations. Mortgagee shall release this Mortgage and the lien thereof by proper instrument upon payment and discharge of all indebtedness incurred hereby and payment of a reasonable fee to Mortgagee for the preparation and execution of such release. Mortgagee shall partially release this Mortgage and the lien thereof with respect to any parcel by proper instrument upon payment of the Loan Value of such parcel, any applicable prepayment penalty and a reasonable fee to Mortgagee for the preparation and execution of such partial release.

31. Adjustable Mortgage Loan Provisions. The Note which this Mortgage secures is an adjustable mortgage loan on which the interest rate may be adjusted from time to time in accordance with a monthly increase or decrease in an index all as provided in said Note. From time to time the monthly installment payments due under said Note may not be sufficient to pay all interest due in which case unpaid interest will be added to principal. In no case shall the unpaid interest added to the principal exceed two hundred percent (200%) of the original principal indebtedness.

32. Giving of Notice. Any notice which either party hereto may desire or be required to give to the other party shall be in writing and the mailing thereof by certified mail addressed to the Mortgagor at 660 Industrial Drive, Elmhurst, Illinois 60126, Attn: Real Estate Department, with a copy to the General Counsel and to the Mortgagee, at 33 North LaSalle Street, Chicago, Illinois 60690, Attn: Gerald L. Jacobson, Vice President, Commercial Banking Division T, specifying the loan number, with a copy to Portes, Sharp, Herbst & Kravets, Ltd., 333 West Wacker Drive, Suite 500, Chicago, Illinois 60606 Attn: Alan R. Kravets, Esq. or at such other place within the United States as any party hereto may be notice in writing designate as a place for service of notice, shall constitute service of notice hereunder. Any notice given hereunder shall be deemed given on the date the same is deposited in the United States mail.

33. Waiver of Defense. No action for the enforcement of the lien or of any provision hereof shall be subject to any defense which would not be good and available to the party interposing same in an action at law upon the Note hereby secured.

34. Waiver of Statutory Rights. Mortgagor shall not and will not apply for or avail itself of any appraisalment, valuation, 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, but hereby waives the benefit of such laws. Mortgagor for itself and all who may claim through or under it waives any and all right to have the property and estates comprising the mortgaged property marshalled upon any foreclosure of the lien hereof and agrees that any court having jurisdiction to foreclose such lien may order the mortgaged property sold as an entirety. THE MORTGAGOR HEREBY WAIVES ANY AND ALL RIGHTS OF REDEMPTION FROM SALE UNDER ANY ORDER OR DECREE OF FORECLOSURE, PURSUANT TO RIGHTS HEREIN GRANTED, ON BEHALF OF ITSELF AND EACH AND EVERY PERSON ACQUIRING ANY INTEREST IN, OR TITLE TO, THE PREMISES DESCRIBED HEREIN SUBSEQUENT TO THE DATE OF THIS MORTGAGE, AND ON BEHALF OF ALL OTHER PERSONS TO THE EXTENT PERMITTED BY THE PROVISIONS OF THE INDIANA STATUTES. WITHOUT IN ANY WAY LIMITING THE FOREGOING, THE MORTGAGOR HEREBY EXPRESSLY WAIVES ANY AND ALL RIGHTS TO REINSTATE THIS MORTGAGE OR TO CURE ANY DEFAULTS, EXCEPT SUCH RIGHTS TO REINSTATE WHICH ARE EXPRESSLY GRANTED IN THIS MORTGAGE OR IN THE NOTE.

35. Mortgagee's Lien for Service Charges and Expenses. 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) the payment of any and

all loan commissions, service charges, liquidated damages, expenses and advances due to or incurred by the Mortgagee in connection with the loan to be secured hereby, all in accordance with the application and loan commitment issued in connection with this transaction.

36. Cumulative Rights. Each right, power and remedy herein conferred upon the Mortgagee is cumulative of every other right or remedy of the Mortgagee, whether herein or by law conferred, and may be enforced concurrently therewith.

37. Binding on Successors and Assigns. The lien of this Mortgage and all of the provisions and conditions contained herein shall extend to and be binding upon all successors and assigns of the Mortgagor. The word "Mortgagee" when used herein shall include the successors and assigns of the Mortgagee named herein, and the holder or holders, from time to time, of the Note secured hereby.

38. Captions. The captions and headings of various paragraphs of this Mortgage are for convenience only and are not to be construed as defining or limiting, in any way, the scope or intent of the provisions hereof.

IN WITNESS WHEREOF, MORTGAGOR has caused these presents to be signed by its Senior Vice President, and its corporate seal to be hereunto affixed and attested by its Secretary, the day and year first above written.

WHITE HEN PANTRY, INC.

By: Robert B. Knight
Its: Senior Vice President

ROBERT B. KNIGHT

ATTEST:

By: Robert Smith
Its: Secretary
Robert Smith

EXHIBIT A

LEGAL DESCRIPTION

LOTS 18, 19 AND 20, BLOCK 5, FORD-ROXANA ADDITION TO
HAMMOND, AS SHOWN IN PLAT BOOK 20, PAGE 23, IN LAKE COUNTY,
INDIANA

3. Payment of Taxes. Mortgagor shall pay before any penalty attaches, all general taxes and all special taxes, special assessments, water, drainage and sewer charges, and all other charges of any kind whatsoever, ordinary or extraordinary, which may be levied, assessed, imposed or charged on or against the premises or any parcel or part thereof and which, if unpaid, might by law become a lien or charge upon the premises or any parcel or part thereof, and shall, within 30 days of any such payment, exhibit to Mortgagee official receipts evidencing such payments, except that, unless and until foreclosure, distraint, sale or other similar proceedings shall have been commenced, no such charge or claim need be paid if being contested (except to the extent any full or partial payment shall be required by law), after notice to Mortgagee, by appropriate proceedings which shall operate to prevent the collection thereof or the sale or forfeiture of the premises or any parcel or part thereof to satisfy the same conducted in good faith and with due diligence and if Mortgagor shall have furnished such security, if any, as may be required in the proceedings or requested by Mortgagee.

4. Insurance. Mortgagor shall keep all buildings and improvements now or hereafter situated on said premises insured, until the indebtedness secured by this Mortgage is fully paid, or in the case of foreclosure, until the expiration of any period of redemption, against loss or damage by fire and such other hazards as may reasonably be required by Mortgagee. Mortgagor shall also provide liability insurance with such limits for personal injury and death and property damage as Mortgagee may require and if reasonably required by Mortgagee, flood and rents (which will assure coverage for loss of rental income for twelve (12) consecutive months) insurance, it being understood by the parties hereto that such insurance for rents is not currently needed but may be required in the future based on (i) an increase in the portion of any parcel which is leased to a third party or (ii) Mortgagee's increased reliance on the leases (or any of them) as collateral. All policies of insurance to be furnished hereunder shall be in forms, companies and amounts reasonably satisfactory to Mortgagee (but in no event less than the amount needed to pay in full the indebtedness secured hereby), with mortgagee clauses attached to all policies in favor of and in form satisfactory to Mortgagee, including a provision requiring that the coverage evidenced thereby shall not be terminated or materially modified without ten (10) days' prior written notice to the Mortgagee. Mortgagor shall deliver certificates evidencing all policies, including additional and renewal policies, to Mortgagee, and, in the case of insurance about to expire, shall deliver certificates evidencing renewal policies not less than ten (10) days prior to the respective dates of expiration. Mortgagor may, upon Mortgagee's written consent, which consent

shall not be unreasonably withheld or delayed, self-insure for a portion of the above-required insurance.

5. Mortgagee's Interest In and Use of Deposits. In the event of a default in any of the provisions contained in this Mortgage or in the Note, the Mortgagee may at its option, without being required to do so, apply any moneys at the time on deposit (other than any moneys held in Mortgagor's vendor account and pension accounts) on any of Mortgagor's obligations herein or in the Note contained, in such order and manner as the Mortgagor may elect.

6. Mortgagee's Right to Act. If Mortgagor fails to pay any claim, lien or encumbrance which shall have a prior lien to the lien of this mortgage, or to pay, when due, any tax or assessment, or any insurance premium, or to keep the premises in repair, as aforesaid, or shall commit or permit waste, or if there be commenced any action or proceeding affecting the premises or the title thereto, then Mortgagee, at its option, may pay such claim, lien, encumbrance, tax, assessment or premium, with right of subrogation thereunder, may procure such repairs and take such steps as it deems advisable to prevent or cure such waste, and may appear in any such action or proceeding and retain counsel therein, and take such action therein as Mortgagee deems advisable, and for any of such purposes Mortgagee may advance such sums of money as it deems necessary. Mortgagee shall be the sole judge of the legality, validity and priority of any such claim, lien, encumbrance, tax, assessment and premium, and of the amount necessary to be paid in satisfaction thereof. Mortgagor will pay to Mortgagee, immediately and without demand, all sums of money advanced by Mortgagee pursuant to this paragraph, together with interest on each such advance at the rate set forth in the Note, and all such sums and interest thereon shall be secured hereby.

7. Adjustment of Losses with Insurer and Application of Proceeds of Insurance. In case of any loss or losses totalling in excess of twenty percent (20%) of the aggregate Loan Value of the premises, the Mortgagee (or after entry of decree of foreclosure, purchaser at the sale, or the decree creditor, as the case may be) is hereby authorized either (a) to settle, collect, compromise and adjust, in its sole discretion, any claim under such insurance policies without consent of Mortgagor, or (b) to allow Mortgagor to agree with the insurance company or companies on the amount to be paid upon the loss. In either case Mortgagee is authorized to collect and receipt for any such insurance money. Mortgagor agrees to sign, upon demand by Mortgagee, all receipts, vouchers and releases required of it by the companies. If, pursuant to the previous sentence hereof, Mortgagee receives any insurance money with respect to any parcel of which more than twenty

percent (20%) is used for other than a White Hen Pantry store, and if (w) Mortgagor is obligated to restore or replace the damaged or destroyed buildings or improvements under the terms of any lease or leases which are or may be prior to the lien of this Mortgage, (x) such damage or destruction does not result in cancellation or termination of such lease, (y) the insurers do not deny liability as to the insureds, and (z) such proceeds are sufficient to restore or replace the damaged or destroyed buildings or improvements in the judgment of Mortgagee, such proceeds, after deducting therefrom any expenses incurred in the collection thereof, shall be used to reimburse Mortgagor for the cost of rebuilding or restoration of buildings and improvements of said premises. In all other cases, where Mortgagee has received any insurance money pursuant to the second sentence of this paragraph 7, such insurance proceeds may, at the option of Mortgagee, either be applied in reduction of the indebtedness incurred hereby, whether due or not, or be held by the Mortgagee and used to reimburse Mortgagor for the cost of the rebuilding or restoration of buildings or improvements on said premises. The buildings and improvements shall be so restored or rebuilt as to be of at least equal value and substantially the same character as prior to such damage or destruction. In the event Mortgagor is entitled to reimbursement out of insurance proceeds, such proceeds shall be made available, from time to time, upon the Mortgagee being furnished with satisfactory evidence of the estimated cost of completion thereof and with such architect's certificates, waivers of lien, contractors' sworn statements and other evidence of cost and of payments as the Mortgagee may reasonably require and approve, and if the estimated cost of the work exceeds ten percent (10%) of the Loan Value of the damaged premises, with all plans and specifications for such rebuilding or restoration as the Mortgagee may reasonably require and approve. No payment made prior to the final completion of the work shall exceed ninety percent (90%) of the value of the work performed, from time to time, and at all times the undisbursed balance of said proceeds remaining in the hands of the Mortgagee shall be at least sufficient to pay for the cost of completion of the work free and clear of liens.

In the case of loss after foreclosure proceedings have been instituted, the proceeds of any such insurance policy or policies, if not applied as aforesaid in rebuilding or restoring the buildings or 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 to the owner of the equity of redemption if he shall then be entitled to the same or as the court may direct. In case of the foreclosure of this mortgage, the court in its decree may provide that the mortgagee's clause attached to each of said insurance policies may be canceled and that the

decree creditor may cause a new loss payable clause to be attached to each of said policies making the loss thereunder payable to said creditor; and any such foreclosure decree may further provide, that in case of one or more redemptions under said decree, pursuant to the statute in such case made and provided, then and in every such case, each successive redepton 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 redepton. In the event of foreclosure sale, Mortgagee is hereby authorized, without the consent of Mortgagor, to assign any and all insurance policies to the purchaser at the sale, or to take such other steps as Mortgagee may deem advisable, to cause the interest of such purchaser to be protected by any of the said insurance policies.

8. Stamp, Transfer or Revenue Tax. If, by the laws of the United States of America, or of any state or political subdivision thereof having jurisdiction over the Mortgagor or the premises, any tax is due or becomes due in respect of the issuance of the Note or this Mortgage or the recordation thereof, the Mortgagor covenants and agrees to pay such tax in the manner required by any such law. The Mortgagor further covenants to hold harmless and agrees to indemnify the Mortgagee, its successor or assigns, against any liability incurred by reason of the imposition of any such tax.

9. Prepayment Privilege. At such time as the Mortgagor is not in default beyond any applicable cure period either under the terms of the Note or under the terms of this Mortgage, the Mortgagor shall have such privilege of making prepayments on the principal of the Note (in addition to the required payments) as may be provided in the Note, and in accordance with the terms and conditions, if any, set forth in the Note.

10. Effect of Extensions of Time. If (i) the payment of said indebtedness or any part thereof be extended or varied; (ii) any part of the security therefore be released; or (iii) the Note is amended or restated, all persons at any time hereafter liable therefor, or interested in said premises, shall be held to assent to such extension, variation, amendment, restatement or release, and their liability and the lien and all provisions hereof shall continue in full force, the right of recourse against all such persons being expressly reserved by the Mortgagee, notwithstanding such extension, variation, amendment, restatement or release.

11. Effect of Changes in Laws Regarding Taxation. In the event of the enactment after this date of any law of the state in which the premises are located deducting from the value of

land for the purpose of taxation any lien thereon, or imposing upon the Mortgagee the payment of the whole or any part of the taxes or assessments or charges or liens herein required to be paid by Mortgagor, or changing in any way laws relating to the taxation of mortgages or debts secured by mortgages or the mortgagee's interest in the property, or the manner of collection of taxes, so as to affect this Mortgage or the debt secured hereby or the holder thereof, then, and in any such event, the Mortgagor, upon demand by the Mortgagee, shall pay such taxes or assessments, or reimburse the Mortgagee therefor; provided, however, that if in the opinion of counsel for the Mortgagee (a) it might be unlawful to require Mortgagor to make such payment or (b) the making of such payment might result in the imposition of interest in excess of the maximum amount permitted by law, then and in such event, the Mortgagee may elect, by notice in writing given to the Mortgagor, to declare all of the indebtedness secured hereby to be and become due and payable sixty (60) days from the date of giving of such notice.

12. Mortgagee's Performance of Defaulted Acts. In case of default herein beyond any applicable cure period, Mortgagee may, but need not, make any payment or perform any act herein required of Mortgagor in any form and manner deemed expedient by Mortgagee, and may, but need not, make full or partial payments of principal or interest on prior encumbrances, if any, and purchase, discharge, compromise or settle any tax lien or other prior lien on title or claim thereof, or redeem from any tax sale or forfeiture affecting said premises or contest any tax or assessment. All moneys paid for any of the purposes herein authorized and all expenses paid or incurred in connection therewith, including attorneys' fees, and any other moneys advanced by Mortgagee to protect the mortgaged premises and the lien hereof, shall be so much additional indebtedness secured hereby, and shall become immediately due and payable without notice and with interest thereon at the rate of interest then applicable to the indebtedness secured by this Mortgage. Inaction of Mortgagee shall never be considered as a waiver of any right accruing to it on account of any default on the part of Mortgagor.

13. Mortgagee's Reliance on Tax and Insurance Bills, Etc. Mortgagee in making any payment hereby is authorized: (a) to pay any taxes, assessments and insurance premiums, according to any bill, statement or estimate procured from the appropriate public office or vendor without inquiry into the accuracy of such bill, statement or estimate or into the validity of any tax, assessment, insurance premiums, sale, forfeiture, tax lien or title or claim thereof; or (b) to purchase, discharge, compromise or settle any other prior lien, without inquiry as to the validity or amount of any claim for lien which may be asserted.

14. Affirmative Covenants.

A. Financial Statements. The Mortgagor covenants that, so long as this Mortgage is in effect and so long as Mortgagee shall hold the Note, it will deliver to Mortgagee in duplicate:

- (i) as soon as practicable and in any event within 45 days after the end of each quarterly period (other than the last quarterly period) in each fiscal year, a consolidated profit and loss statement, reconciliation of surplus statement and source and application of funds statement of Mortgagor and its subsidiaries (if any) for the period from the beginning of the current fiscal year to the end of such quarterly period, and a consolidated balance sheet of Mortgagor and its subsidiaries (if any) as at the end of such quarterly period setting forth in each case in comparative form (after the first 12-month fiscal year) figures for the corresponding period in the preceding fiscal year, all in reasonable detail and certified by an authorized financial officer of Mortgagor, subject to changes resulting from year-end adjustments;

- (ii) as soon as practicable and in any event within 90 days after the end of each fiscal year, a consolidating and consolidated profit and loss statement, reconciliation of surplus statement and source and application of funds statement of Mortgagor and its subsidiaries (if any) for such year, and a consolidating and consolidated balance sheet of Mortgagor and its subsidiaries (if any) as at the end of such year, setting forth in each case in comparative form (after the first 12-month fiscal year) corresponding consolidated figures from the preceding annual audit, all in reasonable detail and satisfactory in scope to Mortgagee and, as to the consolidated statements, certified to Mortgagor by independent public accountants of nationally recognized standing selected by Mortgagor whose certificate shall be in scope and substance reasonably satisfactory to Mortgagee (it being understood and agreed by Mortgagee that a certificate satisfactory to The Prudential Insurance Company of America and Prudential Interfunding Corp. (jointly, "Prudential") shall be deemed to be satisfactory to Mortgagee unless Mortgagee reasonably requires greater scope or additional substance in such certificate) and, as to the

