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MORTGAGE AND SECURITY AGREEMENT

Lender: BELL ATLANTIC TRICON LEASING CORPORATION  
Borrower: SOUTHLAKE DONUTS, INC.

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1. DEFINITION OF TERMS. As used in this Mortgage and Security Agreement, the following terms shall have the following meanings:

1.1 Land: The land described in Exhibit A attached hereto, together with all right, title and interest of Borrower thereto.

1.2 Improvements: (a) All buildings, structures and other improvements now or hereafter existing or erected on the Land, (b) all fixtures of every kind and nature now or hereafter owned by Borrower and used in connection with such improvements, and (c) all of Borrower's interest in personal property of any kind or nature whatsoever, which is or will be used on or in connection with, the Land or any of the foregoing, including, without limitation, all equipment, machinery, and furniture, together with all present and future attachments, accessions, replacements and additions located on the Land.

1.3 Property: The Land, Improvements, Easements or any portion thereof or interest therein.

1.4 Lease(s): All leases and other occupancy or use agreements, now or hereafter existing, which cover or relate to all or any portion of the Property.

1.5 Secured Debt: All principal, interest, late charges, other charges, prepayment and other premiums, indemnification amounts due or to become due by Borrower to Lender and all other liabilities of Borrower to Lender, howsoever created, whether now existing or hereafter arising including, without limitation, obligations under any guarantee and amounts due to become due under the Loan Documents.

1.6 Notes: One or more Promissory Notes made by Borrower in favor of Lender including, without limitation, a Promissory Note of even date herewith made by Borrower to Lender in the principal amount of \$ 290,000.00.

1.7 Indenture: This Mortgage and Security Agreement and all modifications or amendments thereto or extensions thereof.

1.8 Loan Documents: The Indenture, the Notes, personal property leases, guarantees, Uniform Commercial Code financing statements and amendments and any and all other documents or instruments related to or evidencing any portion of the Secured Debt, whether now or hereafter given or made by or on behalf of Borrower to Lender.

1.9 Franchise: Dunkin' Donuts

1.10 Easements: All easements, rights of way, gores of land, streets, ways, alleys, passages, sewer rights, water courses, water rights and powers, and all appurtenances whatsoever, in any way, now or in the future, belonging, or relating to the Land, whether now owned or hereafter acquired by Borrower.



STATE OF INDIANA/S.S. NO. 1466 COUNTY LAKE COUNTY FILED FOR RECORD FEB 27 1991

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1.11 Maximum Amount: For purposes of recording this Indenture only, the maximum amount of the Secured Debt secured by this Indenture shall be \$ 290,000.00.

2. **GRANTING CLAUSES.** Borrower hereby irrevocably and absolutely grants, assigns, mortgages, bargains, sells and conveys to Lender, with all POWERS OF SALE AND STATUTORY RIGHTS AND COVENANTS, and grants to Lender a security interest in all of Borrower's estate, right, title and interest in the Property, together with all proceeds thereof (including but not limited to Insurance Proceeds and Taking Proceeds as hereinafter defined) FOR THE PURPOSE OF SECURING payment of the Secured Debt and the due, prompt and complete observance, performance and fulfillment of each and every obligation, covenant, condition, warranty, agreement and representation of Borrower contained in the Loan Documents. This Indenture is also intended to be a security agreement under the Uniform Commercial Code as in force, from time to time, in the State where the Improvements are located (the "State").

3. **ASSIGNMENT OF LEASES AND RENTS.** As additional collateral for the payment of the Secured Debt, Borrower hereby assigns to Lender the Leases, including the rents, income and profits of the Property, and grants the Lender the right to enter upon and take possession of the Property for the purpose of collecting the same and to let the Property or any part thereof, and to apply the rents, income and profits (after payment of all necessary charges and expenses) on account of the Secured Debt. Until an Event of Default as hereinafter defined shall occur, Borrower shall be entitled to collect and receive said rents, income and profits. Borrower warrants that: (a) Borrower is or will be the sole owner of the entire lessor's interest in the Leases; (b) the Leases are or will be valid and enforceable and have not been and will not be altered, modified, or amended in any manner whatsoever except as herein set forth; (c) no rents reserved in the Leases have been or will be assigned or anticipated; (d) no rents for any period subsequent to the date of this assignment have been or will be collected in advance of the time when the same shall become due under the terms of the Leases. Borrower will not (i) execute any other assignment of its interest in the Leases or assignment of rents arising or accruing from the Lease or from the Property; (ii) not alter, modify or change the terms of any Lease or give any consent to exercise any option required or permitted by such terms without the prior written consent of Lender; (iii) not consent to any assignment or subletting under any Lease not in accordance with its terms, without the prior written consent of Lender. If an Event of Default shall occur Borrower will, upon Lender's demand, pay monthly in advance to Lender or to any receiver appointed to collect said rents, income and profits, the fair and reasonable rental value for the use and occupation of the Property. The exercise by Borrower of any right or remedy available under applicable law with respect to the Lease including without limitation, the collection of the rents, income and profits and the application thereof as herein provided shall not be considered a waiver of any default by Lender under this Indenture or the Lease or this assignment. Lender shall not be liable for any loss sustained by Borrower resulting from Lender's failure to let the Property after default or from any other act or omission of Lender in managing the Property after default unless such loss is caused by the willful misconduct or gross negligence of Lender. Lender shall not be obligated to perform or discharge any obligation, duty, or liability under any Lease or under or by reason of this assignment. Should Lender incur any such liability under any

Lease or under or by reason of this assignment, or in defense of any such claims or demands, the amount thereof, including costs, expenses and reasonable attorneys' fees, shall be Secured Debt.

4. REPRESENTATIONS AND WARRANTIES. Borrower hereby represents and warrants to Lender that the following are true, correct and complete as of date of the Indenture:

4.1 Due Organization; Authority. If Borrower is a corporation or a partnership, it is duly organized, validly existing and in good standing under the laws of the State of its organization and is duly qualified to conduct business and is in good standing in the State and has power to carry on its business as presently conducted, to own the Property, to make and enter into the Loan Documents and to carry out the transaction contemplated therein.

4.2 Execution, Delivery and Effect of Loan Documents. The Loan Documents have each been duly authorized, executed and delivered by Borrower, and each of the Loan Documents is a legal, valid and binding obligation of Borrower, enforceable in accordance with its terms.

4.3 No Violation; Required Approvals. Borrower is not in material violation of any term or provision of any document governing its organization or existence or in default under any material instruments or obligations relating to Borrower's business, assets or the Property and no claim or default relating to such instruments, assets, business, or the Property has been asserted against Borrower. The execution and performance by Borrower of the Loan Documents and the consummation of the transactions contemplated thereby will not result in any material breach of, or constitute a material default under, any contract, agreement, document or other instrument to which Borrower is a party or by which Borrower may be bound or affected. No approval by, authorization of, or filing with any federal, state or municipal or other governmental commission, board or agency or other governmental authority is required in connection with the authorization, execution and delivery of the Loan Documents.

4.4 Construction and Completion of Improvements. The Improvements have been completed and installed in a good and workmanlike manner, in compliance with the Laws as such term is hereinafter defined. There are no contracts or agreements of any kind, either oral or in writing, now in existence covering labor or materials heretofore furnished or to be furnished in connection with the Property which are incomplete nor is any indebtedness outstanding for labor and materials in connection with the Property.

4.5 Litigation. There are no pending or threatened suits, judgments, executions, condemnation, proceedings, zoning changes or any other proceedings pending or of record in any court of any nature or before or by any governmental or administrative agency which could in any manner now or hereafter affect the Borrower's title to, possession of or use of the Property, or which could now be or hereafter constitute a lien thereon or materially or adversely affect the Property or Borrower or change the Property. No petitions or cases have been filed by or against Borrower under any federal or state insolvency law. No portion of the Property is subject to any right of redemption in favor of any third party under the foreclosure laws of the State.

4.6 Financial Statements. All statements, financial or otherwise, submitted to Lender in connection with the extension of credit evidenced by the Loan Documents are true, correct and complete in all material respects, and do not omit the statement of any fact or circumstance necessary to prevent the statement contained therein from being misleading or false and all such financial statements have been prepared in accordance with generally accepted accounting principles, consistently applied, and fairly present the financial condition of Borrower or entities covered by such statements as of the date thereof. Since the date thereof, neither Borrower nor any such entity has experienced any material adverse change in its finances, business, operations, affairs or prospects.

4.7 Title to Property. Borrower has good and clear, record and marketable title to the Property, subject only to the title exceptions set forth in Exhibit B.

4.8 Hazardous Waste. To the knowledge of the Borrower, after due inquiry, the Land and Improvements have never been used as a land fill to receive solid waste, whether or not hazardous, and has not been used for disposal, storage or treatment of any waste, trash, garbage, industrial by-product, chemical or hazardous substance of any nature, including without limitation radioactive containers, PCBs, asbestos, pesticides, herbicides, pesticide or herbicide containers, untreated sewage, industrial process sludge or any "hazardous substance" as such term is defined in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended. The Property does not now and will not contain asbestos insulation or electrical transformers cooled by phenylchlorobenzene. To the knowledge of Borrower, after due inquiry, no release (a "Release") of oil or petroleum or chemical liquids or solids, liquid or gaseous products or hazardous substance has occurred on the Land or other real property in the State, now or previously owned by Borrower or any of the partners of Borrower (if Borrower is a partnership), or any of the stockholders or other persons having a legal or beneficial interest in Borrower (if Borrower is a corporation, trust or other legal entity). Borrower has not received any notice from any governmental agency or from any tenant under a Lease with respect to any such Release.

4.9 Compliance with the Law. To the knowledge of Borrower, after due inquiry, the Improvements and the use to which the Borrower makes thereof, comply with all applicable restrictive covenants, zoning ordinances, building codes and flood disaster laws; that Borrower has obtained all requisite zoning, utility and building permits from all governmental entities or authorities having jurisdiction over the Property; and that no permits or licenses are required for the operation of the Property.

4.10 Flood Plain. The Property is not located in an area designated as a Flood Plain or if so located Borrower has obtained Federal Flood Plain insurance coverage and delivered a certificate of such coverage to Lender.

4.11 Taxes; Liens. There are no unpaid taxes, assessments or liens against the Property for any present or past due taxes or for paving, sidewalk, curbing, sewer or any other street improvements of any kind, with the exception of real estate taxes which are not yet due and payable.

4.12 Purpose of Loan; Homestead; Knowledge of Real Estate. The proceeds of the Loan shall be used solely for commercial or

business purposes. The obligations evidenced by the Loan Documents are made on Borrower's own behalf and for its own account. No portion of the Property is or will be used as the residential homestead of Borrower. Borrower is knowledgeable and experienced in real estate transactions and real estate financing, is represented by counsel or persons who have such knowledge and experience or has been made aware that Borrower should be represented by counsel and has declined to be so represented.

5. COVENANTS OF BORROWER.

5.1 Payments.

(a) Secured Debt. Borrower shall pay promptly to Lender, when due, the Secured Debt at the times and in the manner provided in the Loan Documents. Time is of the essence with respect to payment of the Secured Debt.

(b) Property Taxes and Charges. Borrower shall pay, prior to delinquency, all real estate taxes and personal property taxes, assessments, levies, utility and sewer charges, and any and all taxes and other charges, imposed upon or assessed against Borrower or the Property or upon the rents, income and profits of use or possession thereof, and any stamp or other taxes which may be required to be paid with respect to any of the Loan Documents ("Property Taxes and Charges"). Upon Lender's request Borrower shall furnish Lender with receipts showing payment of the Property Taxes and Charges prior to such Property Taxes and Charges becoming delinquent.

(c) Taxes on Lender County Records! If the Lender impose upon Lender the obligation to pay the whole or any part of the Property Taxes and Charges or changes in any way the Laws relating to taxation so as to adversely affect the Loan Documents, then Borrower shall pay such Property Taxes and Charges or reimburse Lender for such adverse affect immediately therefor, unless in the opinion of counsel to Lender, it might be unlawful to require Borrower to pay the same or such payment might result in the imposition of interest prohibited by the Laws.

(d) Liabilities. Borrower shall pay, prior to delinquency, all debts and liabilities incurred in the construction, operation, development, use, enjoyment, repair, maintenance, replacement, restoration and management of the Property including, without limitation, utility charges, sums due mechanics and materialmen and other sums secured or which might if unpaid become liens on the Property.

(e) Expenses. Borrower shall, to the extent allowed by the Laws, pay, on demand and without counterclaim, setoff, deduction, defense, or reduction, all fees (including, without limitation, reasonable attorneys' fees and disbursements actually incurred), taxes, recording fees, commissions and other liabilities, costs and expenses incurred in connection with (i) the making or enforcement of the Loan Documents; (ii) Lender's exercise and enforcement of its rights and remedies hereunder; and (iii) Lender's protection of the Property and its interest therein. Borrower shall not be entitled to any credit against or in reduction of the Secured Debt by reason of the payment of any sums required to be paid under Paragraph 5.1 (b) through (e) hereof.

5.2 Operation of the Property.

(a) Maintenance; Alterations. Borrower shall maintain and preserve the Property in good repair and condition and shall not commit, permit or suffer any demolition or waste of the Property or any use or occupancy which constitutes a nuisance or violation under the Laws.

(b) Liens. Borrower shall promptly discharge any mechanics', laborers', materialmen's or similar or other lien, charge, attachment, or lis pendens filed or recorded which relates to Borrower, the Property or any Release.

(c) Compliance with Laws and Private Covenants. Borrower shall keep, observe, and satisfy, and not suffer violations of any, Federal, regional, State and local laws (including, without limitation, all environmental laws), ordinances, rules, regulations, statutes, decisions, order, judgments, directives or any governmental or regulatory authority, court or arbitrator (collectively "Laws") and private covenants materially affecting the Property.

(d) Inspection. Borrower shall permit Lender to enter upon and inspect the Property at reasonable times without delay, hinderance or restriction.

(e) Operation as Restaurant. Borrower shall operate (or cause its tenants to operate) the Property as a Franchise restaurant and shall not cease nor permit the tenant to close such operation without Lender's prior written consent.

5.3 Insurance. Borrower shall obtain and keep in force, with one or more insurers acceptable to Lender, such insurance as Lender may from time to time reasonably require by notice to Borrower, including, as a minimum, insurance providing (i) comprehensive general liability (including bodily injury and property damage coverage) with a broad form coverage endorsement and a combined single limit of at least \$1,000,000.00, and (ii) protection against fire, "extended coverage" and other "All Risk" perils, including, if specifically required by Lender, earthquake and flood, to the full replacement value of the Property, with a waiver of subrogation endorsement. All property insurance policies shall include the standard mortgagee clause in use in the State naming Lender as the first mortgagee with loss payable to Lender as such mortgagee and all other policies shall name Lender as an additional insured. All insurance policies shall not be cancellable or modifiable without 30 days' prior written notice to Lender and shall provide for a deductible of not more than \$1,000.00 for any single "Casualty" as hereinafter defined. Borrower shall provide Lender with evidence of compliance with this Paragraph in such forms as required from time to time by Lender, or at least 15 days prior to the expiration date of any policy required hereunder, each bearing notations evidencing the prior payment of premiums.

5.4 Sales; Leases and Encumbrances. Borrower shall not, without the prior written consent of Lender, (a) convey, assign, sell, mortgage, encumber, pledge, hypothecate, grant a security interest in, grant options with respect to, lease or otherwise dispose of all or any part of any legal or beneficial interest in any part or all of the Property, or any interest therein; or (b) directly or indirectly sell, assign, lease or otherwise dispose of or permit the sale, assignment or other disposition of (i) any legal or beneficial interest in the stock of any corporation which is either Borrower or is a beneficial owner of

all or part of Borrower or the Property, or (ii) any legal or beneficial interest in Borrower if Borrower is a limited or general partnership, joint venture, tenancy in common or tenancy by the entirety.

5.5 Financial Records and Statements. Borrower shall keep accurate books and records in accordance with generally accepted accounting principles consistently applied (or other basis of accounting practice prescribed or permitted by Lender), in which full, true and correct entries shall be promptly made as to all operations of the Property and shall permit all such books and records to be inspected and copies made by Lender, its designees or its representatives during customary business hours. Borrower shall deliver or cause to be delivered to Lender within 90 days after the close of its fiscal year a statement of condition or balance sheet of Borrower and if requested by Lender a further statement relating solely to the Property, as at the end of such year and an annual operating statement showing in reasonable detail all income and expenses of Borrower certified as to accuracy by either an independent certified public accountant acceptable to Lender (if requested by Lender) or the senior financial officer or managing partner of Borrower.

5.6 Further Assurances. Borrower shall promptly upon request of Lender (a) correct any defect, error or omission which may be discovered in the contents of any Loan Document or in the execution or acknowledgment thereof; (b) execute, acknowledge, deliver and record or file such further instruments (including, without limitation, mortgages, deeds of trust, security agreements, financing statements and specific assignments of rents or leases) and do such further acts, in either case as may be necessary, desirable or proper in Lender's opinion to (i) protect and preserve the first and valid lien and security interest of this Indenture on the Property or to subject thereto any property intended by the terms thereof to be covered thereby; or (ii) protect the interest and security interest of Lender in the Property against the rights or interests of third parties, and (iii) carry out more effectively the purposes of the Loan Documents. Borrower hereby appoints Lender as its attorney-in-fact, coupled with an interest, to take the above actions and to perform such obligations on behalf of the Borrower, at Borrower's sole expense, if Borrower fails to comply fully with this Paragraph.

5.7 Indemnity. Borrower shall indemnify, defend and hold harmless Lender from and against, and, upon demand, reimburse Lender for, all claims, demands, liabilities, losses, damages, judgments, penalties, costs and expenses, including, without limitation, reasonable attorneys' fees and disbursements, which may be imposed upon, asserted against or incurred or paid by Lender by reason of, on account of or in connection with any bodily injury or death or property damage occurring in, upon or in the vicinity of the Property through any cause whatsoever, or asserted against Lender on account of any act performed or omitted to be performed under the Loan Documents or on account of any transaction arising out of or in any way connected with the Property or the Loan Documents, except as a result of the willful misconduct or gross negligence of Lender.

5.8. Notices. Borrower shall deliver to Lender at Lender's address set forth herein promptly upon receipt of the same, copies of all notices, certificates, documents and instruments received by Borrower which materially and adversely affect Borrower, the Property or the Leases, including, without limitation, those given in connection with a Release.

5.9 Estoppel Certificates. Borrower shall promptly furnish to Lender from time to time, on the request of Lender, written statements signed and, if so requested, acknowledged, setting forth the then unpaid principal and interest on the Note and specifying any claims, offsets or defenses which Borrower asserts against the Secured Debt or any obligations to be paid or performed by Borrower under the Loan Documents, together with any other information reasonably requested by Lender.

5.10 Defense. Borrower shall, without liability, cost or expense to Lender, protect, preserve and defend title to the Property and the security interest of Lender, against all adverse claimants to title or any possessory or non-possessory interests therein.

5.11 Personalty. Borrower shall use the portion of the Improvements which constitutes personalty ("Personalty") solely at the Property. Borrower shall from time to time when requested by Lender, provide Lender with a current, accurate inventory of the Personalty.

## 6. CASUALTIES AND TAKINGS.

6.1. Notice to Lender. In the case of any act or occurrence of any kind or nature which results in damage, loss or destruction to the Property (a "Casualty"), or commencement of any proceedings or actions which might result in a condemnation or other taking for public or private use of the Property or which related to injury, or damage thereto (a "Taking"), Borrower shall immediately notify Lender describing the nature and the extent of the Taking or the Casualty, as the case may be. Borrower shall promptly furnish to Lender copies of all notice, pleadings, determinations and other papers in any such proceedings or negotiations.

6.2 Repair and Replacement. In case of a Casualty or Taking, Borrower shall promptly (at Borrower's sole cost and expense and regardless of whether the insurance or other proceeds, if any, shall be sufficient or made available by Lender for the purpose) restore, repair, replace and rebuild the Property as nearly as possible to its quality, utility, value, condition and character immediately prior to the Casualty or the Taking, as the case may be.

### 6.3 Proceeds.

(a) Collection. Borrower shall use its best efforts to collect the maximum amount of insurance proceeds payable on account of any Casualty ("Insurance Proceeds"), and the maximum award or payment or compensation payable on account of any Taking ("Taking Proceeds"). In the case of a Casualty, Lender may, at its sole option, make proof of loss to the insurer if not made promptly by Borrower. Borrower shall not settle or otherwise compromise any claim for Insurance Proceeds or Taking Proceeds without Lender's prior written consent.

(b) Assignment to Lender. Borrower hereby assigns, sets over and transfers to Lender all Insurance Proceeds and Taking Proceeds and authorizes payment of such Proceeds to be made directly to Lender. Lender may, in its sole discretion, apply such Proceeds to either of the following, or any combination thereof:

(i) payment of the Secured Debt, in any order that Lender determines and with respect to the Notes as provided therein; or



(ii) repair or replacement of any part of the Property so destroyed, damaged or taken, in which case Lender may impose such terms, conditions and requirements for the disbursement of proceeds for such purposes as it, in its sole discretion, deems advisable.

Notwithstanding the foregoing, Borrower has a right to rebuild, provided that no Event of Default exists, and Borrower exhibits to Lender proof of sufficient resources to build.

If any portion of the Secured Debt shall thereafter be unpaid, Borrower shall not be excused from the payment thereof in accordance with the terms of the Loan Documents. Lender shall not, in any event or circumstance, be liable or responsible for failure to collect or exercise diligence in the collection of any Insurance Proceeds or Taking Proceeds.

## 7. DEFAULTS; REMEDIES OF LENDER

7.1 Events of Default. Any of the following shall constitute an "Event of Default" hereunder or under the Note:

(a) Breach of Payment. The failure by Borrower to pay any portion of the Secured Debt including, without limitation, the Note or any installment thereof when due; or

(b) Misrepresentations. Any representation or warranty made by Borrower in the Loan Documents or any certificate or agreement delivered in connection with the Loan Documents proves to be untrue, misleading or is, without limitation, not fulfilled in any material respect; or

(c) Breach of Covenants. Any breach by Borrower of any covenants in the Loan Documents or failure to observe or perform any other covenants, agreement, condition, term or provision of any of the Loan Documents or any certificate or agreement delivered in connection with the Loan Documents, which breach or failure continues for 30 days after written notice thereof by Lender to Borrower or, in the event such default cannot be cured within said 30 days, unless Borrower fails to commence such cure within said 30 days period and thereafter fails to diligently pursue said cure; or

(d) Bankruptcy. If (i) any one or more of the then legal or beneficial owners of the Property, or any individual or entity then personally liable on the Secured Debt (including, without limitation, any guarantor) or, if Borrower is a partnership, any general partner or joint venturer (collectively the "Parties in Interest" and individually a "Party in Interest") become insolvent, makes a transfer in fraud of, or an assignment for the benefit of creditors, or admits in writing its inability, or is unable to pay debts as they become due; or (ii) a receiver, custodian, liquidator or trustee is appointed for all or substantially all of the assets of a Party in Interest or for the Property in any proceeding brought by a Party in Interest, or any such receiver or trustee is appointed in any proceeding brought against a Party in Interest or the Property and such appointment is not promptly contested or is not dismissed or discharged within 120 days after such appointment, or a Party in Interest consents or acquiesces in such appointment; or (iii) a Party in Interest files a petition under the Bankruptcy Code, as amended, or under any similar law or statute of the United States or any state thereof; or (iv) a petition against a Party in Interest is filed commencing an involuntary case under any federal or state insolvency law including the Bankruptcy Code and such petition is not dismissed or discharged within 120 days after the filing thereof; or (v) any composition, rearrangement, liquidation, extension, reorganization or other relief of debtors now or hereafter existing is requested by a Party in Interest; or

(e) Adverse Court Action. A court of competent jurisdiction enters an order staying the enforcement of this Indenture with respect to, assumes custody of or sequesters all or a substantial part of, the Property, or the Property is taken on execution or by process of law.

7.2 Remedies. In case of an Event of Default, Lender may, at any time thereafter, at its option and without notice, exercise any or all of the following remedies:

(a) Acceleration. Declare the entire Secured Debt immediately due and payable, without notice, and it shall thereupon be immediately due and payable; or

(b) Judicial Foreclosure and Other Action. Commence and maintain an action or actions in any court of competent jurisdiction to foreclose this Indenture pursuant to the Laws of the State or to obtain specific enforcement of the covenants of Borrower hereunder. Borrower agrees that such covenants shall be specifically enforceable by injunction or any other appropriate equitable remedy; or

(c) Offset Rights. Apply in satisfaction of the Secured Debt or any amount at any time to become due or payable in connection with the ownership, occupancy, use, restoration or repair of the Property, any deposits or other sums credited by or due from Lender to Borrower, including, without limitation, Insurance Proceeds and the Taking Proceeds; or

(d) Cure a Default. Without releasing Borrower from any obligation hereunder or under the Loan Documents, cure any default by Borrower. In connection therewith, Lender may enter upon the Property and do such acts and things as Lender deems necessary or desirable to protect the Property or the Leases; or

(e) Possession of Property. Take physical possession of the Property and of all books, records, documents and accounts relating thereto and exercise, without interference from Borrower, any and all rights which Borrower has with respect to the Property, including, without limitation, the right at Borrower's expense, to rent and lease the same and to hire a professional property manager for the Property. If necessary to obtain possession as provided for above, Lender may, without liability to Borrower or other persons, invoke any and all legal remedies to dispossess Borrower, including, without limitation, one or more actions for forcible entry and detainer, trespass and restitution. In connection with any action taken by Lender pursuant to this Paragraph Lender shall not be liable for any loss sustained by Borrower resulting from any failure to let the Property or from any other act or omission of Lender in managing the Property unless caused by the willful misconduct or gross negligence of Lender, nor shall Lender be obligated to perform or discharge any obligation, duty or liability under any Lease or by reason of any Loan Document. Should Lender incur any such liability, the amount thereof shall be secured hereby and Borrower shall reimburse Lender therefor immediately upon demand. Lender shall have full power to make, from time to time, all alterations, renovations, repairs and replacements to the Property as may seem proper to Lender; or

(f) Receiver. Secure the appointment of a receiver for the Property whether such receivership be incident to a proposed sale of such Property or otherwise, and without regard to the value of the Property or the solvency of Borrower. Borrower hereby consents to the appointment of such receiver or receivers, waives any and all defenses to such appointment and

agrees not to oppose any application therefor by Lender. The appointment of such receiver, trustee or other appointee by virtue of any court order, or laws shall not impair or in any manner prejudice the rights of Lender to receive payment of rents and income; or

(g) Uniform Commercial Code Remedies. Exercise any and all rights of a secured party with respect to the that portion of the Indenture which constitutes personal property under the Uniform Commercial Code of the State. Written notice mailed to Borrower, as provided herein, 10 days prior to the date of public sale of the Personalty or prior to the date, after which private sale of such Personalty will be made, shall constitute reasonable notice. Any sale made pursuant to the provisions of this Paragraph shall be deemed to have been a public sale conducted in a commercially reasonable manner, if held contemporaneously with the sale of the remainder of the Property. In the event of a foreclosure sale, whether made by Lender under the terms hereof, or under judgment of a court, such Personalty and the other parts of the Property may, at the option of Lender, be sold in parts or as a whole; or

(h) Subrogation. Have and exercise all rights and remedies of any person, entity or body politic to whom Lender renders payment or performance in connection with the exercise of its rights and remedies under the Loan Documents; or

(i) Other. Take such other actions or commence such other proceedings under the Laws as Lender deems necessary or advisable to protect its interest in the Property and/or collect the Secured Debt.

Any sums advanced by Lender under this Paragraph or Paragraph 5.1 hereof shall bear interest at the interest rate specified in the Note plus 5%, (but in no event more than the maximum rate permitted by law); and shall be payable by Borrower on demand and such sums together with such interest thereon shall constitute a part of the Secured Debt.

7.3 Holding Over. Should Borrower, after an Event of Default, continue in possession of any part of the Property unlawfully, Borrower shall be a tenant from day to day, terminable at the will of either Borrower or Lender, at a reasonable rental per diem, such rental to be due and payable daily to Lender.

7.4 General Provisions Relating to Remedies.

(a) Cumulative Remedies. All of the rights, remedies and options set forth herein or otherwise available at law or in equity are cumulative and concurrent and may be exercised without regard to the adequacy of or exclusion of, any other right, remedy, option or security held by Lender.

(b) Right to Purchase. At any sales of the Property pursuant hereto, Lender shall have the right to purchase the Property being sold, and in such cases the right to credit against the amount of the bid made therefor (to the extent necessary) all or any of the Secured Debt then due. If Lender acquires the Property Borrower shall not be entitled to any proceeds of the further sale of the Property by Lender.

(c) No Waiver or Release by Lender. Lender may resort to any remedies and the security given by the Loan Documents in whole or in part, and in such portions and in such

order as may seem best to Lender in its sole discretion, and any such action shall not in any way be considered as a waiver of any of the rights, benefits or remedies evidenced by the Loan Documents. The failure of Lender to exercise any right, remedy or option provided for in the Loan Documents shall not be deemed to be a waiver of any of the covenants or obligations secured by the Loan Documents. No sale of all or any of the Property, no forbearance on the part of Lender and no extension of the time for the payment of the whole or any part of the Secured Debt or any other indulgence given by Lender to Borrower or any other person or entity including, without limitation, any surrender, compromise, release, renewal, extension, exchange or substitution which Lender may grant in respect of the Property or any interest therein or any release or indulgence granted to any maker, endorser, guarantor or surety of any of the Secured Debt, shall operate to release or in any manner affect Lender's interest in the Property or the liability of Borrower to pay the Secured Debt, except to the extent that such liability shall be reduced by proceeds of sale of all or any of the Property received by Lender.

(d) Waiver by Borrower. Borrower hereby waives the benefit of any laws providing for appraisal or redemption, waives any right to bring or utilize any defense, counterclaim or setoff, other than one in good faith which denies the existence or sufficiency of the facts upon which the foreclosure action is grounded or which is based on Lender's wrongful actions. If any defense, counterclaim or setoff (other than one permitted by this document as a defense) is properly raised in such foreclosure action, such defense, counterclaim or setoff shall be dismissed. If such defense, counterclaim or setoff is based on a claim which could be tried in an action for money damages, the foregoing waiver shall not bar a separate action for such damages (unless such claim is required by Laws or applicable rules of procedure to be pleaded in or consolidated with the action initiated by Lender) but such separate action shall not thereafter be consolidated with Lender's foreclosure action. The bringing of such separate action for money damages shall not be deemed to afford any grounds for staying Lender's foreclosure action.

8. GENERAL.

8.1 Amendments. The Loan Documents may not be waived, changed or discharged orally, but only by an agreement in writing and signed by Lender. Such permitted waiver, change or discharge shall be effective only in the specific instances and for the purposes for which given and to the extent therein specified. Reference to any of the Loan Documents in this Indenture shall include all amendments, modifications, extensions and renewals thereof.

8.2 Notices. Any notice request, demand or other communication required or permitted under the Loan Documents (unless otherwise expressly provided therein) shall be given in writing by delivering the same in person to the intended addressee, by overnight courier service addressed as provided herein or as either Borrower or Lender shall have designated by written notice to the other. Such notices shall be deemed given when received or, in the case of delivery by courier service with guaranteed next day delivery, the next day or the day designated for delivery, or in the case of delivery by certified United States Mail, two days after deposit therein. No notice to or demand on Borrower in any case shall of itself entitle

Borrower to any other or further notice or demand in similar or other circumstances.

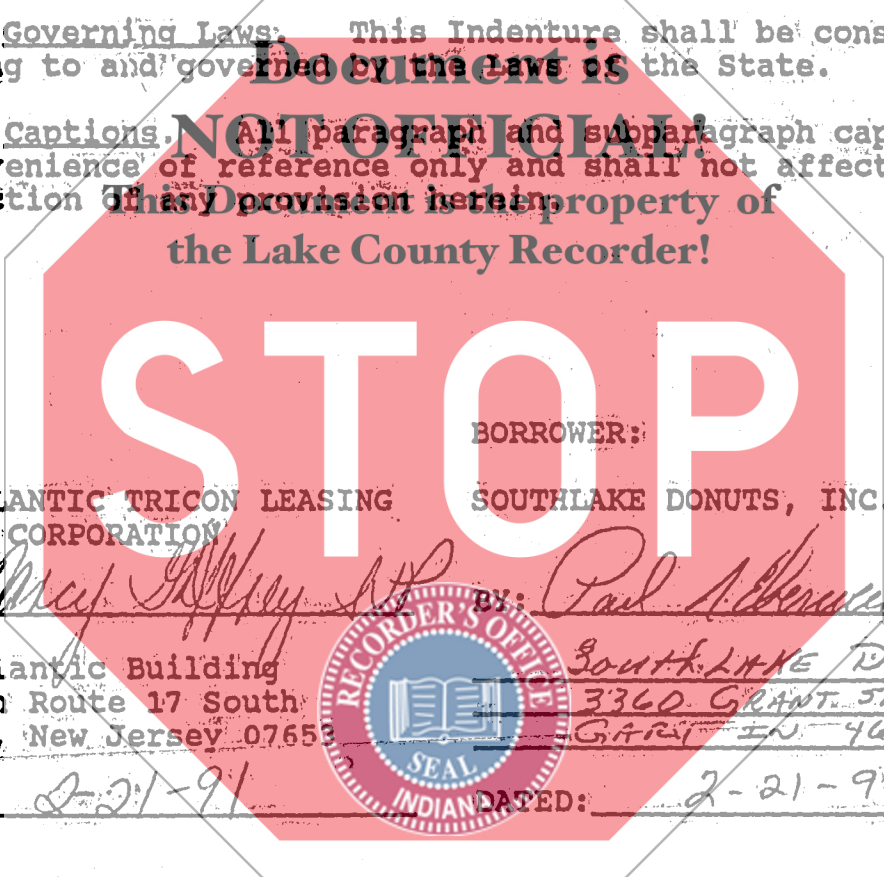
8.3 Successors and Assigns. The terms, provisions, and conditions hereof shall be binding upon Borrower, and any permitted successors and assigns of Borrower, and shall inure to the Land. All references in this Indenture to Borrower or Lender shall be deemed to include all such successors and assigns.

8.4 Severability. A determination that any provision of the Loan Documents is unenforceable or invalid shall not affect the enforceability or validity of any other provision, and any determination that the application of any provision of the Loan Documents to any person or circumstances is illegal or unenforceable shall not affect the enforceability or validity of such provision as it may apply to any other persons or circumstances.

8.5 Joint and Several Liability. If there is more than one Borrower, the obligations and covenants of each Borrower shall be joint and several.

8.6 Governing Laws. This Indenture shall be construed according to and governed by the laws of the State.

8.7 Captions. All paragraph and subparagraph captions are for convenience of reference only and shall not affect the construction of any provision herein.



LENDER:

BORROWER:

BELL ATLANTIC TRICON LEASING CORPORATION

SOUTHLAKE DONUTS, INC.

BY:

BY:

Bell Atlantic Building  
95 North Route 17 South  
Paramus, New Jersey 07653

SOUTHLAKE DONUTS INC  
3360 GRANT ST  
GARY IN 46408

DATED:

INDIAN DATED:

2-21-91

2-21-91

STATE OF )  
 ) SS:  
COUNTY OF )

Before me the undersigned, a Notary Public for the State of \_\_\_\_\_, personally appeared \_\_\_\_\_ on behalf of Bell Atlantic Tricon Leasing Corporation and acknowledged the execution of the foregoing instrument this \_\_\_\_ day of \_\_\_\_\_, 1991.

\_\_\_\_\_  
Notary Public  
County of Residence: \_\_\_\_\_

My Commission Expires:  
\_\_\_\_\_

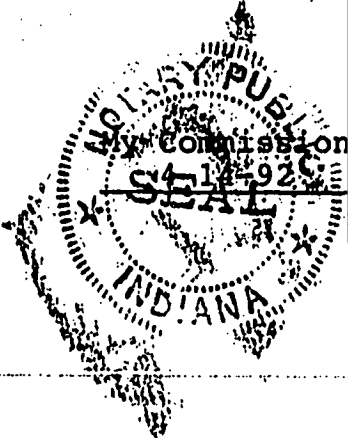
STATE OF INDIANA )  
 ) SS:  
COUNTY OF PORTER )

Before me the undersigned, a Notary Public for the State of Indiana, personally appeared Paul G. Eberwein on behalf of Southlake Donuts, Inc., and acknowledged the execution of the foregoing instrument this 21<sup>st</sup> day of February, 1991.

**Document is NOT OFFICIAL!**  
This Document is the property of the Lake County Recorder!

Donna K. Johnson  
Notary Public  
Donna K. Johnson  
County of Residence: Porter

My Commission Expires:  
\_\_\_\_\_



This Instrument Prepared By:

Helen M. Mittelman, Esq.  
WINICK & RICH, P.C.  
919 Third Avenue  
New York, NY 10022  
212/935-9360

That certain tract of land lying in the North  $\frac{1}{4}$  of the South  $\frac{1}{4}$  of Fractional Section 20, Township 36 North, Range 8 West of the 2nd P.M., in Lake County, Indiana, more particularly described as follows:

Beginning at a point on the east line of said Section, which said point is 660 feet North of the South line of the North Half of the South Half of said Section, thence West at right angles to the East line of said Section a distance of 185 feet, thence North at right angles and parallel with the East line of said Section a distance of 300 feet, more or less, to the South line of property conveyed by Donald Ewen and Elinor Ann Ewen, husband and wife, to Louis Karras and Walter J. Kazic, by Warranty Deed recorded August 12, 1957 in Deed Record 1068, page 347, as Document No. 45943, thence East along said South line a distance of 185 feet to the East line of said Section, thence South along the East line of said Section to the point of beginning, excepting that portion previously dedicated for street purposes.



STATE OF NEW JERSEY )  
COUNTY OF BERGEN )

The foregoing instrument was signed, sealed and delivered by Lender in the presence of the following witnesses on this 21<sup>st</sup> day of February, 1991.

Cynthia M. Woods Nancy Gaffney  
1506 W Terrace Circle 422 Palisade Avenue  
Teaneck, N.J. 07666 Bergen, N.J. 07603

**Document is NOT OFFICIAL!**

This Document is the property of the Lake County Recorder!

The foregoing instrument was acknowledged before me by Nancy Gaffney Senior Vice President of Bell Atlantic TriCon Leasing Corporation, a Delaware corporation and on its behalf on this 21<sup>st</sup> day of February, 1991.

My Commission expires: ANDREA L. MELI  
NOTARY PUBLIC OF NEW JERSEY  
MY COMMISSION EXPIRES DEC. 28, 1994



Andrea L. Meli  
Notary Public