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MORTGAGE, ASSIGNMENT OF LEASES AND RENTS,  
FIXTURE FILING AND SECURITY AGREEMENT

EL. TORITO RESTAURANTS, INC.,

a Delaware corporation,

as mortgagor,

This Document is the property of

the Lake County Recorder!

CREDIT LYONNAIS, NEW YORK BRANCH,

as Collateral Agent for and on behalf of certain banks,

as mortgagee

**STOP**

January 27, 1994



Chicago Title Insurance Company

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S.A. RECORDER

STATE OF INDIANA, S.S. IND.  
LAKE COUNTY  
FILED FOR RECORD

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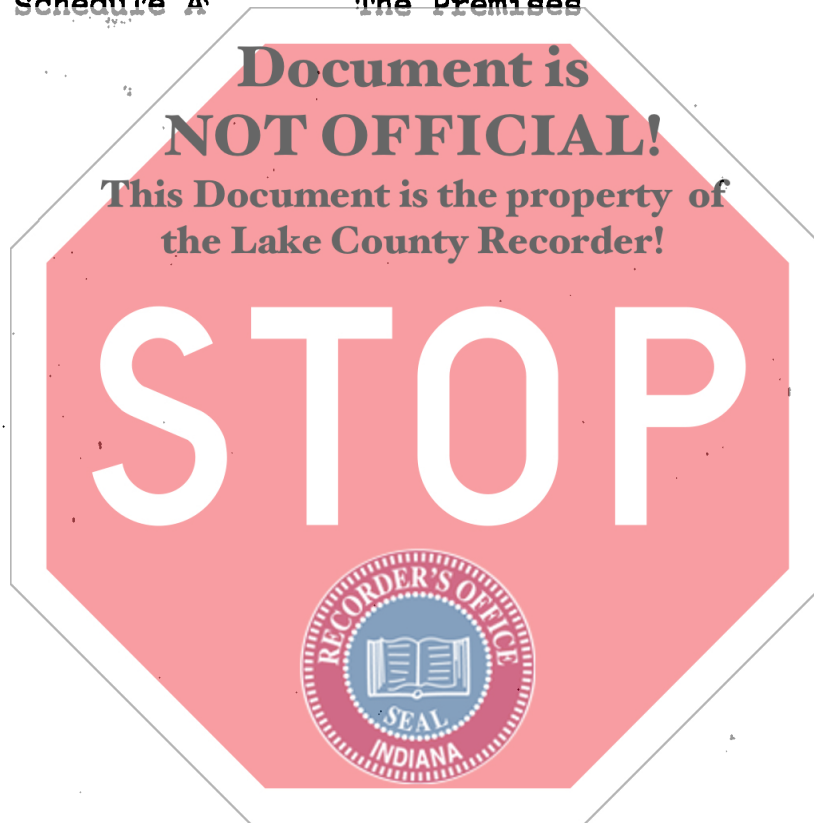
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MORTGAGE, ASSIGNMENT OF LEASES AND RENTS,  
FIXTURE FILING AND SECURITY AGREEMENT

THIS MORTGAGE, ASSIGNMENT OF LEASES AND RENTS, FIXTURE FILING AND SECURITY AGREEMENT made as of this 27th day of January, 1994 (this "Mortgage") by EL TORITO RESTAURANTS, INC., a Delaware corporation having a place of business at 2450 White Road, Irvine, California 92714 (the "Mortgagor"), as successor by merger to El Torito Restaurants, Inc., a California corporation, to CREDIT LYONNAIS NEW YORK BRANCH, having a place of business at 1301 Avenue of the Americas, New York, New York 10016 (the "Mortgagee"), as collateral agent for and on behalf of the Collateral Agent, the Agent, the Banks, the Issuing Bank and the Swing Line Bank (each defined in the Credit Agreement described below; and capitalized terms used herein that are not otherwise defined herein but are defined in the Credit Agreement shall have the meanings given to them in the Credit Agreement).

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WHEREAS, FRI-M Corp., a Delaware corporation (the "Company"), Family Restaurants, Inc., a Delaware corporation ("FRI"), the Mortgagor, certain other direct and indirect subsidiaries of the Company (together with FRI and the Mortgagor, the "Guarantors"), the Mortgagee, the Collateral Agent, the Agent, the Issuing Bank, the Swing Line Bank and each of the Banks have executed a Revolving Credit Agreement, dated January 27, 1994 (the "Credit Agreement"), pursuant to which the Banks, the Issuing Bank and the Swing Line Bank have agreed to extend credit to the Company pursuant to, and subject to the terms and conditions specified therein, with a maturity date of January 27, 1999, as to the last maturing obligation or installment thereof;

WHEREAS, the obligations of the Banks, the Issuing Bank and the Swing Line Bank to extend credit under the Credit Agreement are conditioned upon, among other things, the execution and delivery by the Mortgagor of a mortgage in the form hereof to secure (a) the prompt payment when due by each of the Guarantors of the joint and several obligations of each of the Guarantors to guarantee to the Agent, the Collateral Agent, the Issuing Bank, the Swing Line Bank and the Banks and their respective successors, endorsees and assigns, prompt payment when due of all present and future obligations and liabilities of all kinds of the Company to the Agent, the Collateral Agent, the Issuing Bank, the Swing Line Bank and the Banks arising under any or all of the Loan Documents, whether incurred by the Company as maker, endorser, drawer, acceptor, guarantor, accommodation party or otherwise, and whether due or to become due, secured or unsecured, absolute or contingent, joint or several, and however and whenever incurred by the Company (the "Guarantor Obligations") and (b) the prompt payment when due by Mortgagor of

its obligations under the Security Documents (all of the foregoing obligations pursuant to clause (b) being collectively called the "Mortgagor Obligations" and the Guarantor Obligations and the Mortgagor Obligations together being called the "Obligations").)

WHEREAS, FOR THE PURPOSE OF SECURING payment of the Obligations, the Mortgagor hereby grants this Mortgage in favor of the Mortgagee.

#### Grant of Mortgage

NOW, THEREFORE, in consideration of the premises and benefits accruing to the Mortgagee from and relating to the Credit Agreement and the mutual agreements contained therein and herein and in order to secure the performance of the Obligations, the Mortgagor hereby assigns, gives, conveys, grants a security interest in, hypothecates, encumbers, pledges, mortgages and warrants and sets over unto the Mortgagee all right, title and interest, if any, whether now owned and held or hereafter acquired, in all of the following described property (collectively, the "Mortgaged Property"):

A. all the land and premises located in Lake Newton County, Indiana and more particularly described on Schedule A annexed hereto, together with all of the easements, rights, privileges and appurtenances thereunto belonging or in any way appertaining and all of the estate, right, title, interest, claim or demand whatsoever of the Mortgagor therein and in the streets and ways adjacent thereto, either in law or in equity, in possession or expectancy, now or hereafter acquired (collectively, the "Premises");

B. all structures or buildings, and replacements thereof, now or hereafter erected or located upon the Premises, including all apparatus, machinery, equipment and fixtures of every kind and nature whatsoever forming part of any structures or buildings (collectively, the "Improvements");

C. all fixtures, fittings, appliances, apparatus, building materials, equipment, machinery and other articles of personal property, and replacements thereof, now or at any time hereafter affixed to, attached to, placed upon, or used in any way in connection with the complete and comfortable use, enjoyment, occupancy or operation of the Improvements or the Premises (collectively, the "Personal Property");

D. all proceeds of the conversion, voluntary or involuntary, of any of the Mortgaged Property into cash or liquidated claims, including, without limitation, proceeds of insurance, tort claims and condemnation awards;

E. subject to the terms of Section 1.13 hereof, all rights to any rents, issues, income, revenues, royalties, proceeds, profits and other benefits paid, arising from or due in connection with the Mortgagor's ownership, enjoyment, use, management, operation, leasing or occupancy of the Mortgaged Property or any portion thereof or from any lease, sublease, license or other agreement pertaining thereto, including, without limitation, any and all rights that the Mortgagor may have against any tenant under such leases or any subtenants or occupants or users of any part of the Mortgaged Property, deposits made or security given to utility or other companies with respect to the Premises or any improvements (subject to the prior legal rights, if any, of such occupants, users or utility or other companies making such deposits), advance payments of insurance premiums, all proceeds payable under any policy of insurance covering loss of rents resulting from untenability and any and all damages, royalties and revenue of every nature or description from any person or entity having now or hereafter a right to any oil, gas or mineral rights and reservations of any such property (collectively, the "Rents"); and

F. all legal rights and claims accruing to the Mortgagor in connection with the Mortgagor's ownership or use of any of the Mortgaged Property, including, without limitation, proceeds from claims or causes of action on account of any damage or diminution in value of such property or improvements, all plans and specifications and other architectural drawings, all agreements with contractors, subcontractors, suppliers, project managers and supervisors, designers, architects, engineers, sales agents, leasing agents, consultants and property managers, all warranties, guaranties, indemnities and insurance policies, and all other licenses, contracts, permits and certificates relating to the use of any such property.

TO HAVE AND TO HOLD unto the Mortgagee for the benefit of the Banks, the Collateral Agent, the Agent, the Issuing Bank and the Swing Line Bank and their successors and assigns forever, subject to defeasance only upon the full and timely payment and performance of all of the Obligations before any sale of the Mortgaged Property or any part thereof to satisfy any of such obligations of the Mortgagor.

PROVIDED, HOWEVER, that this Mortgage and the liens and security interests created hereunder shall terminate when all the

Obligations have been indefeasibly paid in full, all of the other covenants and obligations of FRI, the Company and any Subsidiary hereunder, under the Credit Agreement and under any other Credit Document have been performed in full, and the Banks, the Issuing Bank and the Swing Line Bank have no further obligation to extend credit under the Credit Agreement or any other agreement relating to the Obligations, at which time the Mortgagee shall execute and deliver to the Mortgagor all documents which the Mortgagor shall reasonably request to evidence termination of such security interest.

## ARTICLE I

### Covenants of the Mortgagor

The Mortgagor agrees, covenants, represents and warrants that:

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1.01. Title. Without limiting any of the Mortgagor's representations and warranties under the Credit Agreement, the Mortgagor has good and marketable title to an indefeasible estate in fee simple in the Premises and the Improvements subject to no Liens, except Permitted Encumbrances; it owns and will own the Personal Property free and clear of Liens, except Permitted Encumbrances, and this Mortgage is and will remain a valid and enforceable first and prior lien on the Mortgaged Property subject only to the Permitted Encumbrances. The Mortgagor has full power and authority to mortgage and convey the Mortgaged Property in accordance with the provisions set forth herein and to incur the obligations provided herein. The Mortgaged Property, and Mortgagor's use of the Mortgaged Property, substantially complies with all applicable requirements of local, state and federal law. The Mortgagor will preserve such title, and will forever warrant and defend the same to the Mortgagee and will forever warrant and defend the validity and priority of the lien hereof against the claims of all persons and parties whomsoever.

1.02. Further Assurances. The Mortgagor agrees, at its expense, to execute, acknowledge, deliver and cause to be duly filed all such further instruments and documents and take all such actions as the Mortgagee, the Collateral Agent, the Agent, the Issuing Bank, the Swing Line Bank or any of the Banks may from time to time reasonably request to better assure, preserve, protect and perfect the liens and security interests hereof and the rights and remedies created hereby.

1.03. Filing and Recording. The Mortgagor will cause this Mortgage, any security instrument creating a lien or evidencing the lien hereof and each instrument of further assurance to be filed, registered or recorded in such manner and

in such places as may be required by any present or future law in order to publish notice of and more fully to protect and perfect the lien hereof upon, and the interest of the Mortgagee in, the Mortgaged Property. The Mortgagor will pay all filing, registration or recording fees, and all expenses incident to the execution and acknowledgment of this Mortgage, any mortgage or deed of trust supplemental hereto, any security instrument, and any instrument of further assurance, and all federal, state, county and municipal stamp taxes and other taxes, duties, imposts, assessments and charges arising out of or in connection with the delivery or recording of this Mortgage, any mortgage or deed of trust supplemental hereto, any security instrument or any instrument of further assurance.

1.04. Franchises.

(a) The Mortgagor will do all things necessary to preserve and keep in full force and effect its existence, franchises, rights and privileges as a corporation under the laws of the state of its formation, and will substantially comply with all regulations, rules, ordinances, statutes, orders and decrees of any governmental authority or court applicable to the Mortgagor or to the Mortgaged Property or any part thereof.

(b) The Mortgagor will operate the Mortgaged Property as a restaurant facility and keep in full force and effect all material licenses, permits and approvals required to operate said premises and promptly cure any defect, notice of non-compliance or other directive from any governmental agency or authority having jurisdiction.

1.05. Additions to Mortgaged Property. All right, title and interest of the Mortgagor in and to all extensions, improvements, betterments, renewals, substitutes and replacements of, and all additions and appurtenances to, the Mortgaged Property, hereafter acquired by or on release to, the Mortgagor or constructed, assembled or placed by the Mortgagor on the Premises, and all conversions of the security constituted thereby, immediately upon such acquisition, release, construction, assembling, placement or conversion, as the case may be, and in each such case, without any further mortgage, deed of trust, conveyance, assignment or other act by the Mortgagor, shall become subject to the lien of this Mortgage as fully and completely, and with the same effect, as though now owned by the Mortgagor and specifically described in the granting clause hereof, but at any and all times the Mortgagor will execute and deliver to the Mortgagee any and all such further assurances, mortgages, deeds of trust, conveyances or assignments thereof as the Mortgagee may reasonably require for the purpose of expressly and specifically subjecting the same to the lien of this Mortgage.



1.06. Payments of Liens and Taxes. (a) Subject to subparagraph (e) below, the Mortgagor will pay and discharge, before the same shall become delinquent and before any penalty attaches thereto, all taxes of every kind and nature, all general and special assessments levied by any public authority, levies, permit, inspection and license fees, all water and sewer rents and charges, and all other public charges whether of a like or different nature, imposed upon or assessed against the Mortgaged Property or any part thereof or upon the revenues, income and profits of the Mortgaged Property or arising in respect of the occupancy, use or possession thereof. The Mortgagor will, upon the request of the Mortgagee, deliver to the Mortgagee receipts evidencing the payment of all such taxes, assessments, levies, fees, rents and other public charges imposed upon or assessed against the Mortgaged Property or the revenues, rents, issues, income or profits thereof.

(b) Subject to subparagraph (e) below, the Mortgagor will pay when due all lawful claims and debts of mechanics, contractors, subcontractors, materialmen, laborers, and others and in general will do or cause to be done everything necessary so that the lien hereof shall be fully preserved, at the cost of the Mortgagor, without expense to the Mortgagee, the Collateral Agent, the Agent, the Issuing Bank, the Swing Line Bank or any Bank.

(c) Subject to subparagraph (e) below, the Mortgagor will pay when due all charges for utilities or services including but not limited to electricity, gas, sewer, and water and all encumbrances, if any, liens or other charges, on the Mortgaged Property and all costs and fees related thereto.

(d) Subject to subparagraph (e) below, the Mortgagor will pay any taxes imposed on the Mortgagee, the Collateral Agent, the Agent, the Issuing Bank, the Swing Line Bank or any Bank by reason of the recording of this Mortgage.

(e) Nothing in this Section 1.06 shall require that the Mortgagor pay any tax, levy, assessment, charge, claim, demand or fee referred to in (a) through (d) above, the lawfulness of which the Mortgagor is contesting in good faith through appropriate proceedings.

1.07. Insurance. (a) Without limiting any of the Mortgagor's obligations under the Credit Agreement, the Mortgagor agrees (at the Mortgagor's sole expense) to take out and maintain, or to cause same to be taken out and maintained, insurance on the Mortgaged Property covering physical loss or damage by fire and extended coverage perils, including, but not limited to, loss or damage caused by windstorm, hail, explosion, riot, civil commotion, vandalism, malicious mischief, vehicle and smoke. In addition, the Mortgagor will take out and maintain

insurance on the Mortgaged Property covering loss or damage caused by flood and earthquake unless, in each such case, the Mortgagor determines in its reasonable judgment that the cost of the coverage (as compared to the insured risk) is unreasonable. All such insurance shall be maintained for the estimated replacement cost of the Mortgaged Property; provided, that the Mortgagor may maintain any such insurance under blanket policies. Such insurance shall also expressly provide that no co-insurance requirements shall apply. The Mortgagor shall (at the Mortgagor's sole expense) take any necessary action to cause the policies referred to above to name Mortgagee as a loss payee pursuant to a lender's loss payable endorsement (Form 438BFU) or a substantially similar form. The Mortgagor shall provide evidence that, to the extent required by the Mortgagee, the Mortgagee, for its benefit and the benefit of the Banks, the Collateral Agent, the Agent, the Issuing Bank and the Swing Line Bank, has been named as such a loss payee by endorsement to the policies for such insurance and shall provide a schedule to the Mortgagee upon its request or the request of any Bank, the Collateral Agent, the Agent, the Issuing Bank or the Swing Line Bank of the insurance amounts of such insurance, the dates of the expiration thereof and the property and risks covered thereby. The Mortgagor shall give the Mortgagee prompt notice of any loss covered by such insurance, which notice shall specify the nature and extent of such loss and the insurance policy under which the Mortgagor intends to present a claim. The Mortgagor hereby acknowledges that the Mortgagee has a first priority security interest in all proceeds payable to the Mortgagor under an insurance policy with respect to the Mortgaged Property ("Insurance Proceeds"); provided, that (except as provided in the next succeeding sentence), the entire amount of any Insurance Proceeds shall be paid directly to the Mortgagor (upon payment of which the Mortgagee's security interest therein will terminate) and will be used by the Mortgagor as and when required for the Mortgagor's restoration of the Mortgaged Property in accordance with Section 1.09 hereof; provided further, that if the Mortgagor shall elect in its sole discretion not to restore the Mortgaged Property, then all such Insurance Proceeds shall be deemed to be Net Cash Proceeds and shall be subject to Sections 2.07 and 8.01(n) of the Credit Agreement. Notwithstanding the foregoing, after the occurrence of an Event of Default and during the continuance thereof, the Mortgagee shall, pursuant to the co-loss payee endorsement referred to above, have the right to receive Insurance Proceeds directly from any insurer, and the Mortgagor agrees that, in the event that any Insurance Proceeds are received by the Mortgagor after the occurrence of an Event of Default, all such Insurance Proceeds shall be received in trust for the exclusive benefit of the Mortgagee and shall immediately upon receipt be paid over to the Mortgagee. Any Insurance Proceeds (including any interest earned thereon) so received by the Mortgagee pursuant to this Section 1.07(a) following the occurrence of an Event of Default

may be applied by the Mortgagee to the repayment of the Obligations.

(b) The Mortgagor shall not take out separate insurance concurrent in form or contributing in the event of loss with that required to be maintained under this Section 1.07, unless the Mortgagee is included thereon as a named insured with loss payable to the Mortgagee under a standard mortgage endorsement of the character above described. The Mortgagor shall immediately notify the Mortgagee whenever any such separate insurance is taken out and shall promptly deliver to the Mortgagee a copy of the policy or policies of such insurance.

(c) The designation of any form, type or amount of insurance coverage by Mortgagee under paragraph (a) of this Section 1.07 shall in no event be deemed a representation, warranty or advice by the Mortgagee, the Collateral Agent, the Agent, the Issuing Bank, the Swing Line Bank or any Bank that such insurance is adequate for the purposes of the Mortgagor's business or the protection of the Mortgagee's interest in the Mortgaged Property. **NOTICE: This Document is the property of the Lake County Recorder!**

1.08. Records. The Mortgagor will keep proper books and records of account as covenanted in the Credit Agreement and will permit one or more officers and employees of the Mortgagee or any other person reasonably designated by the Mortgagor, to visit and inspect the Premises and the Improvements and examine the Mortgagor's records and books of account and to discuss its affairs, finances and accounts with the officers of the Mortgagee during normal business hours, and at such other reasonable times as may be required by the Mortgagee.

1.09. Waste. Without limiting any of the Mortgagor's obligations under the Credit Agreement, the Mortgagor will not commit any waste on the Mortgaged Property or make any change in the use of the Mortgaged Property which will in any way increase any ordinary fire or other hazard arising out of construction or operation. The Mortgagor will, at all times, maintain the Improvements in good operating order and condition in all material respects and will promptly make, from time to time, all necessary and proper repairs, renewals, replacements and improvements thereto. If any part of the Mortgaged Property shall be lost, damaged or destroyed by fire or other cause, the Mortgagor shall promptly restore the Mortgaged Property to the equivalent of its original condition regardless of whether or not there shall be any insurance proceeds therefor unless the Mortgagor shall elect in its sole discretion not to restore the Mortgaged Property (and the Mortgagor takes such steps as may be commercially reasonable to maintain such property for subsequent use, resale or for such other future action as the Mortgagor may reasonably deem appropriate); provided, that if the Mortgagor makes the foregoing election in connection with any uninsured

casualty, then, for purposes of Section 8.01(n) of the Credit Agreement, the Mortgagor shall be deemed to have received Net Cash Proceeds in an amount equal to the fair market value of that portion of the Improvements destroyed or rendered unusable as a result of such casualty. If any part of the Mortgaged Property shall, through condemnation or eminent domain, be lost, physically damaged or destroyed, or taken, the Mortgagor will promptly restore, repair or alter the remaining part of the Mortgaged Property unless the Mortgagor shall elect in its sole discretion not to restore the remaining part of the Mortgaged Property (and the Mortgagor takes such steps as may be commercially reasonable to maintain such property for subsequent use, resale or for such other future action as the Mortgagor may reasonably deem appropriate).

1.10. **Document is NOT OFFICIAL!**  
The Mortgagor, immediately upon obtaining knowledge of the institution of any proceedings for the condemnation of the Mortgaged Property or any portion thereof, will notify the Mortgagee of the pendency of such proceedings. The Mortgagee may participate in any such proceedings and the Mortgagor from time to time will deliver to the Mortgagee all instruments requested by it to permit such participation. The Mortgagor hereby acknowledges that the Mortgagee has a first priority security interest in any moneys received by the Mortgagor as an award or compensation in any such condemnation proceeding relating to the Mortgaged Property ("Condemnation Proceeds"); provided, that (except as provided in the next succeeding sentence), the entire amount of any Condemnation Proceeds shall be paid directly to the Mortgagor (upon payment of which the Mortgagee's security interest therein terminate) and will be used by the Mortgagor as and when required for the Mortgagor's restoration of the Mortgaged Property in accordance with Section 1.09 hereof; provided further, that if the Mortgagor shall elect in its sole discretion not to restore the Mortgaged Property, then all such Condemnation Proceeds shall be deemed to be Net Cash Proceeds and shall be subject to Sections 2.07 and 8.01(n) of the Credit Agreement. Notwithstanding the foregoing, after the occurrence of an Event of Default and during the continuance thereof, the Mortgagee shall have the right to receive Condemnation Proceeds directly from the condemning authority, and the Mortgagor agrees that, in the event that any Condemnation Proceeds are received by the Mortgagor after the occurrence of an Event of Default, all such Condemnation Proceeds shall be received in trust for the exclusive benefit of the Mortgagee and shall immediately upon receipt be paid over to the Mortgagee. Any Condemnation Proceeds (including any interest earned thereon) so received by the Mortgagee pursuant to this Section 1.10 following the occurrence of an Event of Default may be applied by the Mortgagee to the repayment of the Obligations. The Mortgagee may deduct from such moneys any and all expenses incurred by it in participating in any such condemnation proceeding.

1.11. Transfer of Mortgaged Property. If the Mortgagor shall sell, convey or otherwise transfer any part of the Mortgaged Property, then the Mortgagee shall, without requiring any payment of consideration or any application of Net Cash Proceeds from such sale, conveyance or other transfer, execute and deliver to the Mortgagor a release of lien, financing statement terminations, and such other instruments as may be reasonably requested by the Mortgagor releasing that portion of the Mortgaged Property so sold, conveyed or otherwise transferred from the lien of this Mortgage; provided, that the Company, FRI and the Mortgagor shall thereafter comply in all respects with the provisions of Sections 2.07 and Section 8.01(n) of the Credit Agreement as they relate to such Net Cash Proceeds; and provided further, that the Mortgagor shall reimburse the Mortgagee for its reasonable out-of-pocket expenses (including fees and expenses of legal counsel) incurred in connection with the review and approval of such release, terminations and other instruments.

1.12. Mortgagor Default Under Mortgage. If the Mortgagor shall fail to perform any of the covenants contained in this Article I, then the Mortgagee, upon five (5) Business Days' prior written notice of its intention to do so and the Mortgagor's failure to so perform such covenant, may make or do the same in such manner and to such extent as it may deem necessary to protect the security hereof. The Mortgagee is hereby authorized to enter upon said property for such purposes, appear in and defend any action or proceeding purporting to affect the security hereof or the rights or power of the Mortgagee, pay, purchase, contest or compromise any Lien which in the judgment of the Mortgagee appears to be prior or superior hereto and exercise any such powers, pay necessary expenses, employ counsel and pay his or her reasonable fees. All sums so advanced or paid shall be a lien upon the Mortgaged Property and shall be secured hereby. The Mortgagor shall repay on demand all sums so advanced or paid on its behalf with interest per annum (on the basis of a 365-day year for the actual number of days involved) at 2% in excess of the highest rate then in effect with respect to any Loan under the Credit Agreement (the "Involuntary Rate").

1.13. Assignment of Leases and Rents. (a) The Mortgagor hereby absolutely and unconditionally assigns to the Mortgagee all of its right, title and interest in and to the Rents. Prior to an Event of Default, the Mortgagor shall have a license to collect and receive all Rents.

(b) The Mortgagor hereby absolutely and unconditionally assigns to the Mortgagee all of its right, title and interest in and to existing and future leases, including subleases thereunder, and any and all extensions, renewals, modifications, and replacements thereof, covering any part of the Mortgaged Property (collectively, the "Leases"); provided, that

nothing, in this Section 1.14 or elsewhere in this Mortgage shall be interpreted as granting to the Mortgagor a right to enter into any Lease of the Mortgaged Property other than as expressly permitted by Section 1.11. Mortgagor hereby further assigns to Mortgagee all guaranties of tenants' performances under the Leases.

(c) The Mortgagee's acceptance of this assignment shall not be deemed to constitute the Mortgagee a "mortgagee in possession" nor obligate the Mortgagee to appear in or defend any proceeding relating to any Lease or to the Mortgaged Property, or to take any action hereunder, expend any money, incur any expenses, or perform any obligation or liability under any Lease, or assume any obligation for any deposits delivered to the Mortgagor by any tenant and not delivered to the Mortgagee, prior to entry upon and taking possession of the Mortgaged Property by the Mortgagee.

(d) After the occurrence of an Event of Default, the Mortgagor hereby authorizes and directs the tenants under all Leases to pay Rents to the Mortgagee upon written demand by the Mortgagee, without further consent of the Mortgagor, and the tenants may rely upon any written statement delivered by the Mortgagee to the tenants. Any such payment to the Mortgagee shall satisfy the obligations of such tenant to make payment to the Mortgagor under the Leases to the extent of the payment made to the Mortgagee.

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**STOP**

ARTICLE II

Default and Remedies

2.01. Events of Default. The occurrence of any "Event of Default" pursuant to Section 9.01 of the Credit Agreement shall constitute an "Event of Default" hereunder.

2.02. Rights and Remedies of the Mortgagee Upon Default. During the continuation of any Event of Default, the Mortgagee personally, or by its agents or attorneys, shall have and may exercise with reference to the Mortgaged Property any or all of the rights and remedies of a party holding a valid first priority lien on or security interest in real and personal property under a mortgage and security interest under the law, including the applicable provisions of the Uniform Commercial Code, in effect in the state in which the Premises are located, and as granted hereunder or under any other applicable law or under any other agreement now or hereafter in effect executed by the Mortgagor, including, without limitation, the following actions:

(a) The Mortgagee may declare all or any portion of the sums secured hereby immediately due and payable upon written notice given to the Mortgagor and upon any such declaration such sums shall become and be immediately due and payable.

(b) The Mortgagee may enter the Mortgaged Property (or any part thereof) and may exclude the Mortgagor, its agents and servants wholly therefrom; and having and holding the same, may use, operate, manage and control the Premises and the Improvements and conduct the business thereof, either personally or by their superintendents, managers, agents, servants, attorneys or receivers. Upon every such entry, the Mortgagee, at the expense of the Mortgagor, may maintain and restore the Mortgaged Property, may complete the construction of any Improvements then being constructed and may make such changes in the contemplated Improvements as they may deem desirable; may insure the Mortgaged Property, make all necessary or proper repairs, renewals and replacements and such useful alterations, additions, betterments and improvements thereto and thereon as to them may seem advisable, may manage and operate the Mortgaged Property and carry on the business thereof and of the Mortgagor with respect thereto as it shall deem best. Furthermore, the Mortgagee shall be entitled to collect and receive all Rents of the Mortgaged Property and to endorse all checks in respect thereof, and after deducting the expenses of conducting the business thereof and of all maintenance, repairs, renewals, replacements, alterations, additions, betterments and improvements and amounts necessary to pay for taxes, assessments, insurance and prior or other proper charges upon the Mortgaged Property or any part thereof, as well as just and reasonable compensation for the services of all attorneys, counsel, agents, clerks, servants and other employees properly engaged and employed by the Mortgagee, the Mortgagee may apply the moneys arising as aforesaid to the payment of the Obligations.

(c) The Mortgagee may (1) institute a civil action for the complete or partial foreclosure of this Mortgage and sell the Mortgaged Property pursuant to the procedures provided by applicable law, and all estate, right, title, interest, claim, demand and right of redemption therein, at one or more sales as an entity or in parcels, and at such time and place upon such terms and after such notice thereof as may be required or permitted by law; or (2) institute such other action, suit or proceeding in equity or at law for the specific performance of any covenant, condition or agreement in the Guarantee, the Credit Agreement or in any other agreement or instrument evidencing the Obligations or in this Mortgage, or in aid of the execution of any power herein granted, or for any foreclosure hereunder, or for the enforcement of any other appropriate legal or equitable remedy or otherwise, to protect and enforce their rights, as the Mortgagee shall elect.

(d) In connection with any such foreclosure, sale or suit, the Mortgagee is hereby irrevocably appointed the true and lawful attorney of the Mortgagor, in its name and stead, to make all necessary conveyances, assignments, transfers and deliveries of the Mortgaged Property and rights so sold and for that purpose the Mortgagee may execute all necessary instruments of conveyance, assignment and transfer, and may substitute one or more persons with like power, the Mortgagor hereby ratifying and confirming all that its said attorney or such substitute or substitutes shall lawfully do by virtue hereof. Nevertheless, the Mortgagor, if so requested by the Mortgagee, shall ratify and confirm any such sale or sales by executing and delivering to the Mortgagee or to such purchaser or purchasers all such instruments as the Mortgagee may request. Any such sale or sales made under or by virtue of this Article II shall operate to divest all the estate, right, title, interest, claim and demand whatsoever, whether at law or in equity, of the Mortgagor in and to the properties and rights so sold (other than any non-waivable statutory redemption rights available under the laws of the state in which the Premises are located), and shall be a perpetual bar both at law and in equity against the Mortgagor and against any and all persons claiming or who may claim the same, or any part thereof from, through or under the Mortgagor.

(e) Upon any sale made under or by virtue of this Article II, the Mortgagee may bid for and acquire the Mortgaged Property or any part thereof and in lieu of paying cash therefor may make settlement for the purchase price by crediting upon the indebtedness of the Mortgagor secured by this Mortgage the net sale price after deducting therefrom the expenses of the sale and the costs of the action and any other sums which the Mortgagee is authorized to deduct under this Mortgage. In the event the value of the Mortgaged Property is determined by a court of competent jurisdiction for purposes of calculating any deficiencies owed by Mortgagor, guarantors and others against whom recovery of a deficiency is sought, the following shall be considered competent evidence for the finder of facts determination of the fair market value of the Mortgaged Property as of the date of the foreclosure sale:

(i) the Mortgaged Property shall be valued in an "as is" condition as of the date of the foreclosure sale, without any assumption or expectation that the Mortgaged Property will be repaired or improved in any manner before a resale of the Mortgaged Property after foreclosure;

(ii) the valuation shall be based upon an assumption that the foreclosure purchaser desires a reasonably prompt resale of the Mortgaged Property for cash (but no later than eighteen (18) months) following the foreclosure sale;



(iii) all expenses to be incurred when the Mortgagee or any lender resells the Mortgaged Property including reasonable closing costs customarily borne by the seller in a commercial real estate transaction should be added to the Obligations including, without limitation, brokerage commissions, title insurance, a survey of the Mortgaged Property, an environmental assessment of the Mortgaged Property, reasonable attorneys' fees, and reasonable marketing costs;

(iv) the gross fair market value of the Mortgaged Property shall be further discounted to account for any estimated holding costs associated with maintaining the Mortgaged Property pending sale, including, without limitation, utilities expenses, property management fees, taxes and assessments (to the extent not accounted for in (iii) above), and other maintenance expenses, except to the extent any of the same are reasonably recoverable from the rental, use or other operation of the Mortgaged Property, and

(v) any expert opinion testimony given or considered in connection with a determination of the fair market value of the Mortgaged Property must be given by persons having at least five (5) years experience in appraising improved property in the vicinity where the Mortgaged Property is located and being actively engaged therein at the time of such testimony.

2.03. Other Recourse by the Mortgagee. (a) In case an Event of Default described in Section 2.01 shall have occurred and be continuing, then, upon written demand of the Mortgagee, the Mortgagor will pay to the Mortgagee all sums required to be paid by the Mortgagor pursuant to any provision of this Mortgage, and in addition thereto such further amount as shall be sufficient to cover the costs and expenses of collection, including reasonable compensation to the Mortgagee, its agents, and counsel and any expenses reasonably incurred by the Mortgagee thereunder. In the event the Mortgagor shall fail forthwith to pay such amounts upon such demand, the Mortgagee shall be entitled and empowered to institute such action or proceedings at law or in equity as may be advised by its counsel for the collection of the sums so due and unpaid, and may prosecute any such action or proceedings to judgment or final decree, and may enforce any such judgment or final decree against the Mortgagor.

(b) The Mortgagee shall be entitled to recover judgment as aforesaid either before or after or during the pendency of any proceedings for the enforcement of the provisions of this Mortgage; and the right of the Mortgagee to recover such judgment shall not be affected by any entry or sale hereunder, or by the exercise of any other right, power or remedy for the

enforcement of the provisions of this Mortgage, or the foreclosure of the lien hereof; and in the event of a sale of the Mortgaged Property, and of the application of the proceeds of sale, as in this Mortgage provided, to the payment of the debt hereby secured, the Mortgagee shall be entitled to enforce payment of, and to receive all amounts then remaining due and unpaid upon, the Obligations, and to enforce payment of all other charges, payments and costs due under this Mortgage, and shall be entitled to recover judgment for any portion of the debt remaining unpaid, with interest. In case of proceedings against the Mortgagor in insolvency or bankruptcy or any proceedings for its reorganization or involving the liquidation of its assets, then the Mortgagee shall be entitled to prove the whole amount of principal and interest due upon the Obligations to the full amount thereof, and all other payments, charges and costs due under this Mortgage, without deducting therefrom any proceeds obtained from the sale of the whole or any part of the Mortgaged Property.

(c) No recovery or any judgment by the Mortgagee and no levy of an execution under any judgment upon the Mortgaged Property or upon any other property of the Mortgagor shall affect in any manner or to any extent, the lien of this Mortgage upon the Mortgaged Property or any part thereof, of any liens, rights, powers or remedies of the Mortgagee hereunder, but such liens, rights, powers and remedies of the Mortgagee shall continue unimpaired as before.

(d) The Mortgagee may, at its option, sell or otherwise dispose of the Personal Property by public or private proceedings, separate from or together with the sale of the Mortgaged Property (or any part thereof), in accordance with the provisions of the Uniform Commercial Code as adopted by and in effect in the state in which the Premises are located, and the Mortgagee may with respect to such Personal Property exercise any other rights or remedies of a secured party under the Uniform Commercial Code.

2.04. Application of Proceeds. Any purchase money, proceeds or avails of any sale made under or by virtue of Section 2.02 hereof, all recoveries, proceeds or other avails of any sale or judgment made under or by virtue of Section 2.03 hereof, together with any other sums which then may be held by the Mortgagee under this Mortgage, whether under the provisions of this Article II or otherwise, shall be applied as follows:

FIRST, to the payment of all reasonable costs and expenses incurred by the Mortgagee (in its capacity as such hereunder or under any other Security Document) in connection with such sale or judgment or otherwise in connection with this Mortgage or any of the Obligations, including all court costs and the reasonable fees and

expenses of its agents and legal counsel (including, without limitation, the cost of any environmental assessment, the repayment of all advances made by the Mortgagee hereunder or under any other Security Document on behalf of the Company or any of the Guarantors and any other reasonable costs or expenses incurred in connection with the exercise of any right or remedy hereunder or under any other Security Document;

SECOND, to the payment in full of the Obligations to the Banks (the amounts so applied to be distributed among the Banks in proportion to each Bank's Pro Rata Share), the Issuing Bank and the Swing Line Bank, in such order as the Agent may elect; and

THIRD, to the Mortgagee, its successors or assigns, or as a court of competent jurisdiction may otherwise direct.

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2.05. Receiver. (a) After the happening of any Event of Default and immediately upon the commencement of any action, suit or other legal proceedings by the Mortgagee to obtain judgment for payment under the Obligations and other sums required to be paid by the Mortgagor pursuant to any provision of this Mortgage, or of any other nature in aid of the enforcement of the Obligations or of this Mortgage, the Mortgagor will, if required by the Mortgagee, consent to the appointment of a receiver or receivers of the Premises and the Improvements and of all the Rents and other earnings, issues, profits and income thereof, regardless of the value or adequacy of the Mortgaged Property. After the happening of any Event of Default and during its continuance, or upon the commencement of any proceedings to foreclose this Mortgage or to enforce the specific performance hereof or in aid thereof or upon the commencement of any other judicial proceeding to enforce any rights of the Mortgagee, the Mortgagee shall be entitled, as a matter of right, if it shall so elect, without the giving of notice to any other party and without regard to the adequacy or inadequacy of any security for the Obligations, forthwith either before or after declaring the unpaid amount of the Obligations to be due and payable, to the appointment of such a receiver or receivers.

(b) Notwithstanding the appointment of any receiver, liquidator or trustee of the Mortgagor, or of any of its property, or of the Mortgaged Property or any part thereof, the Mortgagee shall be entitled to retain possession and control of all property now or hereafter held under this Mortgage.

2.06. Remedies Cumulative. No remedy herein conferred upon or reserved to the Mortgagee is intended to be exclusive of any other remedy or remedies, and each and every such remedy shall be cumulative, and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in

equity or by statute. No delay or omission of the Mortgagee to exercise any right or power accruing upon any event of default shall impair any such right or power, or shall be construed to be a waiver of any such event of default or any acquiescence therein; and every power and remedy given by this Mortgage to the Mortgagee may be exercised from time to time as often as may be deemed expedient by the Mortgagee. Nothing in this Mortgage or in the Credit Agreement shall affect the obligation of the Company, the Mortgagor and the other Guarantors to pay the principal of, and interest on, the Obligations in the manner and at the time and place respectively expressed in the Credit Agreement and the Credit Documents.

2.07. ~~Credit Agreement Governs.~~ In the event that there is any conflict between the provisions of this Mortgage and the Credit Agreement, ~~the terms of the Credit Agreement shall prevail.~~

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2.08. ~~Waiver of Defenses.~~ The Mortgagor will not at any time insist upon ~~the Document is the property of the Lake County Recorder!~~ in any manner of whatever claim or take any benefit or advantage of any stay or extension or moratorium law, any exemption from execution or sale of the Mortgaged Property or any part thereof, wherever enacted, now or at any time hereafter in force, which may affect the covenants and terms of performance of this Mortgage, nor, after any sale or sales of the Mortgaged Property or any part thereof which may be made pursuant to any provision herein (or pursuant to the decree, judgment or order of any court of competent jurisdiction), claim or exercise any right under any statute heretofore or hereafter enacted to redeem the property so sold or any part thereof, other than any non-waivable statutory redemption rights, and the Mortgagor hereby expressly waives all benefit or advantage of any such law or laws, and covenants not to hinder, delay or impede the execution of any power herein granted or delegated to the Mortgagee, but to suffer and permit the execution of every power as though no such law or laws had been made or enacted. Further, the Mortgagor will not, prior to any sale or sales of the Mortgaged Property or any part thereof which may be made pursuant to any provision herein (or pursuant to the decree, judgment or order of any court of competent jurisdiction), claim, take or insist upon any benefit, relief or advantage of any law now or hereafter in force providing for the valuation, appraisement or appraisal of the Mortgaged Property, or any part thereof. The Mortgagor, for itself and all who may claim under it, waives, to the extent that it lawfully may, all right to have the Mortgaged Property marshalled upon any foreclosure hereof.

## ARTICLE III

### Miscellaneous

3.01. Security Agreement and Fixture Filing Under Uniform Commercial Code. This Mortgage shall constitute a security agreement and Fixture Filing under the Uniform Commercial Code, as enacted in the state in which the Premises are located; this Mortgage shall be filed for record in the real estate records of each county where any part of the Mortgaged Property (including said fixtures) is situated, and shall be effective as a financing statement filed as a fixture filing with respect to all fixtures included in the Mortgaged Property, and as a financing statement as to all other Mortgaged Property as to which a financing statement filed in said records is effective under said Code; and the Mortgagor, as debtor, hereby grants to the Mortgagee, as secured party, a security interest in any or all of the Mortgaged Property, including (but not limited to) the Personal Property and the Improvements, in addition to a mortgage lien upon the same as part of the realty. The Mortgagor will assist in the preparation of County Records from time to time, alone or with the Mortgagee, and deliver, file and record any financing or continuation statements, mortgages, deeds of trust or other instruments, and do such further acts as the Mortgagee may reasonably request to establish, maintain and perfect the security interests of the Mortgagee in the Mortgaged Property, including (but not limited to) any and all renewals, additions, substitutions, improvements to the same and the proceeds thereof, and otherwise to protect the same against the rights and interests of third parties. The terms of this Mortgage shall be deemed commercially reasonable within the meaning of the Uniform Commercial Code in the state in which the Premises are located. The mailing address of the grantor of the security interests created hereunder is the address of Mortgagor set forth at the beginning of this Mortgage and the address of the secured party from which information concerning the security interests hereunder may be obtained is the address of the Mortgagee set forth at the beginning of this Mortgage.

### 3.02. Powers and Duties of the Mortgagee.

(a) The Mortgagee, in such capacity, shall be entitled to exercise such powers and perform such duties under this Mortgage as are specifically designated to or required of the Mortgagee by the terms of this Mortgage, together with such powers that are reasonably incidental thereto. Nothing herein shall be construed to constitute the Mortgagee a trustee the Collateral Agent, the Agent, the Issuing Bank, the Swing Line Bank or for any of the Banks nor to impose on the Mortgagee any duties or responsibilities except those expressly set forth in this Mortgage.

(b) The Mortgagee may exercise any of its duties under this Mortgage by or through agents or employees and shall be entitled to advice of counsel concerning all matters pertaining to its duties hereunder.

(c) As to any other matter not expressly provided for herein, the Mortgagee shall have no duty to act or refrain from acting, except upon the instructions of the Required Banks. In all cases, the Mortgagee shall exercise or refrain from exercising any power of the Mortgagee hereunder, and will be fully protected in acting upon the instructions of the Required Banks; provided that the Mortgagee shall not be obligated to take any action which would expose the Mortgagee to any personal liability to persons not party hereto or which is contrary to this Mortgage, the Credit Agreement or any provision of law.

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**NOT OFFICIAL**  
**This Document is for the principal benefit of the**  
**the Bank County Recorder**

3.03. Security Interest for the Ratable Benefit of the Banks. The security interest in the Mortgaged Property created by this Mortgage and the related rights, privileges and remedies granted to the Mortgagee shall be for the principal benefit of the Collateral Agent, the Agent, the Issuing Bank, the Swing Line Bank and the Banks ratably according to the amount of Obligations due to each of the Banks. Each of the rights, privileges and remedies accorded to the Mortgagee under this Mortgage or otherwise by statute or at law or in equity with respect to the Mortgaged Property may be exercised by the Mortgagee, but only for the ratable benefit of the Banks as provided in this Section 3.03. Any Mortgaged Property held or recovered at any time by the Mortgagee or any realization on account of any Mortgaged Property shall inure to the ratable benefit of the Collateral Agent, the Agent, the Issuing Bank, the Swing Line Bank and the Banks as provided in this Section 3.03.

3.04. Exculpatory Provisions. Neither the Mortgagee nor any of its officers, directors, employees or agents shall be liable to the Mortgagor, the Collateral Agent, the Agent, the Issuing Bank, the Swing Line Bank or any Bank for any action lawfully taken or omitted to be taken by them under or in connection with this Mortgage. The Mortgagee shall not be responsible in any manner to the Collateral Agent, the Agent, the Issuing Bank, the Swing Line Bank or any of the Banks for the value, validity, due execution, genuineness, effectiveness, legality, enforceability or sufficiency of this Mortgage, the Guarantee, the Credit Agreement or all or any portion of the Mortgaged Property, or any of the certificates, documents or instruments contemplated by the foregoing, or for the failure of the Mortgagor or any other party to perform its obligations under them or for any recitals, statements, representations or warranties made by the Mortgagor in this Mortgage or for the value, sufficiency, title or condition of all or any portion of the Mortgaged Property. The Mortgagee shall not be under any obligation to the Collateral Agent, the Agent, the Issuing Bank,

the Swing Line Bank or any of the Banks to ascertain or to inquire as to the performance or observance on the part of the Mortgagor of any of the terms, covenants or conditions of any agreements or to inspect the properties, books or records of the Mortgagor or to ascertain or to inquire as to financial condition of the Mortgagor.

3.05. Reliance by the Mortgagee. The Mortgagee shall be entitled to rely, and shall be fully protected in relying upon, (i) any written note, notice, consent, certificate, affidavit, letter, telegram, telex, teletype message, statement, order, instruction or other document in good faith believed by it to be genuine and to have been signed, sent or made by the proper person or persons and (ii) upon advice and statements in respect of legal matters of legal counsel (including counsel to the Mortgagor), independent accountants and other experts selected by the Mortgagee.

3.06. The Mortgagee in its Individual Capacity. The Mortgagee shall have the same rights and powers under this Mortgage as the Collateral Agent, the Issuing Bank, the Swing Line Bank or any Bank and may exercise the same as though it were not the Mortgagee, and it may accept deposits from, lend money to and generally engage in any kind of business with the Mortgagor as if it were the Mortgagee.

3.07. Rights and Obligations. No security interest created by this Mortgage in respect of the Mortgagor's right, title or interest in or to any contract or other instrument shall be construed to be a consent by the Mortgagee, the Collateral Agent, the Agent, the Issuing Bank, the Swing Line Bank or any Bank to any such contract or other instrument or to impose upon the Mortgagee, the Collateral Agent, the Agent, the Issuing Bank, the Swing Line Bank or any Bank any obligations with respect to the same or to grant any power or right (not expressly granted in this Mortgage) to approve or consent to any action under the foregoing prior to the occurrence and continuance of an Event of Default.

3.08. Absolute Interest. (a) All rights of the Mortgagee hereunder, and all obligations of the Mortgagor hereunder, shall be absolute and unconditional irrespective of (i) any lack of validity or enforceability of any provision of the Credit Agreement, any agreement with respect to the Obligations or any other agreement or instrument relating to any of the foregoing, (ii) any change in the time, manner or place of payment of or in any other term of, all or any of the Obligations, or any other amendment or waiver of or any consent to any departure from any of the Credit Agreement or any other agreement or instrument, (iii) any exchange or release of any of the Mortgaged Property, or any release or amendment or waiver of or any consent to or departure from any guarantee, for all or any of

the Obligations or (iv) any other circumstance which might constitute a defense available to, or a discharge of, a creditor or pledgor in respect of the Obligations or this Mortgage.

(b) This Mortgage shall not be construed as relieving the Company from full liability of its obligations under the Credit Agreement or the Mortgagor or any other Guarantor from full liability for its Obligations under the Credit Agreement and any and all future and other indebtedness secured hereby and for any deficiency thereon.

(c) Following an Event of Default hereunder, the Mortgagee is hereby subrogated to all of the Mortgagor's interests, rights and remedies in respect to the Mortgaged Property and all security now or hereafter existing with respect thereto and all guaranties and endorsements thereof and with respect thereto.

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3.09. Successors and Assigns. All of the grants, covenants, terms, provisions and conditions herein shall run with the land and shall apply to, bind and inure to the benefit of the successors and assigns of the Mortgagor and the successors and assigns of the Mortgagee, the Collateral Agent, the Agent, the Issuing Bank, the Swing Line Bank and the Banks.

3.10. Waiver of Jury Trial. THE MORTGAGOR, THE MORTGAGEE AND EACH OF THE BANKS HEREBY WAIVE TRIAL BY JURY IN ANY JUDICIAL PROCEEDING INVOLVING, DIRECTLY OR INDIRECTLY, ANY MATTER (WHETHER SOUNDING IN TORT, CONTRACT OR OTHERWISE) IN ANY WAY ARISING OUT OF, RELATED TO, OR CONNECTED WITH THIS MORTGAGE OR THE RELATIONSHIPS ESTABLISHED HEREUNDER.

3.11. Partial Invalidity. In case any one or more of the provisions contained in this Mortgage shall be invalid, illegal or unenforceable in any respect under any law, the validity, legality and enforceability of the remaining provisions contained herein shall not in any way be affected or impaired thereby. All rights, powers and remedies provided in this Mortgage may be exercised only to the extent that the exercise thereof does not violate any applicable law, and are intended to be limited to the extent necessary that they will not render this Mortgage invalid, unenforceable or not entitled to be recorded, registered or filed under the provisions of any applicable law. If any term of this Mortgage or any application thereof shall be invalid or unenforceable, the remainder of this Mortgage and any other application of such term shall not be affected thereby.

3.12. Notices. Any communication, demand or notice to be given hereunder will be duly given when delivered in writing, or by telecopy to a party at its address as indicated below:



If to the Mortgagor, at

18831 Von Karman  
Irvine, California 92615  
Telecopy: (714) 757-7984  
Attention: Chief Financial Officer

With copies to:

Latham & Watkins  
633 West Fifth Street  
Suite 4000  
Los Angeles, California 90071-2007  
Telecopy: (213) 891-8763  
Attention: Bryant B. Edwards

Skadden, Arps, Slate, Meagher & Flom  
300 South Grand Avenue  
Suite 3400  
Los Angeles, California 90071  
Telecopy: (213) 687-5600  
Attention: Michael A. Woronoff

If to the Mortgagee, the Collateral Agent, the Agent,  
the Issuing Bank, the Swing Line Bank or any Bank, at its address  
as indicated on the signature page of the Credit Agreement, with  
a copy to:

Sullivan & Cromwell  
444 South Flower Street, Suite 1200  
Los Angeles, California 90071  
Telecopy: (213) 683-0457  
Attention: Alison S. Kessler, Esq.

Unless otherwise provided to the contrary herein, any  
notice which is required to be given in writing pursuant to the  
terms of this Agreement may be given by telex, telecopy or  
facsimile transmission.

3.13. Counterparts. This Mortgage may be executed in  
any number of counterparts and by the different parties hereto on  
separate counterparts, each of which when so executed and  
delivered shall be an original, but all the counterparts shall  
together constitute one and the same instrument.

3.14. Choice of Law. This Mortgage shall be governed  
by, and construed in accordance with, the laws of the state in  
which the Premises are located, and the Mortgagor will submit to  
jurisdiction and the laying of venue for any suit on this  
Mortgage in the county of such state in which the Premises are  
located.

3.15. Future Advances. Pursuant to IC 32-8-11-9, this Mortgage secures future obligations and advancements up to a maximum amount of One Hundred and Fifty Million Dollars (\$150,000,000), plus interest and premium, if any, and default interest or other default or late charges, and all future modifications, extensions and renewals of any indebtedness or obligations secured by this Mortgage.

IN WITNESS WHEREOF, this Mortgage has been duly executed by the Mortgagor as of the date first written above.

EL TORITO RESTAURANTS, INC.

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By: *R.T. Rossing, Jr.*  
Printed: R.T. Rossing, Jr.  
Title: VCE President  
This Document is the property of  
the Lake County Recorder!

**STOP**

By: *Diane R. Holman*  
Printed: Diane R. Holman  
Title: Secretary

Signed in the presence of:

*Robert D. Gonda*  
Printed: Robert D. Gonda

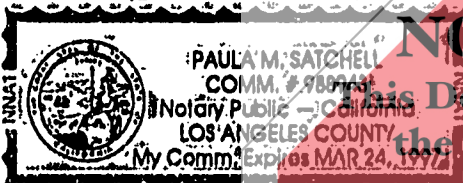
*Martin M. Casey*  
Printed: MARTIN M. CASEY



STATE OF CALIFORNIA )  
 ) SS:  
COUNTY OF LOS ANGELES )

Before me, a Notary Public in and for the State of California, personally appeared Robert T. Trebing Jr. and Diane R. Kolman, the Vice President and Secretary of EL TORITO RESTAURANTS, INC., a Delaware corporation, who, having been duly sworn, acknowledged the execution of the foregoing Mortgage, Assignment of Leases and Rents, Fixture Filing and Security Agreement for and on behalf of said corporation.

WITNESS my hand and Notarial Seal this 27<sup>th</sup> day of January, 1994.



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Notary Public: Paula M. Satchell  
Printed: Paula M. Satchell  
the Lake County Recorder!

My Commission Expires: 3/24/97

I am a resident of Los Angeles county, California.

This instrument prepared by and following recordation return to:  
Alison S. Ressler, Esq., Sullivan & Cromwell, 444 South Flower Street, Suite 1200, Los Angeles, California 90071



STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

On January 27, 1994, before me, Paula M. Satchell, Notary Public, personally appeared *Robert T. Deberg, Sr. and Diane R. Holman*  personally known to me OR  proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

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PAULA M. SACHELL  
COMM. # 9120  
Notary Public - California  
LOS ANGELES COUNTY  
My Comm. Expires MAR 24, 1997

*Paula M. Satchell*  
Signature of Notary



Schedule A

The Premises

PART OF LOT 1, WEST LAKE PLAZA, IN THE TOWN OF MERRILLVILLE, AS SHOWN IN PLAT BOOK 47, PAGE 77, AND AS AMENDED BY CERTIFICATES OF CORRECTION RECORDED AS DOCUMENT NOS. 422236, 422237 AND 425494, IN LAKE COUNTY, INDIANA, DESCRIBED AS FOLLOWS: BEGINNING AT A POINT ON THE NORTH RIGHT OF WAY LINE OF PLAZA DRIVE, SAID POINT LYING 720.00 FEET WEST (MEASURED PERPENDICULARLY) OF THE EAST LINE OF SAID LOT 1. (WEST RIGHT OF WAY LINE OF MISSISSIPPI STREET) THENCE SOUTH 86 DEGREES 51 MINUTES 45 SECONDS

WEST ALONG SAID NORTH RIGHT OF WAY LINE, 38.18 FEET; THENCE CONTINUING ALONG SAID NORTH RIGHT OF WAY LINE ALONG A CIRCULAR CURVE WHICH IS CONVEX TO THE NORTHWEST WHOSE RADIUS = 180.00 FEET, TANGENT = 105.68 FEET, DEFLECTION ANGLE = 60 DEGREES 50 MINUTES 02 SECONDS A DISTANCE OF 191.12 FEET ALONG SAID CURVE; THENCE NORTH 63 DEGREES 58 MINUTES 17 SECONDS WEST, 87.78 FEET; THENCE NORTH 00 DEGREES 00 MINUTES 00 SECONDS EAST, 395.88 FEET TO THE NORTHERLY LINE OF SAID LOT 1 (SOUTHERLY LINE OF THE I-65 EXIT RAMP); THENCE EASTERLY ALONG SAID NORTHERLY LINE OF LOT 1, ALONG A CIRCULAR CURVE WHICH IS CONVEX TO THE NORTH WHOSE RADIUS = 722.27 FEET, TANGENT = 39.06 FEET, DEFLECTION ANGLE = 06 DEGREES 11 MINUTES 29 SECONDS A DISTANCE OF 78.05 FEET, ALONG SAID CURVE; THENCE CONTINUING ALONG SAID NORTHERLY LINE, NORTH 86 DEGREES 51 MINUTES 45 SECONDS EAST, 91.74 FEET; THENCE SOUTH 00 DEGREES 00 MINUTES 00 SECONDS WEST 72.00 FEET; THENCE NORTH 86 DEGREES 51 MINUTES 45 SECONDS EAST, PARALLEL WITH SAID NORTH LINE, 100.00 FEET; THENCE SOUTH 00 DEGREES 00 MINUTES 00 SECONDS WEST, 278.53 FEET TO THE POINT OF BEGINNING.

