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STATE OF ~~GEORGIA~~ Kentucky  
COUNTY OF ~~Keaton~~ 97072007

STATE OF INDIANA  
LAKE COUNTY  
FILED FOR RECORD  
Upon recording return to:  
97 OCT 23 AM 9:02  
Catherine P. Powell, Esquire  
Beskin, Devine & Powell, LLP  
1199 Oxford Road, N.E.  
Atlanta, Georgia 30306

**ASSIGNMENT OF LESSEE'S INTEREST IN LEASE**

THIS ASSIGNMENT OF LESSEE'S INTEREST IN LEASE, dated as of the 1st day of August, 1997, by and between C.J. Apple I, Inc., an Indiana corporation (the "Assignor") and NationsBank, N.A. (the "Assignee").

WHEREAS, pursuant to that certain Commitment Letter between Assignor and Assignee, Assignee has, subject to the terms and conditions therein, committed to make an equipment loan to Assignor in the amount of \$475,000.00 (the "Loan"); and

WHEREAS, Assignor has of even date herewith executed a promissory note payable to Assignee in the total principal amount of \$475,000.00 (the "Note") secured by, among other documents, that certain Security Agreement (the "Security Agreement") pursuant to which Assignor granted a security interest in and to the equipment, signage, and personal property described therein and located in the real property situated in Munster, Indiana (the "Premises") and more particularly described on Exhibit "A" attached hereto and made a part hereof; and

WHEREAS, Assignee desires additional security for the Note pursuant to the Twenty-Third Addendum to Loan Agreement (the Loan Agreement, as amended, is hereinafter called the "Loan Agreement") and it is a condition precedent to the obligation of the Assignee to make the loans secured by the Note that this Assignment be executed and delivered by the parties hereto; and

WHEREAS, Assignor entered into that certain Lease dated June 11, 1997 by and between Assignor, as tenant thereunder, and RMGT Building, LLC, as landlord (the "Lease");

NOW, THEREFORE, in consideration of the foregoing and the mutual promises and undertakings herein specified and other good and valuable consideration, all of which is hereby mutually acknowledged, Assignor and Assignee agree as follows:

A. Assignment. To secure (i) the payment of principal of, and accrued interest on, the Note and (ii) the performance of all other obligations of the Assignor set forth in the Loan Agreement and the other documents executed and delivered in connection therewith (collectively, the "Loan Documents"), Assignor hereby grants, sells, assigns, transfers, sets over and delivers unto Assignee, its successors and assigns, all right, title and interest of Assignor in, to and under the Lease and in and to Assignor's interest in and to the Premises.

21-00  
12864

B. Representations and Warranties. To induce Assignee to accept this Assignment, Assignor hereby represents and warrants to Assignee that:

1. Assignor has full power and authority to assign the Lease. Assignor has not executed any prior mortgage of Assignor's interest in the Premises or any assignment of any of its rights under the Lease to any person other than Assignee;

2. The Lease is valid, enforceable and in full force and effect and has not been modified, amended or restated, except as described herein; and

3. No default exists under the Lease.

C. Affirmative Covenants. Assignor hereby covenants, promises and agrees that it shall:

4. Observe, fulfill and perform each and every condition, covenant and provision of the Lease which is required to be fulfilled or performed by Assignor; and

5. Give prompt notice to Assignee of any notice of default given or received by Assignor under the Lease, together with a true copy of such notice and any supporting materials.

D. Negative Covenants. Assignor shall not, without the prior written consent of Assignee:

6. Cause, by its acts or omissions, the term of the Lease to be terminated or surrender the Lease or the Premises;

7. Waive or release any landlord from any obligations or conditions to be performed by that landlord under the Lease;

8. Pledge, transfer, mortgage or otherwise encumber or assign the Leases; or

9. Materially modify or alter the terms of the Lease.

E. Indemnification. Assignee shall not be obligated to perform or discharge any obligation of Assignor under the Lease, or under or by reason of this Assignment, unless Assignee exercises its rights under Section 8 hereunder, whereupon Assignee shall be deemed to be bound by all of the terms, provisions, covenants and obligations under the Lease on Assignor's part, as tenant or lessee, to be kept or performed. Assignor hereby agrees to indemnify and defend Assignee against and hold Assignee harmless from (i) any and all liability, loss or damage which Assignee may incur under the terms of the Lease or this Assignment and

(ii) any and all claims and demands whatsoever which may be asserted against Assignee by reason of any alleged obligation on Assignee's part to perform any obligation under the Lease, including any obligations of Assignee incurred by reason of the exercise of any right or remedy set forth in Section 7 hereof. Should Assignee incur any such liability, loss or damage under the Lease or this Assignment, or in defense against any such claims or demands, the amount thereof, including costs, expenses and reasonable attorney's fees shall be added to the obligations secured hereby and Assignor shall reimburse Assignee therefor, immediately upon demand. Nothing herein shall obligate Assignor to indemnify or defend Assignee with respect to Assignee's own gross negligence, bad faith or willful misconduct.

F. Rights and Privileges. Prior to a Default (as defined in the Security Agreement), Assignor shall retain all rights and privileges of tenant which arise from or out of the Lease, including but not limited to the use and enjoyment of the Premises and the right to the profits arising from the use of the Premises.

G. Default. After a Default has occurred and is continuing, Assignee, at its option, without notice may (i) assume the role of tenant under the Lease, (ii) enter upon and, as tenant, take possession of and operate the Premises, (iii) surrender the Lease, (iv) make any alterations, renovations, repairs and replacements to the Premises in accordance with the Lease, (v) sublease or assign its rights and remedies hereunder and (vi) bring or defend any suit in connection with the Premises in accordance with the Lease in its own name or in the name of Assignor.

H. Termination. This Assignment shall terminate and shall for all purposes be rendered null and void, without the necessity of further documentation, upon the termination of the Security Agreement and the payment in full to Assignee of all amounts owing by Assignor under the Note.

I. Assigns. This Assignment and all representations, warranties, powers and rights herein contained or resulting herefrom are binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns; provided; that the Assignor may not assign its rights or obligations under this Assignment without the prior written consent of Assignee.

J. Governing Law. This Assignment has been executed and delivered in the State of Indiana and shall be governed by, and construed in accordance with, the laws of the State of Indiana.

K. Terms Defined. Terms used herein and not defined herein have their respective defined meanings as set forth in the Security Agreement.

L. Rights of Assignee. A default under this Assignment or under the Lease shall constitute a default under the Loan and upon such default, Assignee shall have the right to pursue any and all remedies available to it under the Loan Documents, at law or in equity.

IN WITNESS WHEREOF, the parties hereunto have caused this Assignment to be executed by their duly authorized officers as of the day and year first written above.

Signed, sealed and delivered in  
the presence of:

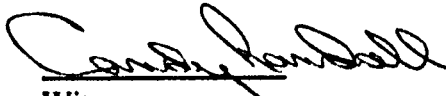
BORROWER:



Witness



Printed Name




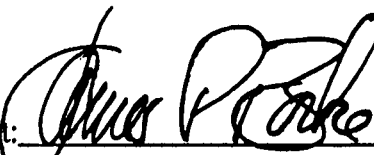
Witness



Printed Name

C. J. APPLE I, INC., an Indiana corporation

By:   
W. Curtis Smith, President

Attest:   
James P. Borke, Secretary

[CORPORATE SEAL]

STATE OF Ky  
COUNTY OF Kenton

Before me, a Notary Public in and for said County and State, personally appeared W. Curtis Smith, President of C.J. Apple I, Inc., an Indiana corporation, who acknowledged execution of the foregoing instrument as officer acting for and on behalf of said corporation, and who, having been duly sworn, stated that the representations therein contained are true.

Witness my hand and Notarial Seal this 15 day of Sept, 1997.

Teresa J. Simmons  
Notary Public

Teresa J. SIMMONS  
Print Name

My Commission Expires:

11-12-2000

County of residence:

Boone

[NOTARIAL SEAL]

STATE OF Ky  
COUNTY OF Keaton

Before me, a Notary Public in and for said County and State, personally appeared James P. Borke, Secretary of C.J. Apple I, Inc., an Indiana corporation, who acknowledged execution of the foregoing instrument as such officer acting for and on behalf of said corporation, and who, having been duly sworn, stated that the representations therein contained are true.

Witness my hand and Notarial Seal this 5 day of Sept., 1997.

Teresa J. Simmons  
Notary Public

Teresa J. Simmons  
Print Name

My Commission Expires:  
11-12-2000

County of residence:  
Boone

[NOTARIAL SEAL]

EXHIBIT "B"Legal Description

That parcel of land lying in the Northwest 1/4 of Section 24, Township 36 North, Range 12 West of the Second Principal Meridian, being described as COMMENCING at the intersection of the centerline of Ridge Road and the Westerly right-of-way line of the Louisville, New Albany and Chicago Railway Company; thence Westerly along said centerline of Ridge Road 50.72 feet; thence South along a line 50.00 feet West of and parallel with said Westerly right-of-way line 40.58 feet, to the South line of said Ridge Road and the POINT OF BEGINNING; thence continue South 187.91 feet, to a point of curve; thence Southwesterly along a curve line convex Southeasterly, having a radius of 180.00 feet an arc distance of 181.19 feet, the chord of said arc lying South 28'-50'-13" West distant 173.64 feet, to a point of reverse curve; thence Southerly along a curved line convex Northwesterly, having a radius of 220.00 feet an arc distance of 118.47 feet, the chord of said arc lying South 42'-14'-49" West distant 117.04 feet, to the North line of Schoon's South View 1st Addition subdivision extended Easterly; thence North 80'-19'-00" West along said North line of said subdivision to a point on a line drawn parallel with the centerline of Manor Avenue and 298.00 feet Westerly (as measured along the said North line of Schoon's South View 1st Addition Subdivision) of the said centerline of Manor Avenue; thence North along said line parallel with the centerline of said Manor Avenue a distance of 454.42 feet to the South line of Ridge Road aforesaid; thence Easterly along said South line of Ridge Road a distance of 466.51 feet, to the POINT OF BEGINNING in the Town of Munster, Lake County, Indiana.

Mail To: ↓

Dinsmore & Shohl P.L.L.  
1900 ~~Chemed~~ Chemed Center  
255 E. 5<sup>th</sup> St.  
Cincinnati, Ohio

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