

Additional security for indebtedness secured by instrument recorded in Real Volume 1447, page 440, in the Probate Office of Jefferson County, Alabama.

ASSIGNMENT OF LEASE AS SECURITY

This Assignment of Lease as Security is entered into by NATIONAL BANK OF COMMERCE OF BIRMINGHAM, a national banking association (the "Bank"), and JACK'S FOOD SYSTEMS, INC., a Delaware corporation ("Jack's"), on Dec 2, 1980.

Recitals

A. Jack's has requested the Bank to extend to Jack's a secured line of credit not to exceed the principal amount of \$500,000 and, subject to the terms and conditions set forth in that certain Secured Revolving Line of Credit Agreement between the Bank and Jack's dated 12/2, 1980 (the "Loan Agreement"), the Bank has agreed to make a line of credit in principal amount not to exceed \$300,000 available to Jack's, and the Bank may hereafter, in its sole discretion, agree to increase said line of credit to a maximum principal amount of \$500,000.

B. As a condition to its agreement to extend credit to Jack's as aforesaid, the Bank has required Jack's to agree to assign and transfer to the Bank all of Jack's right, title and interest in and to that certain lease executed by Jack's, as lessee, and Edward A. McFarland and Pauline R. McFarland, as lessor (the "Lessor"), on April 20, 1971 (the "Lease") and the real estate (which is described on Exhibit A hereto), improvements and fixtures covered thereby (the "Demised Premises"), as security for (1) said line of credit, all extensions and renewals thereof, all interest accrued thereon and all charges and expenses payable with respect thereto (collectively hereinafter called the "Loan") and (2) all other liabilities, indebtedness and obligations of Jack's to the Bank.

Agreement

NOW, THEREFORE, in consideration of the foregoing recitals and in order to induce the Bank to extend credit to Jack's, the Bank and Jack's hereby agree as follows:

1. Granting Clause. Jack's hereby assigns, transfers and sets over to the Bank, its successors and assigns, and grants to the Bank, its successors and assigns, a security interest in, all of the right, title and interest of Jack's in and to (a) the Lease and all

CABANISS, JOHNSTON, GARDNER,
DUMAS & O'NEAL

1900 FIRST NATIONAL SOUTHERN NATURAL BUILDING
BIRMINGHAM, ALABAMA 35203

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amendments thereto and all supplements, renewals and extensions thereof and all proceeds thereof, and (b) the Demised Premises, as security for the Loan and all other indebtedness, obligations and liabilities of Jack's to the Bank of every kind and description whatsoever, direct or indirect, absolute or contingent, due or to become due, now existing or hereafter incurred, contracted for or arising, joint or several, liquidated or unliquidated, regardless of how they arise or by what agreement or instrument they may be evidenced or whether they are evidenced by agreement or instrument, and whether incurred as maker, drawer, endorser, surety, guarantor or otherwise, and any and all extensions or renewals of any of the same (hereinafter the Loan and all other such indebtedness, obligations and liabilities of Jack's to the Bank being referred to as the "Liabilities").

2. Warranties and Covenants. Jack's hereby warrants and covenants to the Bank as follows: that the Lease has been duly authorized, executed and delivered by or on behalf of Jack's, and to the best knowledge of Jack's, by the Lessor, and constitutes a legal, valid and binding instrument, enforceable against the parties thereto in accordance with its terms (subject as to enforcement of remedies, to applicable bankruptcy, reorganization, insolvency and similar laws, and to moratorium laws in effect from time to time); that Jack's has good title to the rights and interests of the lessee under the Lease, free and clear of any assignment, security interest, mortgage, pledge, lien, charge or other encumbrance, and has the full and unqualified right to assign and pledge its rights and interests as lessee under the Lease to the Bank; that Jack's has not heretofore assigned, transferred, subleased or encumbered, and, so long as any Liabilities shall remain outstanding, it will not assign, transfer, sublease or encumber its rights and interests as lessee under the Lease except as provided herein; that Jack's has not performed any act, or executed any instrument, nor will it perform any act or execute any instrument which might prevent or hinder the Bank from obtaining and enjoying, fully and completely, all of the benefits, rights and privileges conferred, or sought to be conferred, upon the Bank by this instrument; that there are no defaults now existing, or with notice or lapse of time, or both, will be existing, under the Lease; that Jack's will diligently perform all of its obligations and duties under the Lease strictly in accordance with the terms thereof and will not permit or commit any default or breach on its part in connection with the Lease; and that the chief place of business of Jack's is in the State of Alabama.

3. Possession of the Demised Premises. Jack's and the Bank agree that Jack's shall retain possession of the Demised Premises in accordance with the terms and conditions of the Lease so long as no Event of Default shall happen or occur hereunder.

4. Bank's Rights Upon Default. Upon the occurrence of an Event of Default hereunder the Bank may, at its sole option, after giving written notice thereof to the Lessor, take immediate possession and control of the Demised Premises and shall thereafter be entitled to exercise all rights and privileges conferred upon Jack's in the Lease. Upon the exercise of such option by the Bank, Jack's shall promptly vacate the premises and all of Jack's right, title and interest in and to the Lease shall be unconditionally vested in the Bank. It is expressly understood and agreed that until such time as an Event of Default shall happen or occur hereunder and the Bank shall give the Lessor written notice of its intention to take possession and control of the Demised Premises, as aforesaid, the Bank shall not be liable for any rentals, charges or other obligations of Jack's under, or by virtue of, or in connection with, the Lease, and Jack's shall remain and be solely responsible and liable for all rentals, charges and other obligations thereunder.

5. Default. As used in this instrument the term "Event of Default" shall mean the occurrence or happening of (a) any default, misrepresentation, failure or violation on the part of Jack's hereunder; (b) the occurrence of any Event of Default under the Loan Agreement; (c) the occurrence or happening of any default under the terms of the Lease; or (d) if any information shall come to the Bank's attention that leads the Bank reasonably to conclude that the Lease is not a legal, valid and binding instrument, enforceable against the Lessor in accordance with its terms, by virtue of the Lease not having been duly authorized, executed and delivered by or on behalf of the Lessor, and Jack's shall not cure such defect within 21 days of notice thereof. Upon the happening or occurrence of any Event of Default, at the option of the Bank, the unpaid balance of the Liabilities shall at once become due and payable and this assignment shall be subject to foreclosure and may be foreclosed as now provided by law in the case of past-due mortgages.

6. Defeasance. This instrument shall remain in full force and effect for so long as the Loan Agreement shall be in effect and thereafter until all of the Liabilities (including, without limitation, the Loan and all other obligations, liabilities and indebtedness of Jack's

to the Bank, whether now existing or hereafter incurred or arising) have been paid in full.

7. Jack's Obligations. Nothing herein contained shall be deemed to release Jack's from any obligation or responsibility under, or in connection with the Lease, including, but not limited to, Jack's obligation to pay all rentals payable under the Lease after the occurrence of an Event of Default and the exercise by the Bank of its option to take possession and control of the Demised Premises as described in paragraph 4 hereof.

8. Additional Instruments. Jack's agrees that it will, from time to time, execute and deliver such other or further instrument or instruments of assignment, together with any financing statements, as may be reasonably necessary or desirable, fully, legally and validly to confer upon the Bank the rights conferred or intended to be conferred on the Bank by this instrument.

9. Subsequent Leases. Jack's agrees that if the Demised Premises, or any part thereof, is at any time hereafter subjected to any lease or leases other than the Lease, Jack's will promptly execute and deliver to the Bank, as collateral security for the Liabilities, an assignment of each such subsequent lease on terms and conditions substantially identical to those contained in this instrument.

10. Costs. Jack's agrees to reimburse the Bank promptly for any and all costs, expenses and reasonable attorneys' fees incurred by the Bank in connection with (a) the exercise by or for the Bank of any of the benefits, rights and privileges herein conferred upon the Bank (including foreclosure of this instrument), (b) the perfection or protection of the benefits, rights and interests herein conveyed and granted to the Bank; and (c) the collection of the Liabilities hereby secured; provided, however, that if this transaction is governed by section 5-19-10, Code of Alabama 1975, and the original principal amount or amount financed exceeds \$300, such attorneys' fees shall not exceed 15% of the principal balance of the Liabilities at the time of default and referral to an attorney not a salaried employee of the Bank.

11. Successors and Assigns; etc. This instrument, and all of the terms and provisions hereof, shall inure to the benefit of the Bank, its successors and assigns, and shall be binding upon Jack's, its successors and assigns. It is expressly acknowledged and agreed that the Bank may, at its sole option, reassign all of the

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rights, title and interests herein conveyed and granted to the Bank. This instrument shall be governed by the laws of the State of Alabama.

IN WITNESS WHEREOF, Jack's Food Systems, Inc. has caused this instrument to be executed by an officer thereunto duly authorized on the day and year first above written.

JACK'S FOOD SYSTEMS, INC.

By

Its

ATTEST:

By

Its

THIS DOCUMENT PREPARED BY:

JOHN D. JOHNS

CABANISS, JOHNSTON, GARDNER, DUMAS & O'NEAL
1900 First National - Southern Natural Bldg.
BIRMINGHAM, ALABAMA 35203

STATE OF ALABAMA)
~~SHELBY~~
~~JEFFERSON~~ COUNTY)

I, the undersigned Notary Public, in and for said County in said State hereby certify that Richard D. Moore whose name as President of Jack's Food Systems, Inc., a Delaware corporation, is signed to the foregoing instrument, acknowledged before me on this day that, being informed of the contents of the instrument, he as such officer and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand and official seal this the 7^d day of December, 1980.

[Signature]
 Notary Public

My commission expires: 9/21/87

[NOTARY MUST AFFIX SEAL]

LESSOR'S AGREEMENT AND CONSENT

For and in consideration of National Bank of Commerce of Birmingham (the "Bank") extending credit to Jack's Food Systems, Inc. ("Jack's"), and other valuable consideration, the undersigned lessor (the "Lessor") under the Lease referred to in the foregoing Assignment of Lease as Security (the "Assignment") hereby consents to the assignment of the Lease to the Bank on the terms set forth in the Assignment and, in addition, covenants, represents and agrees that:

1. As of the date on which this agreement and consent is executed by the Lessor, Jack's is not in default under the terms of the Lease.

2. If any default or event of default under the Lease shall occur, the Lessor shall promptly notify the Bank of such default by certified mail, and the Bank shall have 30 days after receipt of such notice in which to make good or cure such default prior to termination of the Lease, whether such default be the failure to pay rent or the failure to do or perform any other obligation or responsibility of Jack's under the Lease, and the Lessor

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will accept such performance by the Bank just as though the same had been done or performed by Jack's.

3. The Bank shall have no obligation or responsibility with respect to the Lease and the rentals and charges payable thereunder unless and until such time as the Bank shall give the Lessor written notice that an Event of Default has occurred under the Assignment and that the Bank is taking possession and control of the Demised Premises as provided in paragraph 4 of the Assignment. By acceptance of the Assignment, the Bank agrees that if it shall give the Lessor written notice of its intention to take possession and control of the Demised Premises and assume the responsibilities and obligations of Jack's thereunder, as aforesaid, the Bank shall be bound and obligated as lessee under the Lease. The Lessor agrees that in such event the Bank shall be entitled to all of the rights, interests and benefits afforded Jack's under the Lease, as fully as though the Bank had originally executed the Lease as lessee.

4. The Lessor hereby agrees that all of Lessor's liens and claims in, to or against the equipment and inventory of Jack's (whether the Lessor's liens or claims be now existing or hereafter arising) are hereby fully subordinated and made subject to all security interests and liens of the Bank (whether now existing or hereafter arising) in or on such equipment and inventory, which security interests and liens of the Bank secure loans and advances made by the Bank to Jack's from time to time in principal amount outstanding not to exceed the sum of \$500,000, plus interest accrued thereon and charges payable with respect thereto.

5. It is expressly acknowledged and understood that nothing herein contained or contained in the Assignment shall release Jack's from any obligation or responsibility with respect to, or in connection with, the Lease.

6. The Lessor agrees that the Bank may, in its discretion, assign or transfer the rights and interests conveyed and granted in the Assignment without the further consent or approval of the Lessor thereto, and any such assignee or transferee shall be entitled to all of the rights, interests and benefits herein set forth.

IN WITNESS WHEREOF, the Lessor has executed this agreement and consent on 12/12, 1980.

LEASOR, INC.

Edward A. McFarland

Pauline R. McFarland

FRSIDENT

EXHIBIT "A"
TO ASSIGNMENT OF LEASE AS SECURITY

The following described real estate:

A part of Lots 22, 23 and a part of the North Half of Lot 21 of Block 3 of the Nickerson-Scott Survey as recorded in Map Book 3, Page 34 in the Probate Office of Shelby County, Alabama, more particularly described as follows:

From the Northeast corner of Lot 23 run Westerly along the North boundary line of said Lot 23 for 18.15 feet for the point of beginning of the land herein described; thence continue Westerly along the North boundary line of Lot 23 for 120.1 feet, more or less, to a point on the East Right of Way line of U. S. 31 Highway; thence turn an angle of 84 Degrees, 29 Minutes to the left and run Southwesterly along the East R.O.W. line of said U. S. 31 Highway for 131.47 feet, more or less, to the point of intersection of the East R.O.W. line of U. S. 31 Highway and the South boundary line of the North half of Lot 21 of Block 3 of said Nickerson-Scott Survey; thence turn an angle of 90 Degrees, 33 Minutes to the left and run Easterly along the South boundary line of the North half of Lot 21 for 123.73 feet; thence turn an angle of 91 Degrees, 08 Minutes to the left and run Northeasterly 141.89 feet, more or less, to the point of beginning:

12-8-80

I, O. H. Albume do hereby certify that
I have collected \$450.00 tax on this
instrument filed in Jpp. Co.

O. H. Albume
Judge of Probate
Jpp. Co.

RETURN TO:
JOHN D. JOHNS
CARROLLS, JOHNSTON, CARROLL, BIRNIS & O'NEAL
1900 First National - Southern Natural Bldg.
BIRMINGHAM, ALABAMA 35203

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STATE OF ALA. SHELBY CO.
I CERTIFY THIS
INSTRUMENT WAS FILED

1980 DEC 19 AM 8:45

Ind. pd. in Jpp. Co.
Thomas G. Lawrence, Jr.
JUDGE OF PROBATE

Rec. 13.50

Ind. 1.00
14.50

RETURN TO:
JOHN D. JOHNS
CARROLLS, JOHNSTON, CARROLL, BIRNIS & O'NEAL
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