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Shelby Cnty Judge of Probate, AL
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PREPARED BY, RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

DANIEL P. GREENSTEIN, ESQ.
OTTERBOURG, STEINDLER, HOUSTON & ROSEN, P.C.
230 PARK AVENUE
NEW YORK, NEW YORK 10169
REF: FILE #06758.1065

NOTE TO CLERK: THE MAXIMUM PRINCIPAL
AMOUNT OF THE OBLIGATIONS SECURED BY
THIS MORTGAGE AND OTHER MORTGAGES TO BE
RECORDED IN THE STATE OF ALABAMA IN THE
COUNTIES AS SET FORTH IN EXHIBIT A IS
\$40,000,000.00. THE AGGREGATE FAIR MARKET VALUE OF
THE COLLATERAL LOCATED IN ALL OF THE
NAMED COUNTIES IS \$40,000,000.00. THIS IS ONE OF
THREE MORTGAGES, ALL OF WHICH SECURE SUCH
\$40,000,000 OBLIGATION. THESE MORTGAGES ONLY
SECURE REAL PROPERTY AND FIXTURES LOCATED IN THE
STATE OF ALABAMA. SEE AFFIDAVIT ATTACHED HERETO AS
EXHIBIT E.

(THIS SPACE RESERVED FOR RECORDER'S USE)

STATE OF ALABAMA)

COUNTY OF MONTGOMERY)

**LEASEHOLD MORTGAGE, SECURITY AGREEMENT, ASSIGNMENT OF RENTS AND
LEASES AND FIXTURE FILING (ALABAMA)**

by and from

WINN-DIXIE MONTGOMERY, INC.,

formerly known as Winn-Dixie Atlanta, Inc., successor by merger with Winn-Dixie
Montgomery, Inc.,
"Mortgagor"

to

WACHOVIA BANK, NATIONAL ASSOCIATION,
as administrative Agent and collateral monitoring agent, in such capacity
"Mortgagee"

Dated as of March 31, 2005

THE SECURED PARTY (MORTGAGEE) DESIRES THIS FIXTURE FILING TO BE INDEXED
AGAINST THE RECORD OWNER OF THE REAL ESTATE DESCRIBED HEREIN.

ADDITIONAL NOTE TO CLERK.

THE LIMITATION AND VALUATION SET FORTH ABOVE SHALL NOT IN ANY WAY LIMIT
MORTGAGEE'S RIGHT TO ENFORCE ITS RIGHTS UPON ALL OTHER COLLATERAL IN THE
EVENT THAT IT EXERCISES ITS RIGHTS UNDER THIS MORTGAGE.

MORTGAGOR RESERVES THE RIGHT UNDER THE FEDERAL BANKRUPTCY CODE AND THE
LAWS OF THE STATE OF ALABAMA TO SEEK ANY AVAILABLE REFUND OF THE PRIVILEGE
TAX IN CONNECTION WITH THIS MORTGAGE.

**THIS LEASEHOLD MORTGAGE, ASSIGNMENT OF RENTS, SECURITY AGREEMENT,
FIXTURE FILING AND FINANCING STATEMENT** (as the same may from time to time be
extended, spread, split, consolidated, modified, restated and renewed, this **"Mortgage"**)
made as of March 31, 2005 by **WINN-DIXIE MONTGOMERY, INC.**, a Florida corporation
and a debtor and debtor in possession, formerly known as Winn-Dixie Atlanta, Inc.,
successor by merger with Winn-Dixie Montgomery, Inc., having its principal office c/o

Winn-Dixie Stores, Inc., 5050 Edgewood Court, Jacksonville, Florida 32254-3699 ("**Mortgagor**"), to

WACHOVIA BANK, NATIONAL ASSOCIATION, a national association, in its capacity as administrative agent and collateral monitoring agent (together with any successor administrative agent and collateral monitoring agent appointed in accordance with the Credit Agreement (as hereinafter defined), "**Agent**") for the Lenders (as hereinafter defined) having an address at 110 East Broward Boulevard, Fort Lauderdale 33301, Florida (Agent, together with its successors and assigns, "**Mortgagee**").

W I T N E S S E T H :

WHEREAS, Winn-Dixie Stores, Inc., and its debtor affiliates, as debtors in possession and debtors ("**Borrowers**"), have filed voluntary petitions for relief under the Bankruptcy Code ***In re Winn-Dixie Stores, Inc.***, et al., in United States Bankruptcy Court Southern District of New York, Chapter 11, Case No. 05-11063 subsequently removed to the United States Bankruptcy Court Middle District of Florida, Jacksonville Division (the "**Bankruptcy Court**"), Chapter 11, Case No. 05-03817-3F1 (Jointly Administered)(the "**Bankruptcy Proceeding**"); and

WHEREAS, pursuant to the Bankruptcy Proceeding, the Bankruptcy Court entered Final Order Pursuant To Sections 105, 361, 362, 363, 364(c) and 364(d) Of The Federal Rules of Bankruptcy Procedure (I) Authorizing Debtors to Obtain Secured Post-Petition Financing On A Superpriority Priming Lien Basis And Modifying The Automatic Stay, (II) Authorizing Debtors To Use Pre-Petition Secured Lenders' Cash Collateral And Granting Adequate Protection, and (III) Authorizing Debtors To Pay In Full All Claims Of Debtors' Pre-Petition Secured Lenders (the "**Financing Order**"), which provides in relevant part that the security interests and liens in and upon the property of Borrowers' estate granted to Lenders under the Financing Order shall be prior and senior to all security interests, liens, claims, and encumbrances of all other creditors in and to the property, subject to the Permitted Liens and Claims (as hereinafter defined). The Financing Order is attached hereto as Exhibit B and is incorporated into this Mortgage and by reference, to the same extent as though originally set forth in full herein; and

WHEREAS, pursuant to the Financing Order, Borrowers have entered into that certain Credit Agreement, dated as of February 23, 2005, (such credit agreement, as it may be amended, modified, supplemented or amended and restated from time to time, being the "**Credit Agreement**", a copy of which may be examined at reasonable times at the office of Agent by persons who do or will hold an interest in the Land (as hereinafter defined) or the Improvements (as hereinafter defined)), with the Lenders (as defined therein) named therein, Wachovia Bank, National Association as the issuer (in such capacity, the "**Issuer**") of certain Letters of Credit (as defined therein) (such Lenders, the Issuer and any other Secured Parties that may now or hereafter be identified as Secured Parties under the Credit Agreement being collectively the "**Lenders**" and individually a "**Lender**"), Agent and Wachovia Capital Markets, LLC, as the sole lead arranger and sole bookrunner; and

WHEREAS, pursuant to the Credit Agreement and subject to the terms and conditions therein set forth, the Lenders have agreed to make Loans and to issue certain Letters of Credit (as each such term is defined in the Credit Agreement) from time to time from the date hereof until the Termination Date (as defined in the Credit Agreement), including, without limitation, a loan evidenced by those certain Term Promissory Notes (as the same now exists or may hereafter be amended, modified, supplemented, extended, renewed,

restated or replaced, the "Term Notes"), dated as of March 31, 2005, in the aggregate principal amount of Forty Million and No/100 Dollars (\$40,000,000.00) from Borrowers (including Mortgagor) to Lenders (the "Term Loan"); and

WHEREAS, Borrowers (including Mortgagor) have agreed that, as a condition precedent to the making of the Term Loan, Mortgagor will further secure such indebtedness by the execution and delivery of this Mortgage; and

WHEREAS, it has been agreed that the payment and performance of the Secured Obligations (as hereinafter defined) shall be secured by a mortgage, assignment of rents, security agreement, fixture filing and financing statement, as applicable, with respect to certain property as hereinafter identified;

NOW, THEREFORE, in consideration of the premises and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, to secure the punctual payment by Mortgagor when due, whether at stated maturity, by acceleration or otherwise, of the Secured Obligations and the performance and observance of all other covenants, obligations and liabilities of Mortgagor under this Mortgage, as the same may be extended, modified or renewed or repledged, Mortgagor does hereby grant, bargain, sell, mortgage, warrant, convey, alien, remise, release, assign, transfer, set over, deliver, confirm and convey unto Mortgagee, upon the terms and conditions of this Mortgage, with power of sale and right of entry as provided hereinbelow, each and all of the real properties described in the Granting Clauses herein (which, together with all other property located therein or described in the Granting Clauses herein, is hereinafter collectively called the "**Mortgaged Property**").

GRANTING CLAUSES

All the estate, right, title and interest of Mortgagor in, to and under, or derived from, the fee and leasehold interests, as applicable, in the plots, pieces and parcels of land more particularly described in Exhibit C hereto (the "**Land**");

TOGETHER with the fee and leasehold interests, as applicable, in the tenements, hereditaments, appurtenances and all the estates and rights of Mortgagor in and to the Land;

TOGETHER with all fee and leasehold interests, as applicable, in the buildings and improvements now or hereafter located on the Land (hereinafter collectively referred to as the "**Improvements**") and all fee and leasehold, as applicable, right, title and interest, if any, of Mortgagor in and to the streets, roads, sidewalks and alleys abutting the Land, and strips and gores within or adjoining the Land, the air space and right to use said air space above the Land and any transferable development or similar rights appurtenant thereto, all rights of ingress and egress by motor vehicles to parking facilities on or within the Land, all easements now or hereafter affecting the Land, royalties and all rights appertaining to the use and enjoyment of the Land, including alley, drainage, mineral, water, oil and gas rights;

TOGETHER with all furniture, fixtures, equipment and other tangible property, and all appurtenances and additions thereto and substitutions or replacements thereof owned by Mortgagor and now or hereafter attached to the Premises (as hereinafter defined) (hereinafter collectively referred to as the "**Fixtures**");

TOGETHER with all property, tangible and intangible, and all additions thereto and substitutions or replacements thereof owned by Mortgagor and now or hereinafter contained

in, or used in connection with the Premises or placed on or in any part thereof though not attached thereto, to the extent the same constitutes real property in the state in which the Mortgaged Property is located (all of the foregoing, including the items hereinafter enumerated, collectively referred to as the "**Equipment**"), including all removable window and floor coverings, furniture and furnishings, heating, lighting, plumbing, ventilating, air conditioning, refrigerating, incinerating and elevator plants, cooking facilities, vacuum cleaning systems, call systems, sprinkler systems and other fire prevention and extinguishing apparatus and materials, motors, machinery, pipes, appliances, equipment, fittings, fixtures and articles of personal property now or hereafter attached to or used in or about the premises which are or may be used in or related to the planning, development, financing, or operation thereof (the Land, together with the Improvements and the Equipment, are hereinafter collectively referred to as the "**Premises**");

TOGETHER with all leases, subleases, lettings and licenses of, and all other contracts, bonds and agreements affecting the Premises or any part thereof now or hereafter entered into, and all amendments, modifications, supplements, additions, extensions and renewals thereof (all of the foregoing hereinafter collectively referred to as the "**Leases**"), and all right, title and interest of Mortgagor thereunder, including cash and securities deposited thereunder (as down payments, security deposits or otherwise), the right to receive and collect the rents, security deposits, income, fees, proceeds, earnings, royalties, revenues, issues and profits payable thereunder and the rights to enforce, whether at law or in equity or by any other means, all provisions and options thereof or thereunder (all of the foregoing hereinafter collectively referred to as the "**Rents**") and the right to apply the same to the payment and performance of the Secured Obligations;

TOGETHER with all rights (including, without limitation, trade marks, trade names and symbols), dividends and/or claims of any kind whatsoever arising from or used in connection with the Premises (including damage, secured, unsecured, lien, priority and administration claims); together with the right to take any action or file any papers or process in any court of competent jurisdiction, which may in the opinion of Mortgagee be necessary to preserve, protect, or enforce such rights or claims, including the filing of any proof of claim in any insolvency proceeding under any state, Federal or other laws and any rights, claims or awards accruing to or to be paid to Mortgagor in its capacity as landlord under any Lease (all of the foregoing hereinafter collectively referred to as "**Rights and Claims**");

TOGETHER with all other agreements, rights, written materials and intangible personal property (whether now or in the future existing) arising in connection with, derived from or otherwise relating to the Mortgaged Property or any portion thereof or the ownership, development, construction, use, management, operation, occupancy, lease, sale or financing of the Mortgaged Property or any portion thereof, including: (i) permits, approvals, consents and other authorizations; (ii) improvement plans and specifications and architectural drawings; (iii) agreements with contractors, subcontractors and suppliers; (iv) warranties and guaranties and (v) escrow proceeds, reserves, deposits, bonds, deferred payments, refunds, rebates, discounts, cost savings and leases (all of the foregoing hereinafter collectively referred to as "**Agreements and Intangibles**");

TOGETHER with all unearned premiums, accrued, accruing or to accrue under insurance policies now or hereafter obtained by Mortgagor and relating to the Premises and all proceeds of the conversion, voluntary or involuntary, of the Premises into cash or liquidated claims, including proceeds of hazard and title insurance and all awards and compensation heretofore and hereafter made to the present and all subsequent owners of the Premises by any governmental or other lawful authorities for the taking by eminent domain,

condemnation or otherwise, of all or any part of the Premises or any easement therein, including awards for any change of grade of streets (collectively, "**Awards**");

TOGETHER with all of the estate, right, title and interest of Mortgagor in all the leasehold estate and all claims, rights, title, interest, privileges and options of Mortgagor under and pursuant to the Master Lease, including, without limitation, all rights to possession or use of the Land, the Improvements, the Easements and the other Property subject thereto, and the right to give consents, modify, extend, renew or terminate or to purchase the fee simple estate of the landlord and all other present and future rights of Mortgagor as lessee thereunder subject to the terms of the Master Lease, as same exists as of the date hereof; and

TOGETHER with all right, title and interest of Mortgagor in and to all extensions, improvements, betterments, renewals, substitutes and replacements of, and all additions and appurtenances to, any of the foregoing hereafter acquired by, or released to, Mortgagor or constructed, assembled or placed by Mortgagor on the Premises and all conversions of the security constituted thereby, immediately upon such acquisition, release, construction, assemblage, placement or conversion, as the case may be, and in each such case, without any further mortgage, conveyance, assignment or other act by Mortgagor, all of which shall become subject to the lien of this Mortgage as fully and completely, and with the same effect, as though now owned by Mortgagor and specifically described herein,

TO HAVE AND TO HOLD the Mortgaged Property unto Mortgagee and its successors and assigns, forever.

ARTICLE I

Certain Definitions

SECTION 1.01. Certain Definitions. Capitalized terms used herein and not defined herein shall have the meanings given them in the Credit Agreement. As used herein, the following terms shall have the meanings set forth opposite them below:

"Action" has the meaning set forth in Section 8.10.

"Agency Documents" has the meaning set forth in Section 8.13.

"Agent" has the meaning set forth in the Preamble.

"Agreements and Intangibles" has the meaning set forth in the Granting Clauses.

"Awards" has the meaning set forth in the Granting Clauses.

"Bankruptcy Court" has the meaning set forth in the Recitals.

"Bankruptcy Proceeding" has the meaning set forth in the Recitals.

"Borrowers" has the meaning set forth in the Recitals.

"Credit Agreement" has the meaning set forth in the Recitals.

"Default Rate" has the meaning set forth in Section 3.04.

"Equipment" has the meaning set forth in the Granting Clauses.

"Financing Order" has the meaning set forth in the Recitals.

"Fixtures" has the meaning set forth in the Granting Clauses.

"Secured Obligations" has the meaning set forth in Section 2.01.

"Impositions" has the meaning set forth in Section 3.06.

"Improvements" has the meaning set forth in the Granting Clauses.

"Issuer" has the meaning set forth in the Recitals.

"Land" has the meaning set forth in the Granting Clauses.

"Lender" has the meaning set forth in the Recitals.

"Leases" has the meaning set forth in the Granting Clauses.

"Master Leases" will mean those lease agreements described in Exhibit D attached hereto, (as each such lease now exists or may hereafter be amended, modified, supplemented, extended, renewed, restated or replaced, individually the "Master Lease" and collectively, the "Master Leases"), a memorandum of which was recorded in the recording office designated in Exhibit D attached hereto.

"Maximum Amount" has the meaning set forth in Section 2.02.

"Mortgage" has the meaning set forth in the Preamble.

"Mortgaged Property" has the meaning set forth in the Recitals.

"Mortgagee" has the meaning set forth in the Preamble.

"Mortgagor" has the meaning set forth in the Preamble.

"Notice" has the meaning set forth in Section 8.03.

"Permitted Liens and Claims" will mean those matters that are Permitted Liens and Claims pursuant to paragraph 8 of the Financing Order.

"Premises" has the meaning set forth in the Granting Clauses.

"Release Parcel" has the meaning set forth in Section 5.01.

"Rents" has the meaning set forth in the Granting Clauses.

"Rights and Claims" has the meaning set forth in the Granting Clauses.

"Term Loan" has the meaning set forth in the Granting Clauses.

"Term Notes" has the meaning set forth in the Granting Clauses.

"**UCC**" has the meaning set forth in Section 6.02.

ARTICLE II

Obligations Secured; Future Advances

SECTION 2.01. Obligations Secured This Mortgage is given for the purpose of securing all obligations of the Mortgagor under the Term Loan, which include, but not limited to the payment of all principal, interest and other amounts owing under or evidenced or secured by the Term Notes. All of the obligations described in this Section are collectively referred to as the "**Secured Obligations**".

ARTICLE III

Representations, Warranties and Covenants of Mortgagor

SECTION 3.01. Payment of Secured Obligations. Mortgagor shall punctually pay when due, and timely perform, the Secured Obligations, and will perform and observe all of its obligations under the Loan Documents.

SECTION 3.02. Warranty of Title. Mortgagor warrants that (a) it has good and marketable leasehold title to the Mortgaged Property subject only to the Permitted Liens and Claims; (b) the Permitted Liens and Claims do not and are not reasonably expected to materially adversely affect the use or operation of the Premises for their present uses, or the value of the Premises on the date hereof; (c) Pursuant to the Financing Order, Mortgagor has and will continue to have full power and lawful authority to encumber and convey the Mortgaged Property as provided herein, subject only to Permitted Liens and Claims; and (d) Pursuant to the Financing Order, this Mortgage is and will continue to remain a valid and enforceable first mortgage lien on and security interest in the Mortgaged Property, subject only to Permitted Liens and Claims. Mortgagor further covenants that it will preserve such title and will forever warrant and defend the title to the Mortgaged Property unto Mortgagee against all lawful claims whatsoever and will forever warrant and defend the validity, enforceability and priority of the lien of this Mortgage against the claims of all Persons whomsoever.

SECTION 3.03. Use. Mortgagor will use the Premises for substantially the same use as in effect as of the date hereof and for no other use unless consented to in writing by Mortgagee. Mortgagor represents that no part of the Premises constitutes residential homestead.

SECTION 3.04. Insurance(a) Coverage. Mortgagor shall maintain (i) property insurance insuring the Improvements now or hereafter constituting a part of the Mortgaged Property against damage by fire and the other hazards covered by a standard all-risk, extended coverage insurance policy for one hundred percent (100%) of the "Full Replacement Cost" thereof (which, unless Mortgagee shall otherwise agree in writing, shall mean the full repair and replacement value thereof without reduction for depreciation or co-insurance), (ii) business interruption or rental insurance in an amount adequate to cover continuing expenses during any period of repairs or restoration which amount shall at least be equal to twelve months' anticipated gross income from the Premises, and (iii) Commercial General Liability Insurance in respect of the operation of the Mortgaged Property as required by the Loan Documents. In addition, Mortgagee may upon instruction of the Required Lenders require Mortgagor to carry such other insurance on the Mortgaged Property in such amounts as may from time to time reasonably be required by Mortgagee,

against insurable casualties including, without limitation, the following types of insurance: flood (including surface waters) if the Mortgaged Property is located in an area identified by the Secretary of Housing and Urban Development or any other official having jurisdiction as having special flood hazards and in which flood insurance has been made available under the National Flood Insurance Act of 1968 and the Flood Disaster Protection Act of 1973 (as the foregoing may be modified or amended and any successor acts thereto), in an amount at least equal to the full repair and replacement value of the Mortgaged Property or the maximum limit of coverage available under such Act in respect of the Improvements, whichever is less; automobile; Builder's Risk; sinkhole; earthquake; boiler and machinery; all in amounts adequate to cover repair and replacement expenses; and contingent liability in connection with any loss arising from the fact that any Improvement is deemed to be non-conforming property, which at the time are commonly insured against in the case of properties similarly situated, due regard being given to the site and the type of the building, and the construction, location, utilities and occupancy or any replacements or substitutions therefor.

(b) Policy Requirements. All liability insurance policies required pursuant to Section 3.04(a) shall name Mortgagee as an additional insured thereunder, and all other insurance policies required pursuant to Section 3.04(a), to the extent reasonably possible, or otherwise maintained by Mortgagor shall name Mortgagee as the mortgagee under New York long form non-contributory endorsements. All such insurance policies and endorsements shall be fully paid or paid pursuant to an installment program offered to Mortgagor by the insurer or its broker/agent, provided that the installments are paid on or before the due date thereof so that all required insurance coverage is maintained without interruption. All insurance policies required to be maintained by Mortgagor shall contain such provisions and expiration dates, and be in such form and issued by such insurance companies qualified and licensed to do business in the jurisdiction in which the Mortgaged Property is located, as may be reasonably acceptable to Mortgagee. All insurance companies issuing insurance for the Mortgaged Property on behalf of Mortgagor shall have a Best Insurance Guide Rating of A/XI (or its equivalent in the worldwide market) or better. Any coverage required to be maintained pursuant to this Section 3.04 may be maintained under a blanket insurance policy provided that (i) the limits of coverage applicable to each building are not less than the respective amounts specified in Section 3.04(a), and (ii) such policy otherwise satisfies the requirements of this Section 3.04. Each policy required to be maintained by Mortgagor shall provide that such policy may not be cancelled or materially changed except upon not less than thirty (30) days' prior written notice to Mortgagee of the intention of non-renewal, cancellation or material change and that no act or thing done by Mortgagor shall invalidate the policy as against Mortgagee. In the event Mortgagor fails to maintain insurance in compliance with this Section 3.04 or, in the event that a notice of non-renewal, cancellation or material change is given to Mortgagee, as aforesaid, and within ten (10) days after the delivery of such notice Mortgagor shall fail to deliver to Mortgagee evidence of the purchase of a substitute policy of insurance or a renewal of the existing policy of insurance, Mortgagee may, after ten (10) days' notice to Mortgagor (or, if the policy in question shall sooner expire or be terminated, on or after the day before the date of such expiration or termination) but shall not be obligated to, obtain such insurance and pay the premium therefor and Mortgagor shall, on demand, reimburse Mortgagee for all sums, advances and reasonable expenses incurred in connection therewith, together with interest thereon at the rate of interest applicable under the Credit Agreement upon the occurrence of an Event of Default (the "Default Rate") from the date such amounts are advanced until the same are paid to Mortgagee.

(c) No Separate Insurance. Mortgagor shall not carry separate or additional insurance concurrent in form or contributing, in the event of loss, with that required

hereunder unless endorsed in favor of Mortgagee as loss payee or additional insured, as applicable, and otherwise acceptable to Mortgagee in all respects.

(d) Transfer of Title. In the event of foreclosure of this Mortgage or other transfer of title or assignment of the Premises in extinguishment, in whole or in part, of the Secured Obligations, all right, title and interest of Mortgagor in and to all policies of insurance required under this Section 3.04 or otherwise then in force with respect to the Premises and all proceeds payable thereunder and unearned premiums thereon shall immediately vest in the purchaser or other transferee of the Premises.

(e) Delivery of Policies. Mortgagor covenants that it has delivered to Mortgagee, and shall, from time to time as may be requested by Mortgagee, deliver to Mortgagee, the policies of insurance (or, if such policies are not yet available, unconditional binders to issue the same), or certificates thereof, that may be requested by Mortgagee to confirm that the insurance required under the terms of the Loan Documents is in place and in full force and effect.

SECTION 3.05. Liens and Liabilities(a) Discharge of Liens. Mortgagor will pay, bond or otherwise discharge, from time to time when the same shall become due, all claims and demands of mechanics, materialmen, laborers and others which, if unpaid, might result in, or permit the creation of, a lien on the Premises.

(b) Creation of Liens. Mortgagor will not, without Mortgagee's consent, create, place or permit to be created or placed or allow to remain, and shall discharge and release within 10 days after the placing thereof, any deed of trust, mortgage, trust deed, voluntary or involuntary lien, security interest or other encumbrance against or covering the Premises, other than Permitted Liens and Claims, whether or not subordinate hereto.

(c) No Consent. Nothing in this Mortgage shall be deemed or construed in any way as constituting the consent or request by Mortgagee, express or implied, to any contractor, subcontractor, laborer, mechanic or materialman for the performance of any labor or the furnishing of any material for any improvement, construction, alteration or repair of the Premises. Mortgagor further agrees that Mortgagee does not stand in any fiduciary relationship to Mortgagor.

SECTION 3.06. Taxes and Other Charges(a) Taxes on the Premises. Mortgagor will promptly pay when due prior to delinquency and before any penalty or interest may be added thereto, all taxes, assessments, vault, water and sewer rents, rates, charges and assessments, levies, permits, inspection and license fees and other governmental and quasi-governmental charges and any penalties or interest for non-payment thereof, heretofore or hereafter imposed which may become a lien upon the Mortgaged Property ("**Impositions**"). Mortgagor will also pay any penalty, interest or cost for non-payment of Impositions which may become due and payable.

(b) Increased Costs. In the event of the enactment after the date hereof of any law deducting from the value of the Mortgaged Property for the purpose of taxation any lien or security interest thereon, or changing in any way the laws for the taxation of mortgages, deeds of trust or other liens or debts secured thereby, or the manner of collection of such taxes, so as to affect this Mortgage, the Secured Obligations, Mortgagee or the holders of the Secured Obligations, then, and in such event, Mortgagor shall, on demand, pay to Mortgagee or such holder, or reimburse Mortgagee or such holder for payment of, all taxes, assessments, charges or liens for which Mortgagee or such holder is or may be liable as a result thereof, provided that if any such payment or reimbursement

shall be unlawful or would constitute usury or render the Secured Obligations wholly or partially usurious under applicable law, then Mortgagee may, at its option, declare the Secured Obligations immediately due and payable or require Mortgagor to pay or reimburse Mortgagee for payment of the lawful and non-usurious portion thereof.

SECTION 3.07. Damage and Destruction(a) Mortgagor's Obligations. In the event of any damage to or loss or destruction of the Premises, Mortgagor shall (i) promptly notify Mortgagee of such event, if such event would give rise to a claim under the insurance policies required to be maintained by Mortgagor pursuant to Section 3.04, (ii) take such steps as shall be necessary to preserve any undamaged portion of the Premises and (iii) except as otherwise instructed by Mortgagee or as otherwise provided in Section 3.07(d) below, regardless of whether the insurance proceeds, if any, shall be sufficient for the purpose or shall be otherwise applied by Mortgagee as provided herein, promptly commence and diligently pursue to completion the restoration, replacement and rebuilding of the Premises to the condition of the Premises affected thereby immediately prior to such damage, loss or destruction.

(b) Mortgagee's Rights; Application of Proceeds. In the event that any portion of the Premises is so damaged, destroyed or lost, and such damage, destruction or loss is covered, in whole or in part, by insurance required by Section 3.04, then (i) Mortgagee may, but shall not be obligated to, make proof of loss if not made promptly by Mortgagor and is hereby authorized and empowered by Mortgagor to settle, adjust or compromise any claims for damage, destruction or loss thereunder, (ii) each insurance company concerned is hereby authorized and directed to make payment therefor directly to Mortgagee, and (iii) Mortgagee shall have the right to apply the insurance proceeds, first, to reimburse Mortgagee and the holders of the Secured Obligations for all costs and expenses, including adjustors' and attorneys' fees and disbursements, incurred in connection with the collection of such proceeds, and, second, the remainder of such proceeds shall be applied, at Mortgagee's option, in accordance with the instructions of the Required Lenders, in payment (without premium or penalty) of all or any part of the Secured Obligations, in the order and manner determined by Mortgagee (provided that to the extent that any portion of the Secured Obligations shall remain outstanding after such application, such unpaid portion of the Secured Obligations shall continue in full force and effect and Mortgagor shall not be excused from the payment thereof), or to the cure of any then current default hereunder, or to the restoration, replacement or rebuilding, in whole or in part, of the portion of the Premises so damaged, destroyed or lost, provided that any insurance proceeds held by Mortgagee to be applied to the restoration, replacement or rebuilding of the Premises shall be so held without payment or allowance of interest thereon and shall be paid out from time to time upon compliance by Mortgagor with such provisions and requirements as may reasonably be imposed by Mortgagee. In the event that Mortgagor shall have received or possess all or any portion of the insurance proceeds, Mortgagor, upon demand from Mortgagee, shall pay to Mortgagee an amount equal to the amount so received by Mortgagor, to be applied as Mortgagee shall have the right pursuant to this Section 3.07(b). Notwithstanding anything herein or at law or in equity to the contrary, no insurance proceeds or payments in lieu thereof paid to Mortgagee shall be deemed trust funds, and Mortgagee shall be entitled to dispose of such proceeds as provided in this Section 3.07.

(c) Mortgagor's Rights if No Event of Default; Application of Proceeds. Notwithstanding the foregoing, so long as no Event of Default has occurred and is continuing, in the event of a casualty to all or any portion of the Premises in connection with which insurance proceeds shall have been paid, Mortgagor shall be entitled to collect such amounts from the applicable insurers directly (or from Mortgagee if such proceeds shall have been paid to Mortgagee by such insurer).

(d) Repair Uneconomic or Not Permitted Under Lease. Notwithstanding anything to the contrary in this Section 3.07, where such damage, destruction, or loss is substantial and Mortgagor determines, consistent with a good faith business judgment, that (i) the Premises so damaged, destroyed or lost is no longer desirable for the operation of Mortgagor's business or (ii) it would be uneconomic for Mortgagor to restore, replace or rebuild the Premises, then Mortgagor shall not be required to restore, replace or rebuild the Premises, and Mortgagee shall be entitled to apply all Awards relating thereto in accordance with Section 3.07(b).

(e) Effect on the Secured Obligations. Notwithstanding any loss, damage or destruction referred to in this Section 3.07, Mortgagor shall continue to pay and perform the Secured Obligations as provided herein. Any reduction in the Secured Obligations resulting from such application shall be deemed to take effect only on the date of receipt by Mortgagee of such insurance proceeds and application against the Secured Obligations, provided that if prior to the receipt by Mortgagee of such insurance proceeds the Mortgaged Property shall have been sold on foreclosure of this Mortgage, or shall have been transferred by deed in lieu of foreclosure of this Mortgage, Mortgagee shall have the right to receive the same to the extent of any deficiency found to be due upon such sale, with legal interest thereon together with attorneys' fees and disbursements incurred by Mortgagee in connection with the collection thereof.

SECTION 3.08. Condemnation(a) Mortgagor's Obligations; Proceedings. Mortgagor, promptly upon obtaining knowledge of any pending or threatened institution of any proceedings for the condemnation of the Premises, or of any right of eminent domain which would materially adversely affect the use and operation of the Premises as required hereunder, will notify Mortgagee of the threat or pendency thereof. If an Event of Default shall have occurred and be continuing, Mortgagee may participate in any such proceedings, and Mortgagor from time to time will execute and deliver to Mortgagee all instruments requested by Mortgagee or as may be required to permit such participation. Mortgagor shall, at its expense, diligently prosecute any such proceedings, and, if an Event of Default shall have occurred and be continuing, (i) shall deliver to Mortgagee copies of all papers served in connection therewith and shall consult and cooperate with Mortgagee, its attorneys and agents, in the carrying on and defense of any such proceedings and (ii) shall not settle any such proceeding without Mortgagee's consent.

(b) Mortgagee's Rights; Application of Awards. Mortgagee shall have the right to apply any Awards first, to reimburse Mortgagee and the holders of the Secured Obligations for all costs and expenses, including appraiser and attorneys' fees and disbursements, incurred in connection with the collection of such proceeds, and, second, the remainder of such Awards shall be applied, at Mortgagee's option, in accordance with the instructions of the Required Lenders, in payment (without premium or penalty) of all or any part of the Secured Obligations, in the order and manner determined by Mortgagee (provided that to the extent that any portion of the Secured Obligations shall remain outstanding after such application, such unpaid portion of the Secured Obligations shall continue in full force and effect and Mortgagor shall not be excused from the payment thereof), or to the cure of any then current default hereunder, or to the restoration, replacement or rebuilding, in whole or in part, of the portion of the Premises so taken or condemned provided that any Awards held by Mortgagee to be applied to the restoration, replacement or rebuilding of the Premises shall be so held without payment or allowance of interest thereon and shall be paid out from time to time upon compliance by Mortgagor with such provisions and requirements as may reasonably be imposed by Mortgagee. In the event that Mortgagor shall have received all or any portion of such Awards, Mortgagor, upon demand from Mortgagee, shall pay to Mortgagee an amount equal to the amount so

received by Mortgagor, to be applied as Mortgagee shall have the right pursuant to this Section 3.08(b). Notwithstanding anything herein or at law or in equity to the contrary, none of the Awards paid to Mortgagee under this Section 3.08 shall be deemed trust funds and Mortgagee shall be entitled to dispose of the same as provided in this Section 3.08.

(c) Mortgagor's Rights if No Event of Default; Application of Awards. Notwithstanding the foregoing, so long as no Event of Default shall have occurred and be continuing, in the event of a payment of Awards, then Mortgagee shall remit to Mortgagor such amount against receipt by Mortgagee of written evidence reasonably satisfactory to Mortgagee that such amount will be used by Mortgagor to replace, or, if applicable, restore or repair, the Premises.

(d) Repair Uneconomic. Notwithstanding anything to the contrary in this Section 3.08, where a substantial portion of the Premises is condemned or taken and Mortgagor determines, consistent with its good faith business judgment, that (i) the portion of the Premises subject to such condemnation or taking is no longer desirable for the operation of Mortgagor's business or (ii) it would be uneconomic for Mortgagor to replace or, if applicable, restore or repair such portion of the Premises, then Mortgagor shall not be required to replace, restore or repair such Property, and Mortgagee shall be entitled to apply all Awards relating thereto in accordance with Section 3.08(b).

(e) Effect on the Secured Obligations. Notwithstanding any condemnation, taking or other proceeding referred to in this Section 3.08, Mortgagor shall continue to pay and perform the Secured Obligations as provided herein. Any reduction in the Secured Obligations resulting from such application shall be deemed to take effect only on the date of receipt by Mortgagee of such Awards and application against the Secured Obligations, provided that if prior to the receipt by Mortgagee of such Awards the Mortgaged Property shall have been sold on foreclosure of this Mortgage, or shall have been transferred by deed in lieu of foreclosure of this Mortgage, Mortgagee shall have the right to receive the same to the extent of any deficiency found to be due upon such sale, with legal interest thereon together with attorneys' fees and disbursements incurred by Mortgagee in connection with the collection thereof.

SECTION 3.09. Notice Limiting Amount. Mortgagor covenants that it will not, without the prior written consent of Mortgagee, file of record any notice limiting the maximum principal amount secured by this Mortgage.

SECTION 3.10. Permits. Mortgagor has and will maintain in full force and effect all necessary certificates, licenses, authorizations, registrations, permits and/or approvals necessary for the operation, use and occupancy of the Premises in a first class manner, and the conduct of Mortgagor's business at the Premises and, promptly upon request by Mortgagee, Mortgagor shall deliver to Mortgagee copies of all of the same.

SECTION 3.11. Further Assurances. Mortgagor shall:

(a) at Mortgagor's sole cost and expense and at the request of Mortgagee, (i) promptly correct any defect or error which may be discovered in the contents of this Mortgage or in its execution, acknowledgment or recordation and (ii) promptly do, execute, acknowledge and deliver any and all such further acts, deeds, conveyances, mortgages, deeds of trust, trust deeds, assignments, estoppel certificates, notices of assignment, transfers, certificates, assurances and other instruments that may be necessary or desirable or that Mortgagee may reasonably request from time to time in order to carry out more effectively the purposes of this Mortgage, to subject to the lien and security interest hereby

created any of Mortgagor's properties, rights or interests covered or now or hereafter intended to be covered hereby, to perfect and maintain such lien and security interest, and to better assure, convey, grant, assign, transfer and confirm unto Mortgagee the rights granted or now or hereafter intended to be granted to Mortgagee hereunder or under any other instrument executed in connection with this Mortgage or which Mortgagor may be or become bound to convey, mortgage or assign to Mortgagee in order to carry out the intention or facilitate the performance of the provisions of this Mortgage; and

(b) at the request of Mortgagee, promptly record and re-record, file and refile and register and re-register this Mortgage, any financing or continuation statements and every other instrument in addition or supplemental to any thereof that shall be required by any present or future law in order to perfect and maintain the validity, effectiveness and priority of this Mortgage and the lien and security interest intended to be created hereby, or to subject after-acquired property of Mortgagor to such lien and security interest, in such manner and places and within such times as may be necessary to accomplish such purposes and to preserve and protect the rights and remedies of Mortgagee. Upon any failure by Mortgagor to do so after request by Mortgagee, Mortgagee may make, execute, record, file, re-record or refile any and all such mortgages, instruments, certificates and documents for and in the name of Mortgagor, and Mortgagor hereby irrevocably appoints Mortgagee the agent and attorney-in-fact of Mortgagor to do so, which appointment is irrevocable and coupled with an interest and will terminate upon the satisfaction of record of this Mortgage. Mortgagor will furnish to Mortgagee evidence satisfactory to Mortgagee of every such recording, filing or registration. Mortgagee may, at Mortgagor's sole expense, file copies or reproductions of this instrument as financing statements at any time and from time to time at Mortgagee's option without further authorization from Mortgagor.

SECTION 3.12. Leases(a) Assignment. Mortgagor hereby absolutely, presently and irrevocably bargains, sells, transfers, assigns and sets over to Mortgagee all of its right, title and interest in and to the Leases and the Rents payable thereunder and all rights of Mortgagor thereunder and any and all deposits held as security under the Leases, whether before or after foreclosure or during the full period of redemption, if any, and shall, upon demand, deliver to Mortgagee an executed counterpart of each Lease. The assignment of the Leases and Rents, and of the aforesaid rights with respect thereto, is intended to be and is an absolute present assignment from Mortgagor to Mortgagee and not merely the passing of an additional security interest only. Such assignment and grant shall continue in effect until the Secured Obligations are paid, the execution of this Mortgage constituting and evidencing the irrevocable consent of Mortgagor to the entry upon and taking possession of the Premises by Mortgagee pursuant to such grant, whether foreclosure has been instituted or not and without applying for a receiver. Until the occurrence of an Event of Default hereunder, Mortgagor shall have a revocable license to collect and receive the Rents and agrees to hold the same in trust. Such right of Mortgagor to collect and receive Rents shall be automatically revoked upon the occurrence of an Event of Default and thereafter Mortgagee shall have the right and authority to exercise any of the rights or remedies referred to or set forth in Article VI. In addition, upon such an Event of Default, Mortgagor shall promptly pay to Mortgagee (i) all rent prepayments and security or other deposits paid to Mortgagor pursuant to any Lease assigned hereunder and (ii) all charges for services or facilities or for escalations which were paid pursuant to any such Lease to the extent allocable to any period from and after such Event of Default. Nothing contained in this Section 3.12(a) shall be construed to bind Mortgagee to the performance of any of the covenants, conditions or provisions contained in any Lease or otherwise to impose any obligation on Mortgagee (including any liability under the covenant of quiet enjoyment contained in any Lease or under any applicable law in the event that any tenant shall have been joined as a party defendant in any action to foreclose this Mortgage and

shall have been barred and foreclosed thereby of all right, title and interest and equity of redemption in the Premises), except that Mortgagee shall be accountable for any money actually received pursuant to such assignment. Mortgagor hereby further grants to Mortgagee the right to notify the tenant under any Lease of the assignment thereof and, after the occurrence of an Event of Default hereunder (i) to demand that the tenant under any Lease pay all amounts due thereunder directly to Mortgagee, (ii) to enter upon and take possession of the Premises for the purpose of collecting the Rents, (iii) to dispossess by the usual summary proceedings any tenant defaulting in the payment thereof, (iv) to let the Premises, or any part thereof, and (v) to apply the Rents, after payment of all necessary charges and expenses, on account of the Secured Obligations.

(b) Mortgagor's Obligation to Pay Rent. If Mortgagor is not required to surrender possession of the Premises hereunder in the event of any Event of Default, Mortgagor will pay monthly in advance to Mortgagee, on its entry into possession pursuant to Article VI, or to any receiver appointed to collect the Rents, the fair and reasonable rental value for the use and occupancy of the Premises or such part thereof as may be in the possession of Mortgagor. Upon a default in any such payment, Mortgagor will vacate and surrender such possession to Mortgagee or such receiver, and, in default thereof, may be evicted by summary or any other available proceedings or actions.

SECTION 3.13. No Other Real Property. Except for the land and public street and sidewalks adjacent thereto, Mortgagor does not use or occupy any other material real property in connection with the operation, occupancy, and management of the Premises. The Land includes all of the interests in real property used or proposed to be used in connection with the operation of the Premises.

SECTION 3.14. The Master Leases.

(a) Representations. Mortgagor represents and warrants that: (i) each Master Lease is valid and in full force and effect in accordance with its terms without modification and no default under any Master Lease has occurred and its continuing; (ii) the execution and delivery of this Mortgage is not prohibited under any Master Lease; and (iii) as of the date hereof, all of the fees, royalties, rentals, additional rentals and other charges payable under each Mater Lease prior to the date hereof have been paid.

(b) Mortgagor's Covenants and Warranties. With respect to the Master Leases, the Mortgagor covenants and warrants:

Mortgagor shall: (a) promptly pay when due and payable the fees, royalties, rentals, additional rentals and other charged provided for under the terms and provisions of each Master Lease, (b) promptly perform and observe all of the terms, covenants and conditions required to be performed and observed by Mortgagor under each Master Lease, within the grace periods provided for in the Master Leases or such lesser grace periods as are provided in this Mortgage, and do all things necessary to preserve and to keep unimpaired its rights under the Master Leases and Mortgagor shall enforce the obligations of the landlord under the Master Lease, to the extent that Mortgagor may enjoy all of the rights granted to it under the Master Leases; (c) promptly notify Mortgagee of any default by Mortgagor or the landlord in the performance and observance of any of the terms, covenants or conditions on the part of Mortgagor or the landlord to be performed or observed under the Master Leases; (d) promptly notify Mortgagee of the receipt by Mortgagor of any notice from the landlord under any Master Lease pursuant to the provisions thereof and promptly cause a copy of each of such notice received by Mortgagor under such Master Lease to be delivered to Mortgagee; and (e) within ten (10) days after

demand from Mortgagee, obtain from each landlord under the Master Leases and deliver to the Mortgagee a certificate that the requested Master Lease is unmodified and in full force and effect and the date to which the fees, royalties, rentals, additional rentals and other charges payable thereunder have been paid and stating whether to the landlord's knowledge Mortgagor is in default in the performance of any covenants, agreements or conditions contained in such Master Lease, and, if so, specifying such defaults.

(i) Mortgagor shall not, without the prior consent of Mortgagee, terminate, cancel, modify, supplement or surrender or suffer or permit any termination, modification or surrender of any Master Lease and will not subordinate or consent to the subordination of any Master Lease to any mortgage on the Mortgagor's interest in the property demised by Mortgagor. Mortgagor hereby assigns to Mortgagee, as additional collateral for repayment of the Secured Obligations, all of Mortgagor's rights and privileges as lessee under the Master Leases to terminate, cancel, surrender, modify, change, supplement, extend, renew or amend the Master Leases and any such termination, cancellation, surrender, modification, change, supplement, extension, renewal, or amendment of any Master Lease without the prior written consent of Mortgagee shall, at Mortgagee's option, be void and of no force and effect.

(ii) If Mortgagor shall fail to comply fully with any of its obligations under any Master Lease, and that failure in any manner threatens to impair Mortgagee's security under this Mortgage, Mortgagee may, at its option but without any obligation to do so, upon notice to Mortgagor may take any action necessary or desirable to cure any such failure by Mortgagor in the performance of any of the terms, covenants and conditions of such Master Lease, Mortgagee being authorized to enter upon the Land subject to such Master Lease for such purposes; provided that, any payment made or act done by Mortgagee to cure such failure shall not constitute an assumption of such Master Lease or any of the obligations of Mortgagor or any other person thereunder or otherwise. Mortgagor shall, immediately on demand, pay to Mortgagee all costs of Mortgagee incurred in curing any such default, together with all interest on such costs from the date of expenditure at the then highest rate being charged on any of the Secured Obligations.

(iii) The provisions hereof shall be deemed to be obligations of Mortgagor in addition to Mortgagor's obligations as lessee with respect to similar matters contained in the Master Leases, provided, however, the inclusion herein of any covenants and agreements relating to similar matters as to which Mortgagor is obligated under the Master Leases shall not restrict or limit the Mortgagor's duties and obligations to keep and perform when due all its covenants, agreements and obligations as lessee under the Master Leases, and nothing in this Mortgage shall be construed as requiring Mortgagor or Mortgagee to take or omit to take any action which would cause a default under any such Master Lease.

(c) Landlord's Bankruptcy.

Mortgagor hereby unconditionally assigns, transfers and sets over to Mortgagee all of the Mortgagor's claims and rights to the payment of damages arising from any rejection by the landlord of any Master Lease under the provisions of the 11 U.S.C. §101 et seq. (as in effect as of the date hereof and as amended from time to time, the "Bankruptcy Code"). Mortgagee shall have the right, at its option, to proceed in its own name or in the name of the Mortgagor in respect of any claim, suit, action or proceeding relating to the rejection of such Master Lease, including, without limitation, the right to file and prosecute, to the exclusion of Mortgagor, any proofs of claim, complaints, motions, applications, notices and other documents, in any case in respect of the landlord under the

Bankruptcy Code. This assignment constitutes a present, irrevocable and unconditional assignment of the foregoing claims, rights and remedies, and shall continue in effect until all of the Secured Obligations secured by this Mortgage shall have been satisfied and discharged in full. Any amounts received by Mortgagee as damages arising out of the rejection of such Master Lease as aforesaid shall be applied to the Obligations in such order and manner as Mortgagee shall determine.

(i) Mortgagor shall not, without Mortgagee's prior written consent, consent to the election by the landlord to treat any Master Lease as terminated under Section 365(h)(1)(A) of the Bankruptcy Code. Any such consent made without Mortgagee's prior written consent shall be void.

(ii) If pursuant to Section 365(h)(1)(A) of the Bankruptcy Code, Mortgagor seeks to offset against the rent provided for in any Master Lease the amount of any damages caused by the non-performance by the landlord of any of the landlord's obligations under such Master Lease after the rejection by the landlord of such Master Lease under the Bankruptcy Code, Mortgagor shall, prior to effecting such offset, notify Mortgagee of its intention to do so, setting forth the amount proposed to be so offset and the basis therefor. Mortgagee shall have the right to object to all or any part of such offset, and, in the event of such objection, Mortgagor shall not effect any offset of the amounts so objected to by Mortgagee. If Mortgagee has failed to object as aforesaid within ten (10) days after notice from Mortgagor in accordance with the first sentence of this Section 3.14(c)(ii), Mortgagor may proceed to effect such offset in the amounts set forth in Mortgagor's notice. Neither Mortgagee's failure to object as aforesaid nor any objection or other communication between Mortgagee and Mortgagor relating to such offset shall constitute an approval of any such offset by Mortgagee. Mortgagor shall indemnify and save Mortgagee harmless from and against any all claims, demands, actions, suits, proceedings, damages, losses, costs and expenses of every nature whatsoever (including, without limitation, attorneys' fees and legal expenses) arising from or relating to any such offset by Mortgagor against the rent provided for in such Master Lease.

(iii) If any action, proceeding, motion or notice shall be commenced or filed with respect to Mortgagor or the Land subject to any Master Lease in connection with any case under the Bankruptcy Code, Mortgagee shall have the option, to the exclusion of Mortgagor, exercisable upon notice from Mortgagee to Mortgagor, to conduct and control any such litigation with counsel of Mortgagee's choice. Mortgagee may proceed in its own name or in the name of Mortgagor in connection with any such litigation, and Mortgagor agrees to execute any and all powers, authorizations, consents and other documents required by Mortgagee in connection therewith. Mortgagor shall pay to Mortgagee all costs and expenses (including, without limitation, reasonable out of pocket attorneys' fees and legal expenses) paid or incurred by Mortgagee in connection with the prosecution or conduct of any such proceedings within five (5) days after notice from Mortgagee setting forth such costs and expenses in reasonable detail. Any such costs or expenses not paid by Mortgagor as aforesaid shall be secured by the lien of this Mortgage and shall be added to the Obligations. Mortgagor shall not commence any action, suit, proceeding or case, or file any application or make any motion, with respect to such Master Lease in any such case under the Bankruptcy Code, without the prior written consent of Mortgagee.

(iv) Mortgagor shall promptly, after obtaining knowledge thereof, notify Mortgagee orally of any filing by or against the landlord of a petition under the Bankruptcy Code. Mortgagor shall thereafter forthwith give written notice of such filing to Mortgagee, setting forth any information available to Mortgagor as to notice of such filing to Mortgagee, the court in which such petition was filed, and the relief sought therein.

Mortgagor shall promptly deliver to Mortgagee following receipt any and all notices, summonses, pleadings, applications and other documents received by Mortgagor in connection with any such petition and any proceedings relating thereto.

(d) Mortgagor's Bankruptcy.

If Mortgagor shall determine to reject any Master Lease pursuant to Section 365(a) of the Bankruptcy Code, then Mortgagor shall give Mortgagee not less than ten (10) days' prior notice of the date on which Mortgagor shall apply to the Bankruptcy Court for authority to reject such Master Lease. Mortgagee shall have the right, but not the obligation, to serve upon Mortgagor within such ten (10) day period a notice stating that (a) Mortgagee demands that Mortgagor assume and assign such Master Lease to Mortgagee pursuant to Section 365 of the Bankruptcy Code and (b) Mortgagee covenants to cure or provide adequate assurance of prompt cure of all defaults and provide adequate assurance of future performance under such Master Lease. If Mortgagee serves upon Mortgagor the notice described in the preceding sentence, Mortgagor shall not seek to reject such Master Lease and shall comply with the demand provided for in clause (a) of the preceding sentence within thirty (30) days after the notice shall have been given, subject to the performance by Mortgagee of the covenant provided for in clause (b) of the preceding sentence.

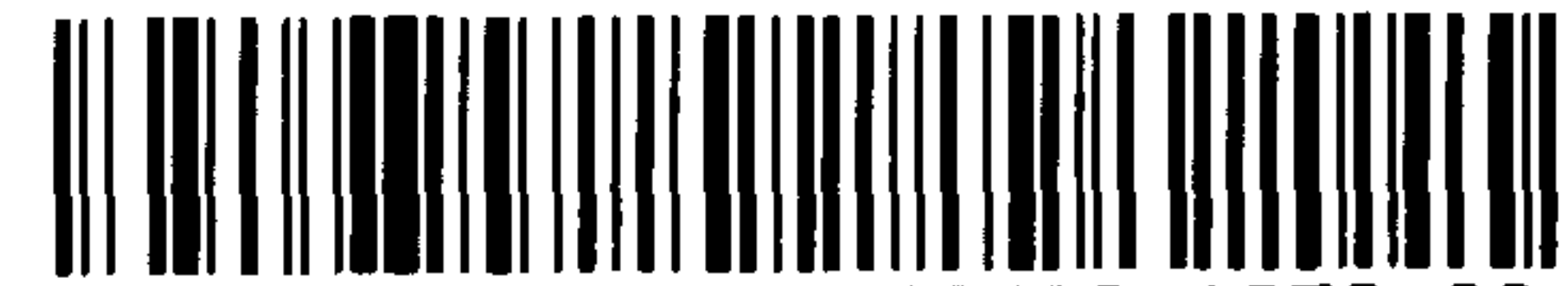
(i) Mortgagor hereby assigns and transfers to Mortgagee a non-exclusive right to apply to the Bankruptcy Court under Section 365(d)(4) of the Bankruptcy Code for an order extending the period during which any Master Lease may be rejected or assumed.

At such time as Mortgagor acquires the fee title to the Land subject to any Master Lease, this Mortgage shall attach to and over and be a lien upon the fee title of such leasehold estate so acquired, and such fee title or other estate shall, without further assignment, mortgage or conveyance, become and be subject to the lien of and covered by this Mortgage. Mortgagor shall notify Mortgagee of any such acquisition by Mortgagor and, on written request by Mortgagee, and, at Mortgagor's sole cost and expense, shall cause to be executed and recorded all such other and further assurances or other instruments in writing as may in the opinion of Mortgagee be required to carry out the intent and meaning hereof and shall provide either an endorsement to Mortgagee's existing title insurance policy or a title insurance policy which shall insure that the lien of this Mortgage is a first lien on Mortgagor's interest in the Land formerly subject to such Master Lease subject only to the Permitted Liens and Claims.

ARTICLE IV

Protective Advances; Expenses

SECTION 4.01. Protective Advances and Disbursements. Mortgagor agrees that, if Mortgagor shall default in any of its obligations hereunder, then Mortgagee shall have the right in its sole discretion without notice to Mortgagor to advance all or any part of amounts owing or to perform any or all required actions. No such advance or performance shall be deemed to have cured such default by Mortgagor or any Event of Default with respect thereto. All sums advanced and all expenses incurred by Mortgagee in connection with such advances or actions, and all other sums advanced or expenses incurred by Mortgagee hereunder or under applicable law (whether required or optional and whether indemnified hereunder or not) shall be part of the Secured Obligations, shall bear interest at the Default Rate and shall be secured by this Mortgage. Mortgagor hereby appoints



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Mortgagee its true and lawful attorney-in-fact to make the payments and effect the performance contemplated by the aforesaid provisions in the name and on behalf of Mortgagor. This appointment, being coupled with an interest and with full power of substitution, shall be irrevocable until all of the Secured Obligations shall be fully satisfied, paid and performed and Mortgagee shall have no further Secured Obligations.

SECTION 4.02. Other Expenses. Mortgagor will pay or, on demand, reimburse Mortgagee or any holder of the Secured Obligations for the payment of any and all costs or expenses (including attorneys' fees and disbursements) incurred in connection with (a) any default or Event of Default by Mortgagor hereunder, (b) the exercise or enforcement by or on behalf of Mortgagee or any holder of the Secured Obligations of any of its rights or of Mortgagor's obligations under the Loan Documents or (c) the granting, administration, enforcement and closing of the transactions contemplated hereunder.

SECTION 4.03. Interest After Default. If any payment due hereunder or under the other Loan Documents is not paid in full when due, whether by acceleration or otherwise, then the same shall bear interest hereunder at the Default Rate, and such interest shall be added to and become a part of the Secured Obligations and shall be secured hereby.

ARTICLE V

[Intentionally Omitted]

ARTICLE VI

Defaults and Remedies

SECTION 6.01. Events of Default. The occurrence of an "Event of Default" under the Credit Agreement and the occurrence of an event of default under the Master Lease which would permit any party to the Master Lease to terminate the Master Lease or if the Master Lease otherwise terminates for any reason whatsoever shall be an Event of Default hereunder and upon acceleration of the indebtedness evidenced by the Credit Agreement, all Secured Obligations shall immediately become due and payable without further notice to Mortgagor.

SECTION 6.02. Remedies. Upon the occurrence and during the continuation of any one or more Events of Default, Mortgagee may, in addition to any rights or remedies available to it hereunder or under the other Loan Documents and to the extent permitted by applicable law, take such action personally or by its agents or attorneys, with or without entry, and without notice, demand, presentment or protest (each and all of which are hereby waived), as it deems necessary or advisable to protect and enforce its rights and remedies against Mortgagor and in and to the Mortgaged Property, including, to the extent permitted by applicable law, the following actions, each of which may be pursued concurrently or otherwise, at such time and in such order as Mortgagee may determine, in its sole discretion, without impairing or otherwise affecting its other rights or remedies:

(a) institute a proceeding or proceedings, judicial or otherwise, for the complete or partial foreclosure of this Mortgage under any applicable provision of law; or

(b) sell the Mortgaged Property, and all estate, right, title, interest, claim and demand of Mortgagor therein, and all rights of redemption thereof, at one or more sales, as

an entirety or in parcels, with such elements of real and/or personal property, and at such time and place and upon such terms as it may deem expedient, or as may be required by applicable law, and in the event of a sale, by foreclosure or otherwise, of less than all of the Mortgaged Property, this Mortgage shall continue as a lien on and security interest in the remaining portion of the Mortgaged Property; or

(c) institute an action, suit or proceeding in equity for the specific performance of any of the provisions contained in the Loan Documents; or

(d) make application to a court of competent jurisdiction for, and obtain from such court as a matter of strict right and without notice to Mortgagor or regard to the adequacy of the Mortgaged Property for the repayment of the Indebtedness, the appointment of a receiver of the Mortgaged Property, and Mortgagor irrevocably consents to such appointment; or

(e) enter upon the Premises, and exclude Mortgagor and its agents and servants wholly therefrom, without liability for trespass, damages or otherwise, and take possession of all books, records and accounts relating thereto and all other Mortgaged Property, and Mortgagor agrees to surrender possession of the Mortgaged Property and of such books, records and accounts to Mortgagee on demand after the happening of any Event of Default; and having and holding the same may use, operate, manage, preserve, control and otherwise deal therewith and conduct the business thereof, either personally or by its superintendents, managers, agents, servants, attorneys or receivers, without interference from Mortgagor, including, without limitation, (i) entering into such contracts and taking such other action as Mortgagee deems appropriate to complete any construction on the Land, and in connection with any such action Mortgagee may modify plans and specifications as Mortgagee deems appropriate; (ii) making, cancelling, enforcing or modifying Leases; (iii) obtaining and evicting tenants; (iv) fixing or modifying Rents; (v) conducting the business of Mortgagor in its own name or in the name of Mortgagor; (vi) using any and all of Mortgagor's properties and facilities relating to the Premises; (vii) dealing with Mortgagor's creditors, debtors, tenants, lessees, agents, employees and other Persons having any relationship whatsoever with Mortgagor, and (viii) altering or amending any contracts between them, in any manner Mortgagee may determine; and upon each such entry and from time to time thereafter may, at the expense of Mortgagor and the Mortgaged Property, without interference by Mortgagor and as Mortgagee may deem advisable, (x) insure or reinsure the Premises, (y) make all necessary or proper repairs, renewals, replacements, alterations, additions, betterments and improvements thereto and thereon and (z) in every such case in connection with the foregoing have the right to exercise all rights and powers of Mortgagor with respect to the Mortgaged Property, either in Mortgagor's name or otherwise; or

(f) with or without entrance upon the Premises, collect, receive, sue for and recover in its own name all Rents and cash collateral derived from the Mortgaged Property, and after deducting therefrom all costs, expenses and liabilities of every character incurred by Mortgagee in collecting the same and in using, operating, managing, preserving and controlling the Mortgaged Property, and otherwise in exercising Mortgagee's rights under Section 6.02(e), including all amounts necessary to pay Impositions, insurance premiums and other charges in connection with the Premises, as well as compensation for the services of Mortgagee and its respective attorneys, agents and employees, to apply the remainder as provided in Section 6.05; or

(g) release any portion of the Mortgaged Property for such consideration as Mortgagee may require without, as to the remainder of the Mortgaged Property, in any way

impairing or affecting the lien or priority of this Mortgage, or improving the position of any subordinate lienholder with respect thereto, except to the extent that the Secured Obligations shall have been reduced by the actual monetary consideration, if any, received by Mortgagee for such release and applied to the Secured Obligations, and may accept by assignment, pledge or otherwise any other property in place thereof as Mortgagee may require without being accountable for so doing to any other lienholder; or

(h) take all actions permitted under the Uniform Commercial Code in effect in the jurisdiction in which the Mortgaged Property is located (the "UCC");

(i) exercise all other rights, remedies and recourses granted under the Loan Documents or otherwise available at law or in equity; or

(j) Mortgagee shall have the right, with or without taking possession of the Mortgaged Property, sell the Mortgaged Property en masse or in lots of parcels, as Mortgagee may deem best, at public outcry in front of the courthouse door of the county in which the Mortgaged Property is located, to the highest bidder for cash, either in person or by auctioneer, after first giving notice of the time, place and terms of such sale by publication once a week for three (3) successive weeks in some newspaper published in such county. Upon the payment of the purchase price, Mortgagee or any person conducting the sale for Mortgagee is authorized and empowered to execute and deliver to the purchaser at the sale a deed or bill of sale to the property so purchased, in the name and on behalf of Mortgagor.

In the event that Mortgagee shall exercise any of the rights or remedies set forth in Sections 6.02(e) or 6.02(f), Mortgagee shall not be deemed to have entered upon or taken possession of the Mortgaged Property except upon the exercise of its option to do so, evidenced by its demand and overt act for such purpose. Mortgagee shall not become a mortgagee-in-possession so long as it does not enter or take actual possession of the Mortgaged Property. Mortgagee shall not be liable to account for any action taken pursuant to any such exercise other than for Rents actually received by Mortgagee, nor liable for any loss sustained by Mortgagor resulting from any failure to let the Premises, or from any other act or omission of Mortgagee except to the extent such loss is caused by the willful misconduct or bad faith of Mortgagee.

SECTION 6.03. Rights Pertaining to Sales. Subject to the provisions or other requirements of law and except as otherwise provided herein, the following provisions shall apply to any sale or sales of all or any portion of the Mortgaged Property under or by virtue of this Article VI, whether made under the power of sale herein granted or by virtue of judicial proceedings or of a judgment or decree of foreclosure and sale:

(a) Mortgagee may conduct any number of sales from time to time. The power of sale set forth in Section 6.02(b) shall not be exhausted by any one or more such sales as to any part of the Mortgaged Property which shall not have been sold, nor by any sale which is not completed or is defective in Mortgagee's opinion, until the Secured Obligations shall have been paid in full.

(b) Any sale may be postponed or adjourned by public announcement at the time and place appointed for such sale or for such postponed or adjourned sale without further notice. Without limiting the foregoing, if Mortgagee shall have proceeded to enforce any right or remedy under this Mortgage by receiver, entry or otherwise, and such proceedings have been discontinued or abandoned for any such reason or shall have been determined adversely to Mortgagee, then in every such case Mortgagor and Mortgagee shall

be restored to their former positions and rights hereunder, and all rights, powers and remedies of Mortgagee shall continue as if no such proceeding had been taken.

(c) After each sale, Mortgagee or an officer of any court empowered to do so shall execute and deliver to the purchaser or purchasers at such sale a good and sufficient instrument or instruments granting, conveying, assigning and transferring all right, title and interest of Mortgagor in and to the property and rights sold and shall receive the proceeds of such sale or sales and apply the same as herein provided. Mortgagee is hereby appointed the true and lawful attorney-in-fact of Mortgagor, which appointment is irrevocable and shall be deemed to be coupled with an interest, in Mortgagor's name and stead, to make all necessary conveyances, assignments, transfers and deliveries of the property and rights so sold, and for that purpose Mortgagee may execute all necessary instruments of conveyance, assignment, transfer and delivery, and may substitute one or more Persons with like power, Mortgagor hereby ratifying and confirming all that such attorney or such substitute or substitutes shall lawfully do by virtue thereof. Nevertheless, Mortgagor, if requested by Mortgagee, shall ratify and confirm any such sale or sales by executing and delivering to Mortgagee or such purchaser or purchasers all such instruments as may be advisable, in Mortgagee's judgment, for the purposes as may be designated in such request.

(d) Any and all statements of fact or other recitals made in any of the instruments referred to in Section 6.03(c) given by Mortgagee as to nonpayment of the Secured Obligations, or as to the occurrence of any Event of Default, or as to Mortgagee having declared all or any of the Secured Obligations to be due and payable, or as to the request to sell, or as to notice of time, place and terms of sale and of the property or rights to be sold having been duly given, or as to any other act or thing having been duly done by Mortgagor or Mortgagee shall be taken as conclusive and binding against all Persons as to evidence of the truth of the facts so stated and recited. Mortgagee may appoint or delegate any one or more Persons as agent to perform any act or acts necessary or incident to any sale so held, including the posting of notices and the conduct of sale.

(e) The receipt of Mortgagee for the purchase money paid at any such sale, or the receipt of any other Person authorized to receive the same, shall be sufficient discharge therefor to any purchaser of any property or rights sold as aforesaid, and no such purchaser, or its representatives, grantees or assigns, after paying such purchase price and receiving such receipt, shall be bound to see to the application of such purchase price or any part thereof upon or for any trust or purpose of this Mortgage or, in any manner whatsoever, be answerable for any loss, misapplication or nonapplication of any such purchase money, or part thereof, or be bound to inquire as to the authorization, necessity, expediency or regularity of any such sale.

(f) Any such sale or sales shall operate to divest all of the estate, right, title, interest, claim and demand whatsoever, whether at law or in equity, of Mortgagor in and to the properties and rights so sold, and shall be a perpetual bar both at law and in equity against Mortgagor and any and all persons claiming or who may claim the same, or any part thereof or any interest therein, by, through or under Mortgagor to the fullest extent permitted by applicable law.

(g) Upon any such sale or sales, Mortgagee may bid for and acquire the Mortgaged Property and, in lieu of paying cash therefor, may make settlement for the purchase price by crediting against the Secured Obligations the amount of the bid made therefor, after deducting therefrom the expenses of the sale, the cost of any enforcement

proceeding hereunder, the costs, fees, and expenses and any other sums which Mortgagee is authorized to deduct under the terms hereof, to the extent necessary to satisfy such bid.

(h) In the event that Mortgagor, or any Person claiming by, through or under Mortgagor, shall transfer or refuse or fail to surrender possession of the Mortgaged Property after any sale thereof, then Mortgagor, or such Person, shall be deemed a tenant at sufferance of the purchaser at such sale, subject to eviction by means of forcible entry and unlawful detainer proceedings, or subject to any other right or remedy available hereunder or under applicable law.

(i) Upon any such sale, it shall not be necessary for Mortgagee or any public officer acting under execution or order of court to have present or constructively in its possession any of the Mortgaged Property.

(j) In the event a foreclosure hereunder shall be commenced by Mortgagee, Mortgagee may at any time before the sale of the Mortgaged Property abandon the sale, and may institute suit for the collection of the Secured Obligations and for the foreclosure of this Mortgage, or in the event that Mortgagee should institute a suit for collection of the Secured Obligations, and for the foreclosure of this Mortgage, Mortgagee may at any time before the entry of final judgment in said suit dismiss the same and require Mortgagee to sell the Mortgaged Property in accordance with the provisions of this Mortgage.

SECTION 6.04. Expenses. In any proceeding, judicial or otherwise, to foreclose this Mortgage or enforce any other remedy of Mortgagee under the Loan Documents, there shall be allowed and included as an addition to and a part of the Secured Obligations in the decree for sale or other judgment or decree all expenditures and expenses which may be paid or incurred in connection with the exercise by Mortgagee of any of its rights and remedies provided or referred to in Section 6.02, or any comparable provision of any other Loan Document, together with interest thereon at the rate or rates provided in the Credit Agreement, and the same shall be part of the Secured Obligations and shall be secured by this Mortgage.

SECTION 6.05. Application of Proceeds. The purchase money, proceeds or avails of any sale referred to in Section 6.02, together with any other sums which may be held by Mortgagee hereunder, whether under the provisions of this Article VI or otherwise, shall, except as herein expressly provided to the contrary, be applied as follows:

First: To the payment of the costs and expenses of any such sale, including compensation to Mortgagee, its agents and counsel, and of any judicial proceeding wherein the same may be made, and of all expenses, liabilities and advances made or incurred by Mortgagee hereunder, together with interest thereon as provided herein, and all Impositions and other charges, except any Impositions or other charges subject to which the Mortgaged Property shall have been sold.

Second: To the payment in full of the monetary Secured Obligations (including principal, interest, premium and fees) in such order as Mortgagee may elect.

Third: To the payment of any other sums secured hereunder or required to be paid by Mortgagor pursuant to any provision of the Loan Documents.

Fourth: To the extent permitted by applicable law, to be set aside by Mortgagee as adequate security in its judgment for the payment of sums which would have been paid by application under clauses First through Third above to Mortgagee, arising out

of an obligation or liability with respect to which Mortgagor has agreed to indemnify Mortgagee, but which sums are not yet due and payable or liquidated.

Fifth: To the payment of any withholding tax requirements of the Foreign Investment in Real Property Tax Act of 1980, as amended.

Sixth: To the payment of the surplus, if any, to whomsoever may be lawfully entitled to receive the same.

SECTION 6.06. Additional Provisions as to Remedies(a) No delay or omission by Mortgagee to exercise any right or remedy hereunder upon any default or Event of Default shall impair such exercise, or be construed to be a waiver of any such default or Event of Default.

(b) The failure, refusal or waiver (by consent, waiver or otherwise) of Mortgagee to assert any right or remedy hereunder upon any default or Event of Default or other occurrence shall not be construed as waiving such right or remedy upon any other or subsequent default or Event of Default or other occurrence.

(c) Mortgagee shall have no obligation to pursue any rights or remedies it may have under any other agreement prior to pursuing its rights or remedies hereunder or under the other Loan Documents.

(d) Acceptance of any payment after the occurrence of any default or Event of Default shall not be deemed a waiver or a cure of such default or Event of Default, and acceptance of any payment less than any amount then due shall be deemed an acceptance on account only.

(e) In the event that Mortgagee shall have proceeded to enforce any right or remedy hereunder by foreclosure, sale, entry or otherwise, and such proceeding shall be discontinued, abandoned or determined adversely for any reason, then Mortgagor and Mortgagee shall be restored to their former positions and rights hereunder with respect to the Mortgaged Property, subject to the lien hereof.

(f) Each right of Mortgagee provided for in this Mortgage shall be cumulative and shall be in addition to every other right provided for in this Mortgage or now or hereafter existing at law or in equity, by statute or otherwise, and the exercise by Mortgagee of any one or more of such rights shall not preclude the simultaneous or later exercise by Mortgagee of any other such right.

SECTION 6.07. Waiver of Rights and Defenses. To the full extent Mortgagor may lawfully do so, Mortgagor agrees with Mortgagee as follows:

(a) Mortgagor will not, at any time, insist on, plead, claim or take the benefit or advantage of any statute or rule of law now or hereafter in force providing for any appraisement, valuation, stay, extension, moratorium, redemption or reinstatement, or of any statute of limitations, and Mortgagor, for itself and its heirs, devisees, representatives, successors and assigns, and for any and all Persons ever claiming an interest in the Mortgaged Property (other than Mortgagee), hereby, to the extent permitted by applicable law, waives and releases all rights of redemption, reinstatement, valuation, appraisement, and notice of intention to mature or declare due the whole of the Secured Obligations and all rights to a marshaling of the assets of Mortgagor, including the Mortgaged Property, or to a sale

in inverse order of alienation, in the event of foreclosure of the liens and security interests created hereunder.

(b) Mortgagor shall not have or assert any right under any statute or rule of law pertaining to any of the matters set forth in Section 6.07(a), to the administration of estates of decedents or to any other matters whatsoever to defeat, reduce or affect any of the rights or remedies of Mortgagee hereunder, including the rights of Mortgagee hereunder to a sale of the Mortgaged Property for the collection of the Secured Obligations without any prior or different resort for collection, or to the payment of the Secured Obligations out of the proceeds of sale of the Mortgaged Property in preference to any other Person.

(c) If any statute or rule of law referred to in this Section 6.07 and now in force, of which Mortgagor or any of its representatives, successors or assigns and such other Persons claiming any interest in the Property might take advantage despite this Section 6.07, shall hereafter be repealed or cease to be in force, such statute or rule of law shall not thereafter be deemed to preclude the application of this Section 6.07.

(d) Mortgagor shall not be relieved of its obligation to pay the Secured Obligations at the time and in the manner provided in the Loan Documents, nor shall the lien or priority of this Mortgage or any other Loan Document be impaired by any of the following actions, non-actions or indulgences by Mortgagee, each of which actions, non-actions or indulgences Mortgagee may, in its discretion, take or refrain from taking:

(i) any failure or refusal by Mortgagee to comply with any request by Mortgagor (A) to consent to any action by Mortgagor or (B) to take any action to foreclose this Mortgage or otherwise enforce any of the provisions of the Loan Documents;

(ii) any release, regardless of consideration, of the whole or any part of the Property or any other security for the Secured Obligations, or any Person liable for payment of the Secured Obligations;

(iii) any waiver by Mortgagee of compliance by Mortgagor with any provision of the Loan Documents, or consent by Mortgagee to the performance by Mortgagor of any action which would otherwise be prohibited thereunder, or to the failure by Mortgagor to take any action which would otherwise be required thereunder; and

(iv) any agreement or stipulation between Mortgagee and Mortgagor, or, with or without Mortgagor's consent, between Mortgagee and any subsequent owner or owners of the Mortgaged Property or any other security for the Secured Obligations, renewing, extending or modifying the time of payment or the terms of the Loan Documents (including a modification of any interest rate), and in any such event Mortgagor shall continue to be obligated to pay the Secured Obligations at the time and in the manner provided in the Loan Documents, as so renewed, extended or modified, unless expressly released and discharged by Mortgagee.

(e) Regardless of consideration, and without the necessity for any notice to or consent by the holder of any subordinate lien, encumbrance, right, title or interest in or to

the Mortgaged Property, Mortgagee may release any Person at any time liable for the payment of the Secured Obligations or any portion thereof or any part of the security held for the Secured Obligations and may extend the time of payment or otherwise modify the terms of the Loan Documents, including a modification of the interest rates payable on the principal balance of the Borrowings without in any manner impairing or affecting this Mortgage or the lien thereof or the priority of this Mortgage, as so extended and modified, as security for the Secured Obligations over any such subordinate lien, encumbrance, right, title or interest. Mortgagee may resort for the payment of the Secured Obligations to any other security held by Mortgagee or any of the other Secured Parties in such order and manner as Mortgagee, in its discretion, may elect. Mortgagee may take or cause to be taken action to recover the Secured Obligations, or any portion thereof, or to enforce any provision of the Loan Documents without prejudice to the right of Mortgagee thereafter to foreclose or cause to be foreclosed this Mortgage. Mortgagee shall not be limited exclusively to the rights and remedies herein stated but shall be entitled to every additional right and remedy now or hereafter afforded by law or equity. The rights of Mortgagee under this Mortgage shall be separate, distinct and cumulative and none shall be given effect to the exclusion of the others. No act of Mortgagee shall be construed as an election to proceed under any one provision herein to the exclusion of any other provision.

(f) Mortgagor hereby waives any defense to the recovery by Mortgagee hereunder against Mortgagor or the Mortgaged Property of any deficiency after a nonjudicial sale. Without limiting the foregoing, Mortgagor waives any defense arising out of any such nonjudicial sale even though such sale operates to impair or extinguish any right of reimbursement or subrogation or any other right or remedy of Mortgagor against Borrower or any subsidiary of Borrower or against any collateral security.

ARTICLE VII

Release of Lien

SECTION 7.01. Release of Lien. If all of the Secured Obligations shall be fully satisfied, paid and performed, all Commitments shall be terminated and no Letters of Credit shall be outstanding, then and in that event only all rights and obligations hereunder shall terminate. In such event Mortgagee shall, at the request of Mortgagor and at Mortgagor's expense, deliver to Mortgagor, in recordable form, all such documents as shall be necessary to release the Mortgaged Property from the liens, security interests, conveyances and assignments created or evidenced hereby. In addition, to the extent transfers are permitted under the Credit Agreement, Mortgagee shall release the lien of this Mortgage if the Premises is being transferred in accordance with the Credit Agreement.

ARTICLE VIII

Additional Provisions

SECTION 8.01. Provisions as to Payments. To the extent that any part of the Secured Obligations is used to pay indebtedness secured by any Permitted Liens and Claims or other outstanding lien, security interest, charge or prior encumbrance against the Mortgaged Property or to pay in whole or in part the purchase price therefor, Mortgagee shall be subrogated to any and all rights, security interests and liens held by any owner or holder of the same, whether or not the same are released. Mortgagor agrees that, in consideration of such payment by Mortgagee, effective upon such payment Mortgagor shall and hereby does waive and release all demands, defenses and causes of action for offsets and payments with respect to the same.

SECTION 8.02. Severability. If all or any portion of any provision of this Mortgage or any other Loan Documents shall be held to be invalid, illegal or unenforceable in any respect or in any jurisdiction, then such invalidity, illegality or unenforceability shall not affect any other provision hereof or thereof, and such provision shall be limited and construed in such jurisdiction as if such invalid, illegal or unenforceable provision or portion thereof were not contained herein or therein.

SECTION 8.03. Notices. Any notice, demand, consent, approval, direction, agreement or other communication (any "**Notice**") required or permitted hereunder shall be in writing and shall be validly given if delivered in accordance with Section 10.2 of the Credit Agreement to the parties hereto at the addresses set forth above.

SECTION 8.04. Right to Deal. In the event that ownership of the Mortgaged Property becomes vested in a Person other than Mortgagor, Mortgagee may, without notice to Mortgagor, deal with such successor or successors in interest with reference to this Mortgage or the Secured Obligations in the same manner as with Mortgagor, without in any way vitiating or discharging Mortgagor's liability hereunder or for the payment of the Secured Obligations or being deemed to have consented to such vesting.

SECTION 8.05. Continuation of Lease

(a) Upon the foreclosure of the lien created hereby on the Mortgaged Property, as herein provided, any Leases then existing shall not be destroyed or terminated as a result of such foreclosure unless Mortgagee or any purchaser at a foreclosure sale shall so elect by notice to the lessee in question.

(b) If both the lessor's and the lessee's interest under any Lease which constitutes a part of the Premises shall at any time become vested in any one Person, this Mortgage and the lien and security interest created hereby shall not be destroyed or terminated by the application of the doctrine of merger and, in such event, Mortgagee shall continue to have and enjoy all of the rights and privileges of Mortgagee hereunder as to each separate estate.

SECTION 8.06. Applicable Law. The provisions of this Mortgage regarding the creation, perfection and enforcement of the liens and security interests herein granted shall be governed by and construed under the laws of the state in which the Mortgaged Property is located. All other provisions of this Mortgage shall be governed by the laws of the State of New York (including, without limitation, Section 5-1401 of the General Obligations Law of the State of New York), without regard to conflicts of laws principles.

SECTION 8.07. Sole Discretion of Mortgagee(a) Whenever Mortgagee's judgment, consent or approval is required hereunder for any matter, or either shall have an option or election hereunder, such judgment, the decision whether or not to consent to or approve the same or the exercise of such option or election shall be in the sole discretion of Mortgagee.

(b) Notwithstanding anything contained herein to the contrary, in the event that Mortgagee fails or refuses to grant consent or approval when required hereunder for any matter, the parties agree that the remedy of specific performance shall be the sole remedy of Mortgagor with respect to such actions and Mortgagor hereby waives all claims for damages with respect thereto.

SECTION 8.08. Provisions as to Covenants and Agreements. All of Mortgagor's covenants and agreements hereunder shall run with the Land and time is of the essence with respect thereto.

SECTION 8.09. Matters to be in Writing. This Mortgage cannot be altered, amended, modified, terminated, waived, released or discharged except in a writing signed by the party against whom enforcement is sought.

SECTION 8.10. Submission to Jurisdiction. Without limiting the right of Mortgagee to bring any action or proceeding against the undersigned or its property arising out of or relating to the Secured Obligations (an "**Action**") in the courts of other jurisdictions, Mortgagor hereby irrevocably submits to the jurisdiction of the state court or Federal court in the jurisdiction in which the Mortgaged Property is located, and Mortgagor hereby irrevocably agrees that any Action may be heard and determined in such state or federal court. Mortgagor hereby irrevocably waives, to the fullest extent that it may effectively do so, the defense of an inconvenient forum to the maintenance of any Action in such jurisdiction. Mortgagor hereby irrevocably agrees that the summons and complaint or any other process in any Action in any jurisdiction may be served by mailing to its address set forth herein or by hand delivery to a person of suitable age and discretion at any such address. Such service will be complete on the date such process is so mailed or delivered.

SECTION 8.11. Construction of Provisions. The following rules of construction shall be applicable for all purposes of this Mortgage and all documents or instruments supplemental hereto, unless the context otherwise requires:

(a) All references herein to numbered Articles or Sections or to lettered Exhibits are references to the Articles and Sections hereof and the Exhibits annexed to this Mortgage, unless expressly otherwise designated in context. All Article, Section and Exhibit captions herein are used for reference only and in no way limit or describe the scope or intent of, or in any way affect, this Mortgage.

(b) The terms "include", "including" and similar terms shall be construed as if followed by the phrase "without being limited to".

(c) The terms "Land", "Improvements", "Equipment", "Mortgaged Property" and "Premises" shall be construed as if followed by the phrase "or any part thereof".

(d) The term "Secured Obligations" shall be construed as if followed by the phrase "or any other sums secured hereby, or any part thereof".

(e) Words of masculine, feminine or neuter gender shall mean and include the correlative words of the other genders, and words importing the singular number shall mean and include the plural number, and vice versa.

(f) The term "provisions", when used with respect hereto or to any other document or instrument, shall be construed as if preceded by the phrase "terms, covenants, agreements, requirements, conditions and/or".

(g) The cover page of and all recitals set forth in, and all Exhibits to, this Mortgage are hereby incorporated in this Mortgage.

(h) All obligations of Mortgagor hereunder shall be performed and satisfied by or on behalf of Mortgagor at Mortgagor's sole cost and expense.

(i) The term "lease" shall mean "tenancy, subtenancy, lease or sublease", the term "lessor" shall mean "landlord, sublandlord, lessor and sublessor" and the term "lessee" shall mean "tenant, subtenant, lessee and sublessee".

(j) No inference in favor of or against any party shall be drawn from the fact that such party has drafted any portion hereof.

SECTION 8.12. Successors and Assigns. The provisions hereof shall be binding upon Mortgagor and the heirs, devisees, representatives, successors and permitted assigns of Mortgagor, including successors in interest of Mortgagor in and to all or any part of the Mortgaged Property, and shall inure to the benefit of Mortgagee, the holders of the Secured Obligations and their respective heirs, successors, legal representatives, substitutes and assigns. Where two or more Persons have executed this Mortgage, the obligations of such Persons shall be joint and several.

SECTION 8.13. Agency(a) Agent has been appointed to act as Agent hereunder by the Lenders. Agent shall have the right hereunder to make demands, to give notices, to exercise or refrain from exercising any rights, and to take or refrain from taking any action (including, without limitation, the release or substitution of the Mortgaged Property) in accordance with the terms of the Credit Agreement, any related agency agreement among Agent and the Lenders (collectively, as amended, supplemented or otherwise modified or replaced from time to time, the "**Agency Documents**") and this Mortgage. Mortgagor and all other Persons shall be entitled to rely on releases, waivers, consents, approvals, notifications and other acts of Agent, without inquiry into the existence of required consents or approvals of the Lenders therefor.

(b) Mortgagee shall at all times be the same Person that is Agent under the Agency Documents. Written notice of resignation by Agent pursuant to the Agency Documents shall also constitute notice of resignation as Agent under this Mortgage. Removal of Agent pursuant to any provision of the Agency Documents shall also constitute removal as Agent under this Mortgage. Appointment of a successor Agent pursuant to the Agency Documents shall also constitute appointment of a successor Agent under this Mortgage. Upon the acceptance of any appointment as Agent by a successor Agent under the Agency Documents, that successor Agent shall thereupon succeed to and become vested with all the rights, powers, privileges and duties of the retiring or removed Agent as the Mortgagee under this Mortgage, and the retiring or removed Agent shall promptly (i) assign and transfer to such successor Agent all of its right, title and interest in and to this Mortgage and the Mortgaged Property, and (ii) execute and deliver to such successor Agent such assignments and amendments and take such other actions, as may be necessary or appropriate in connection with the assignment to such successor Agent of the liens and security interests created hereunder, whereupon such retiring or removed Agent shall be discharged from its duties and obligations under this Mortgage. After any retiring or removed Agent's resignation or removal hereunder as Agent, the provisions of this Mortgage and the Agency Documents shall inure to its benefit as to any actions taken or omitted to be taken by it under this Mortgage while it was the Agent hereunder.

(c) The provisions of Article IX of the Credit Agreement shall inure to the benefit of Agent in respect of this Mortgage and shall be binding upon Mortgagor and Mortgagee in such respect.

SECTION 8.14. Inconsistencies Among Loan Documents. In the event that a valid and enforceable security interest has been created in any of the Mortgaged Property under the terms of the Security Agreement (as defined in the Credit Agreement) and the

terms of the Security Agreement are inconsistent with the terms of this Mortgage, then with respect to such Mortgaged Property, the terms of the Security Agreement shall be controlling in the case of Equipment and proceeds of insurance policies and the terms of this Mortgage shall be controlling in all other cases. With respect to any other Loan Document, in the event of a conflict between the provisions hereof and the provisions of such other Loan Document as they relate to the Mortgaged Property, the provisions of this Mortgage shall control.

SECTION 8.15. No Merger. The assignments by Mortgagor in favor of Mortgagee herein contained and the obligations of Mortgagor hereunder to (a) maintain the insurance required to be maintained by Mortgagor hereunder and to pay all premiums in respect thereof, (b) to pay all Impositions, (c) reimburse Mortgagee for all sums expended by Mortgagee pursuant to this Mortgage to protect the lien of this Mortgage and to prevent waste to the Mortgaged Property and (d) to pay interest at the Default Rate on the aforementioned sums from the date due until paid in full shall not be merged into any judgment of foreclosure and shall survive any such judgment.

SECTION 8.16. WAIVER OF JURY TRIAL. MORTGAGOR (BY ITS EXECUTION AND DELIVERY HEREOF) AND MORTGAGEE (BY ITS ACCEPTANCE HEREOF) DO EACH HEREBY KNOWINGLY, VOLUNTARILY, UNCONDITIONALLY, IRREVOCABLY AND INTENTIONALLY FOREVER WAIVE THE RIGHT TO A TRIAL BY JURY IN EVERY JURISDICTION IN ANY ACTION, PROCEEDING OR COUNTERCLAIM BROUGHT BY MORTGAGOR OR MORTGAGEE AGAINST THE OTHER OR THEIR RESPECTIVE SUCCESSOR OR ASSIGNS IN RESPECT OF ANY MATTER ARISING OUT OF, UNDER OR CONNECTED WITH (INCLUDING, WITHOUT LIMITATION, ANY ACTION TO RESCIND OR CANCEL THIS MORTGAGE OR THE OBLIGATIONS SECURED HEREBY, AND ANY CLAIMS ASSERTING THAT THE SECURED OBLIGATIONS WERE FRAUDULENTLY INDUCED OR OTHERWISE VOID OR VOIDABLE) IN ANY MANNER WHATSOEVER THIS MORTGAGE, THE MORTGAGED PROPERTY, OR ANY OF THE OTHER LOAN DOCUMENTS, OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER VERBAL OR WRITTEN) OR ACTIONS OF ANY PERSON OR ANY EXERCISE BY ANY PARTY OF THEIR RESPECTIVE RIGHTS UNDER THE LOAN DOCUMENTS. THIS WAIVER OF THE RIGHT TO A JURY TRIAL IS A MATERIAL INDUCEMENT FOR THE LENDERS TO ADVANCE THE SUMS AND EXTEND THE CREDIT SECURED HEREBY.

ARTICLE IX

Security Agreement

SECTION 9.01. Security Interest. This Mortgage constitutes a "security agreement" on personal property within the meaning of the UCC and other applicable law and with respect to the Equipment, Fixtures, Leases, Rents, Rights and Claims, Agreements and Intangibles, Awards and all proceeds of the foregoing. To this end, and pursuant to the Financing Order, Mortgagor grants to Mortgagee a first and prior security interest in the Equipment, Fixtures, Leases, Rents, Rights and Claims, Agreements and Intangibles, Awards, all proceeds thereof and all other Mortgaged Property which is personal property (excluding in each case any Excluded Property), subject only to Permitted Liens and Claims, to secure the payment and performance of the Secured Obligations, and agrees that Mortgagee shall have all the rights and remedies of a secured party under the UCC with respect to such property. Any notice of sale, disposition or other intended action by Mortgagee with respect to the Equipment, Fixtures, Leases, Rents, Rights and Claims, Agreements and Intangibles, Awards, and any proceeds thereof sent to Mortgagor at least five (5) days prior to any action under the UCC shall constitute reasonable notice to Mortgagor.

SECTION 9.02. Financing Statements. Mortgagor hereby irrevocably authorizes Mortgagee to cause UCC financing statements and any such other documents and instruments to be recorded and filed in form and substance satisfactory to Mortgagee, such documents and instruments as Mortgagee may, from time to time, reasonably consider necessary to create, perfect and preserve Mortgagee's security interest hereunder, at such times and places as may be required or permitted by law to so create, perfect and preserve such security interest. Mortgagor's jurisdiction of organization is the State of Alabama. After the date hereof, Mortgagor shall not change its name, type of organization, organizational identification number (if any), jurisdiction of organization or location without giving at least thirty (30) days' prior written notice to Mortgagee.

ARTICLE X

Fixture Filing

SECTION 10.01. Fixture Filing. A portion of the Mortgaged Property is or is to become fixtures upon the Premises. Mortgagor covenants and agrees that the filing of this Mortgage in the real estate records of the county in which the Mortgaged Property is located shall also operate from the time of filing as a fixture filing with respect to all goods constituting part of the Mortgaged Property which are or are to become fixtures related to the real estate described herein. For such purpose, the following information is set forth:

(a) Name and Address of Debtor:

Winn-Dixie Montgomery, Inc.
c/o Winn-Dixie Stores, Inc.
5050 Edgewood Court
Jacksonville, Florida 32254-3699

(b) Name and Address of Secured Party:

Wachovia Bank National Association, as administrative agent and
collateral monitoring agent for the Lenders
110 East Broward Boulevard
Fort Lauderdale, Florida 33301

(c) This document covers goods which are or are to become fixtures.

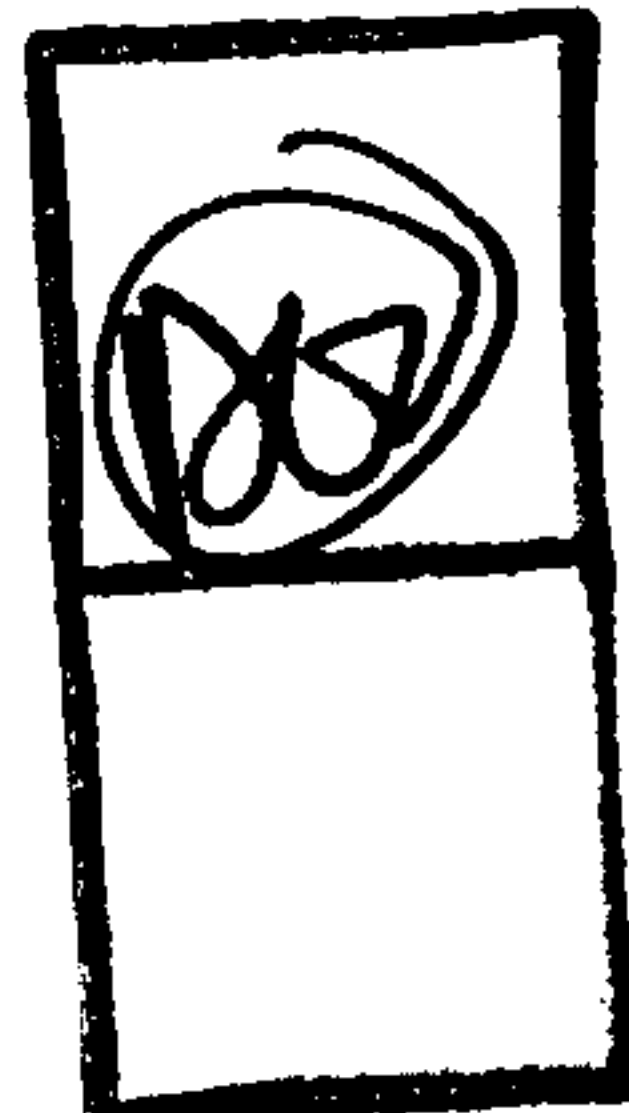
(d) The record owner of the fee interests in the Land is designated on Exhibit D attached hereto.

Mortgagor represents and warrants that the employer identification number of Mortgagor is [REDACTED] and the organizational identification number of Mortgagor is 330286.

IN WITNESS WHEREOF, the undersigned has executed this Mortgage as of the day first set forth above.

MORTGAGOR:

WINN-DIXIE MONTGOMERY, INC., a Florida corporation and a debtor and debtor in possession, formerly known as Winn-Dixie Atlanta, Inc., successor by merger with Winn-Dixie Montgomery, Inc.



By:

Kellie Hardee

Name: Kellie Hardee

Title: Vice President

STATE OF FLORIDA

COUNTY OF DUVAL

I, the undersigned authority, a Notary Public in and for said county, in said state, hereby certify that Kellie Hardee, whose name as Vice President of Winn-Dixie Montgomery, Inc., a Florida corporation and a debtor and debtor in possession, is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of said instrument, he/she, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation on the day the same bears date.

Given under my hand and seal on this the 13 day of June, 2005.

Rebecca L. Sawyer
NOTARY PUBLIC
My Commission Expires: 6/2/06

[AFFIX NOTARY SEAL]

Schedule of Exhibits

Exhibit A: List of Alabama Counties
Exhibit B: Financing Order
Exhibit C: Description of the Land
Exhibit D: Description of Lease(s)
Exhibit E: Tax Affidavit



REBECCA L. SAWYER
Notary Public, State of Florida
My comm. expires June 2, 2006
Comm. No. DD 114255

EXHIBIT A

LIST OF ALABAMA COUNTIES

- | | |
|----------------|----------------|
| 1. Autauga | 23. Tuscaloosa |
| 2. Baldwin | |
| 3. Barbour | |
| 4. Calhoun | |
| 5. Chilton | |
| 6. Coffee | |
| 7. Covington | |
| 8. Dallas | |
| 9. Elmore | |
| 10. Escambia | |
| 11. Etowah | |
| 12. Houston | |
| 13. Jefferson | |
| 14. Lauderdale | |
| 15. Lee | |
| 16. Mobile | |
| 17. Monroe | |
| 18. Montgomery | |
| 19. Russell | |
| 20. Shelby | |
| 21. Talladega | |
| 22. Tallapoosa | |


20050627000316630 33/89 \$278.00
Shelby Cnty Judge of Probate, AL
06/27/2005 11:53:55AM FILED/CERT

EXHIBIT B

The Financing Order

EXHIBIT B

20050627000316630 34/89 \$278.00
Shelby Cnty Judge of Probate, AL
06/27/2005 11:53:55AM FILED/CERT

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re:

Winn-Dixie Stores, Inc., et al.,

Debtors.

)
)
) Chapter 11
)
)
) Case No. 05-11063 (RDD)
)
) (Jointly Administered)
)

**FINAL ORDER PURSUANT TO SECTIONS 105, 361, 362, 363, 364(c) AND 364(d) OF
THE BANKRUPTCY CODE AND RULES 4001 AND 9014 OF THE FEDERAL RULES
OF BANKRUPTCY PROCEDURE (I) AUTHORIZING DEBTORS TO OBTAIN
SECURED POST-PETITION FINANCING ON A SUPERPRIORITY PRIMING LIEN
BASIS AND MODIFYING THE AUTOMATIC STAY, (II) AUTHORIZING DEBTORS
TO USE PRE-PETITION SECURED LENDERS' CASH COLLATERAL AND
GRANTING ADEQUATE PROTECTION, AND (III) AUTHORIZING THE
REPAYMENT IN FULL OF ALL CLAIMS OF DEBTORS' PRE-PETITION SECURED
LENDERS**

THIS MATTER came before this Court on March 18, 2005, upon the Motion ("Motion")
of Winn-Dixie Stores, Inc. ("Winn-Dixie"), Winn-Dixie Supermarkets, Inc. ("Supermarkets"),
Winn-Dixie Montgomery, Inc. ("Montgomery"), Winn-Dixie Procurement, Inc.
("Procurement"), Winn-Dixie Raleigh, Inc. ("Raleigh") and Dixie Stores, Inc. ("Dixie", and
together with Winn-Dixie, Supermarkets, Montgomery, Procurement and Raleigh, each
individually a "Borrower", and collectively "Borrowers"), as Debtors and Debtors-in-Possession,
Astor Products, Inc. ("Astor"), Crackin' Good, Inc. ("Crackin'"), Deep South Products, Inc.

("Deep South Products"), Dixie Packers, Inc. ("Dixie Packers"), Economy Wholesale Distributors, Inc. ("Economy"), Winn-Dixie Logistics, Inc. ("Logistics"), Deep South Distributors, Inc. ("Distributors"), Dixie Darling Bakers, Inc. ("Bakers"), Dixie-Home Stores, Inc. ("Home"), Dixie Spirits, Inc. ("Spirits"), Foodway Stores, Inc. ("Foodway"), Kwik Chek Supermarkets, Inc. ("Kwik"), Sunbelt Products, Inc. ("Sunbelt"), Sundown Sales, Inc. ("Sundown"), Superior Food Company ("Superior"), Table Supply Food Stores Co., Inc. ("Table Supply"), WD Brand Prestige Steaks, Inc. ("WD Steaks"), and Winn-Dixie Handyman, Inc. ("Handyman", and together with Borrowers, Astor, Crackin', Deep South Products, Dixie Packers, Economy, Logistics, Distributors, Bakers, Home, Spirits, Foodway, Kwik, Sunbelt, Sundown, Superior, Table Supply, and WD Steaks, each individually a "Debtor" and collectively, the "Debtors"), as Debtors and Debtors-in-Possession, filed on February 22, 2005, seeking, inter alia:

a. authority, pursuant to Sections 105, 364(c)(1), 364(c)(2), 364(c)(3) and 364(d) of the United States Bankruptcy Code, 11 U.S.C. §§ 101, et seq. ("Bankruptcy Code") and Rules 4001 and 9014 of the Federal Rules of Bankruptcy Procedure ("Bankruptcy Rules"), for Debtors to obtain post-petition secured loans, advances and other financial accommodations from Wachovia Bank National Association, as Administrative Agent and Collateral Agent for itself ("Agent") and the other financial institutions from time to time parties to the Credit Agreement (as hereinafter defined) (collectively, "Lenders"; and together with Agent, collectively referred to herein as "Lender"), all in accordance with the terms and conditions set forth in the Credit Agreement, dated as of February 23, 2005 (as the same now exists or may hereafter be amended, modified, ratified, extended, renewed, restated or replaced, including as represented on the record of the Final Hearing by counsel for the Agent, the "Credit Agreement",

a copy of which was included in the Exhibit Supplement to the Motion (the "Exhibit Supplement") and is incorporated herein by reference), by and among Debtors and Lender, and the other Loan Documents (as defined in the Credit Agreement)¹, secured by senior (subject to certain liens and claims set forth below), perfected, valid, enforceable and non-avoidable security interests in and liens upon all of the Collateral (as hereinafter defined);

b. authority, pursuant to Sections 105, 364(d)(1) and 364(d)(2) of the Bankruptcy Code and Bankruptcy Rules 4001 and 9014, for Debtors to grant to Lender, pending the release and termination and/or assignment of the Pre-Petition Lender Junior Liens upon this Final Order (as hereinafter defined) becoming final and non-appealable, priming liens on and security interests in (subject to certain liens and claims as set forth in paragraph 8 of this Final Order) all Pre-Petition Lender Collateral (as hereinafter defined) and in any other assets or properties of the Debtors and their estates, senior and superior in priority in all respects to any and all liens and security interests of the Pre-Petition Lender (as hereinafter defined) in the Pre-Petition Lender Collateral and such other assets and properties (the "Priming Liens"), and in connection with such Priming Liens, provide adequate protection to Pre-Petition Lender by preserving and continuing, on a junior and subordinate basis, its liens on and security interests in the Collateral to secure any Contingent Pre-Petition Lender Debt (as hereinafter defined) in accordance with the terms and conditions contained in this Final Order;

c. authority for Debtors to enter into and comply in all respects with the Credit Agreement and all other Loan Documents, and approval of all of the terms and conditions of the Credit Agreement and all other Loan Documents;

¹ Defined terms used herein and not otherwise defined herein shall have the meanings ascribed to such terms in the Credit Agreement.

- d. the granting to Lender superpriority administrative claim status pursuant to Section 364(c)(1) of the Bankruptcy Code in respect of all Obligations (as defined in the Credit Agreement);
- e. authority, pursuant to Sections 361 and 363 of the Bankruptcy Code, for the Debtors to use cash collateral of the Pre-Petition Lender pursuant to the terms and conditions set forth herein;
- f. final approval of the repayment in full of the Pre-Petition Lender Debt (as hereinafter defined) owing by Debtors to Wachovia Bank National Association, in its capacity as Administrative Agent and Collateral Agent for itself ("Pre-Petition Lender Agent") and certain other financial institutions that are parties from time to time to the Pre-Petition Credit Agreement (as hereinafter defined) (the "Pre-Petition Lenders", and together with the Pre-Petition Lender Agent, collectively referred to herein as the "Pre-Petition Lender"), and the simultaneous subordination of the Pre-Petition Lender's liens, claims and encumbrances and the requirement of Pre-Petition Lender to release and terminate or assign, subject to paragraph 6 of this Final Order, such liens, claims and encumbrances on the date that this Final Order becomes final and non-appealable or earlier as Pre-Petition Lender may agree, all in accordance with the terms and conditions contained in this Final Order; and
- g. a final hearing on the Motion to consider entry of an order pursuant to Bankruptcy Rule 4001 (this "Final Order") authorizing the Borrowers, inter alia, to obtain Loans, Letters of Credit (as each term is defined in the Credit Agreement) and other financial and credit accommodations on a permanent basis pursuant to the terms and conditions set forth in the Credit Agreement and the Loan Documents and in accordance with this Final Order.

Due and appropriate notice of the Motion, the relief requested therein, the material terms of this Final Order and the Final Hearing (as defined below) has been served by the Debtors, whether by telecopy, e-mail, overnight courier or hand delivery, on the following parties: (1) the Office of the United States Trustee; (2) the Agent, (3) the Pre-Petition Lender Agent; (4) the Internal Revenue Service; (5) Wilmington Trust Company, in its capacity as Trustee for Winn-Dixie's 8 1/2 % Senior Unsecured Notes due 2008 issued for gross cash proceeds of \$300,000,000 on March 29, 2001; (6) the Debtors' 50 largest unsecured creditors on a consolidated basis; (7) all other creditors known to the Debtors who may have liens against or interests in any of the Debtors' assets and properties, including, without limitation, all landlords, operators, mortgagors and/or mortgagees of the premises at which any of the Debtors' Inventory or other items of Collateral are located; and (8) all parties who have filed a Notice of Appearance in these Chapter 11 cases, including, without limitation, counsel for the Official Unsecured Creditors Committee (the "Committee") (all parties referred to in the foregoing clauses (1) through (8) are collectively referred to as the "Noticed Parties").

The interim hearing on the Motion was held by this Court on February 23, 2005 (the "Interim Hearing"). The Final Hearing on the Motion was held by this Court on March 18, 2005 (the "Final Hearing"). At the conclusion of the Final Hearing, the Court denied all objections to the Motion that has not been withdrawn or otherwise resolved and approved the Motion as provided herein, for the reasons stated by the Court on the record.

Upon the record made by the Debtors at the Interim Hearing, the Final Hearing, including the Motion and the filings and pleadings in the Debtors' Chapter 11 cases, and good and sufficient cause appearing therefor;

THE COURT HEREBY MAKES THE FOLLOWING FINDINGS OF FACT
AND CONCLUSIONS OF LAW:

A. Petition. On February 21, 2005 (the "Petition Date"), each of the Debtors filed voluntary petitions under Chapter 11 of the Bankruptcy Code in the Bankruptcy Court. Each Debtor is continuing in the management and possession of its business and properties as a debtor-in-possession pursuant to Sections 1107 and 1108 of the Bankruptcy Code.

B. Jurisdiction. Consideration of this Motion constitutes a "core proceeding" as defined in 28 U.S.C. §§ 157(b)(2)(A), (D), (G), (K), (M) and (O). This Court has jurisdiction over this proceeding and the parties and property affected hereby pursuant to 28 U.S.C. §§ 157 and 1334.

C. Notice. Sufficient and adequate notice of this Final Order has been provided based upon the notice sent to the Noticed Parties and the consent to the Motion as approved by this Final Order by Lender and the Pre-Petition Lender, pursuant to Bankruptcy Rules 4001(c) and (d) and 9014 and Section 102(1) of the Bankruptcy Code as required by Sections 364(c) and 364(d) of the Bankruptcy Code, and no further notice of, or hearing on, the Motion or this Final Order is necessary or required.

D. Debtors' and Pre-Petition Lender's Acknowledgements and Agreements. Without prejudice to the rights of any other party-in-interest in the Debtors' Chapter 11 cases (but subject to the limitations with respect to such rights contained in paragraph 15(e) of this Final Order), the Debtors, for themselves and not for their estates, and the Pre-Petition Lender admit, stipulate, acknowledge and agree that:

(i) *Pre-Petition Financing Arrangements.* Prior to the commencement of the Debtors' Chapter 11 cases, Pre-Petition Lender made loans and advances and agreed to provide other credit accommodations to the Debtors pursuant to the terms and conditions set forth in various agreements, documents and instruments, including, without limitation, the Second Amended and Restated Credit Agreement, dated as of June 29, 2004, by and among Borrowers and the Pre-Petition Lender (as the same has been amended, modified, restated, renewed, replaced and/or supplemented from time to time through to the Petition Date, the "Pre-Petition Credit Agreement"), which is incorporated herein by reference; other credit, guarantee and security agreements executed and/or delivered by Debtors in favor of Pre-Petition Lender; Uniform Commercial Code ("UCC") filings; and all other agreements, documents and instruments at any time executed and/or delivered in connection with or related to the Pre-Petition Credit Agreement (as all of the same have been amended, modified, restated, renewed, replaced and/or supplemented from time to time through to the Petition Date, the "Pre-Petition Loan Documents").

(ii) *Pre-Petition Lender Debt.* The Debtors were indebted to the Pre-Petition Lender in respect of all outstanding Obligations (as defined in the Pre-Petition Credit Agreement) as of February 18, 2005 in the aggregate principal amount of not less than \$427,005,000 (the "Pre-Petition Lender Debt"), consisting of, among other things, (a) Loans (as defined in the Pre-Petition Credit Agreement) made pursuant to the Pre-Petition Loan Documents in the aggregate principal amount of not less than \$265,000,000, plus all interest, fees, costs and expenses (including, without limitation, all attorneys' fees and legal expenses of Pre-Petition Lender) and all charges accrued and accruing thereon and/or chargeable with respect thereto, and (b) Reimbursement Obligations (as defined in the Pre-Petition Credit Agreement) in respect of

Letters of Credit in an aggregate amount of not less than \$162,005,000, plus all interest, fees, costs, expenses (including, without limitation, all attorneys' fees and legal expenses of Pre-Petition Lender) and all charges accrued and accruing thereon or chargeable with respect thereto. The Pre-Petition Lender Debt is unconditionally owing by Debtors to Pre-Petition Lender, without offset, defense or counterclaim of any kind, nature and description whatsoever.

(iii) *Pre-Petition Lender Collateral.* As of the Petition Date, the Pre-Petition Lender Debt was fully secured pursuant to the Pre-Petition Loan Documents by perfected, valid, binding and non-avoidable first priority security interests and liens granted by Debtors to or for the benefit of the Pre-Petition Lender upon all of the Collateral (as defined in the Pre-Petition Credit Agreement) existing as of the time immediately prior to the filing of the petitions for relief herein, and the post-petition proceeds and products thereof (collectively, together with any other property of, among other things, each Debtors' estate in which a security interest or lien has been granted to or for the benefit of Pre-Petition Lender immediately prior to the filing of the petitions for relief herein, the "Pre-Petition Lender Collateral").

(iv) *Repayment of Pre-Petition Lender Debt.* A portion of Debtors' borrowings from Lender under the Credit Agreement and the other Loan Documents, and in accordance with the terms of the Interim Order (as hereinafter defined), has been used to repay in full the Pre-Petition Lender Debt owing to Pre-Petition Lender in accordance with the terms and conditions set forth in the Interim Order and this Final Order.

(v) *Pre-Petition Lender's Consent to Priming Liens.* Pre-Petition Lender has consented and agreed that, subject to the terms and conditions contained herein, any and all pre-petition or post-petition liens and security interests (including, without limitation, any

adequate protection replacement liens granted under the Cash Collateral Order (as hereinafter defined) or at any time granted to Pre-Petition Lender by this Court) that the Pre-Petition Lender has or may have in the Pre-Petition Lender Collateral or any other assets and properties of the Debtors and their estates shall (a) only secure any Pre-Petition Lender Debt that is (1) at any time repaid with the proceeds of the loans and advances made by the Lender (including, without limitation, at the closing of the post-petition credit facility in accordance with the Interim Order and this Final Order) prior to this Final Order becoming final and non-appealable and (2) subsequently reinstated after the full payment thereof because such payment (or any portion thereof) is required to be returned or repaid to Debtors or Lender, other than as a result of Pre-Petition Lender's liens or claims being invalidated by a Disgorgement Action (as defined in paragraph 15(e) of this Final Order); and (b) be junior and subordinate in all respects to Lender's liens on and security interests in the Collateral (including, without limitation, Lender's Priming Liens) granted under this Final Order and the Loan Documents (such junior liens and security interests of the Pre-Petition Lender are hereinafter referred to as the "Pre-Petition Lender Junior Liens"). Such reinstated Pre-Petition Lender Debt described in clauses (a)(1) and (2) above in this paragraph is hereinafter referred to as the "Contingent Pre-Petition Lender Debt" and shall be junior and subordinate in all respects to the Obligations (as defined in the Credit Agreement). Pre-Petition Lender has further agreed that, (a) until such time as all of the Obligations are indefeasibly paid in full in cash in accordance with the Loan Documents and this Final Order, Pre-Petition Lender shall have no right to seek or exercise any enforcement rights or remedies in connection with the Contingent Pre-Petition Lender Debt or the Pre-Petition Lender Junior Liens, including, without limitation, in respect of the occurrence or continuance of any Event of Default (as hereinafter defined); (b) the Pre-Petition Lender shall be deemed to have consented to

any sale or disposition of all or any portion of the Collateral approved by, arranged for or by Agent and shall terminate and release upon any such sale or disposition all of its Pre-Petition Lender Junior Liens on and security interests in such Collateral; (c) Pre-Petition Lender shall deliver or cause to be delivered, at Debtors' costs and expense (for which Pre-Petition Lender shall be reimbursed upon submission to Debtors of invoices or billing statements), any termination statements, releases and/or assignments (to the extent provided for in paragraph 6 herein) in favor of Lender or other documents necessary to effectuate and/or evidence the release, termination and/or assignment of the Pre-Petition Lender Junior Liens on any portion of the Collateral subject to any sale or disposition approved or arranged for by Agent; and (d) upon this Final Order becoming final and non-appealable, all Pre-Petition Lender Junior Liens in the Collateral shall terminate, be released and/or deemed assigned to Lender in accordance with paragraph 6 hereof (automatically and without further action of the parties), and Pre-Petition Lender shall execute and deliver such agreements to evidence and effectuate such termination, release or assignment as Agent may request and Agent shall be authorized to file on behalf of Pre-Petition Lender such UCC termination statements or such other filings as may be applicable to the extent required under the UCC of the applicable jurisdiction.

E. Findings Regarding Post-Petition Financing

(i) *Need for Post-Petition Financing.* Based upon the record heretofore made before this Court at the Interim Hearing and the Final Hearing, including, without limitation, the Motion, the Lender's Reply Memorandum of Law in support of the Motion and the Debtors' Reply Memorandum of Law in support of the Motion, without the financing proposed by the Motion, the Debtors will not have the funds necessary to pay post-petition payroll, payroll taxes, trade vendors, suppliers, overhead and other expenses necessary

for the continued operation of the Debtors' businesses and the management and preservation of the Debtors' assets and properties. The Debtors have requested that, pursuant to the Credit Agreement, the other Loan Documents and this Final Order, Lender make loans and advances and provide other financial accommodations to the Debtors to be used by the Debtors to continue funding the Debtors' general operating, working capital and other administrative costs of their Chapter 11 cases. The ability of the Debtors to continue their businesses and remain viable entities and thereafter reorganize under Chapter 11 of the Bankruptcy Code depends upon the Debtors obtaining such financing from Lender. The Debtors' businesses cannot survive on use of cash collateral. Lender is willing to make such loans and advances and provide such other financial accommodations on a secured basis as more particularly described herein pursuant to the terms and conditions of the Credit Agreement, all other Loan Documents, including, without limitation, the Security Agreement, dated as of February 23, 2005, by and among the Debtors and Agent ("Security Agreement", a copy of which is included in the Exhibit Supplement and is incorporated herein by reference) and in accordance with this Final Order. Accordingly, the relief requested in the Motion is necessary, essential, and appropriate for the continued operation of the Debtors' businesses, the management and preservation of their assets and properties and is in the best interests of the Debtors, their estates and creditors.

(ii) *No Credit Available on More Favorable Terms.* The Debtors are unable to obtain unsecured credit allowable under Section 503(b)(1) of the Bankruptcy Code or pursuant to Sections 364(a), (b) or (c)(1) of the Bankruptcy Code or secured credit pursuant to Sections 364(c)(2) and (3) only. Additionally, the Debtors were unable to procure the necessary financing on more favorable terms than those offered by Lender pursuant to the Credit Agreement, the other Loan Documents and this Final Order.

(iii) *Business Judgment and Good Faith Pursuant to Section 364(e).*

The terms of the Credit Agreement and the other Loan Documents among the Debtors and Lender, pursuant to which the post-petition loans, advances, letters of credit and other credit and financial accommodations will be made or provided to Borrowers by Lender have been negotiated at arms' length and in good faith, as that term is used in Section 364(e) of the Bankruptcy Code, and are in the best interests of the Debtors, their estates and creditors. The Debtors further represent that Lender is extending financing to the Borrowers in good faith and Lender is entitled to the benefits of the provisions of Section 364(e) of the Bankruptcy Code.

(iv) *Good Cause.* The relief requested by the Motion pursuant to the terms of the Credit Agreement, the other Loan Documents and this Final Order is necessary to avoid immediate and irreparable harm to Debtors' estates. Good, adequate and sufficient cause has been shown to justify the granting of the relief requested herein, and the entry of this Final Order. To the extent any party appearing in the Debtors' Chapter 11 cases has filed or made an objection to the relief sought in the Motion and the entry of this Final Order (and any such objection was not withdrawn or resolved prior to the entry of this Final Order), such objections are hereby overruled.

F. Committee. On March 2, 2005, the Office of the United States Trustee appointed the Committee in accordance with Section 1102 of the Bankruptcy Code.

G. Use of Cash Collateral. On February 22, 2005, prior to this Court authorizing the post-petition financing of Debtors by Lender in accordance with the Interim Order, the Court entered the Emergency Order Authorizing Use of Cash Collateral Pursuant to 11 U.S.C. § 363 and Granting Adequate Protection Pursuant to 11 U.S.C. §§ 361 and 363 (the

“Cash Collateral Order”), pursuant to which, among other things, this Court authorized the Debtors to use up to \$100,000,000 of the Pre-Petition Lender’s cash collateral (as defined in Section 363(a) of the Bankruptcy Code) and granted to the Pre-Petition Lender, as adequate protection for the diminution in the value of the Pre-Petition Lender Collateral, replacement liens and a priority claim under Section 507(b) of the Bankruptcy Code in accordance with the terms and conditions contained therein.

H. Interim Financing. On February 23, 2005, this Court entered the Interim Order Pursuant to Sections 105, 361, 362, 363, 364(c) and 364(d) of the Bankruptcy Code and Rules 4001 and 9014 of the Federal Rules of Bankruptcy Procedure (I) Authorizing Debtors to Obtain Secured Post-Petition Financing on a Superpriority Priming Lien Basis and Modifying the Automatic Stay, (II) Authorizing Debtors to Use Pre-Petition Secured Lenders’ Cash Collateral and Granting Adequate Protection, (III) Authorizing Debtors to Pay in Full All Claims of Debtors’ Pre-Petition Secured Lenders, and (IV) Prescribing Form and Manner of Notice and Time for Final Hearing, as extended and modified by Order, dated March 15, 2005 (the “Interim Order”), pursuant to which, among other things, the Court authorized the Debtors to (a) enter into the Credit Agreement with Lender pursuant to which the Borrowers were authorized to obtain, and the Guarantors were authorized to guarantee, up to \$600,000,000 in Loans, Letters of Credit and other credit accommodations from Lender on a senior secured, superpriority claim basis (subject only to certain permitted liens and claims as set forth in the Interim Order); and (b) repay in full the Pre-Petition Lender Debt, which included a \$1,000,000 pledge of cash collateral in favor of the Pre-Petition Lender to secure any Continuing Pre-Petition Lender Debt (as defined in paragraph 9(b) of the Interim Order).

Based upon the foregoing, and after due consideration and good cause appearing therefor:

IT IS HEREBY ORDERED, ADJUDGED AND DECREED, that:

1. Motion Granted. The Motion is granted and approved to the extent provided below.
2. Authorization to Borrow on a Permanent Basis. Borrowers are hereby authorized and empowered to continue borrowing and obtaining, and the Guarantors are authorized to continue to guarantee, Loans, Letters of Credit (as each term is defined in the Credit Agreement) and other financial and credit accommodations from Lender pursuant to the terms and conditions of the Credit Agreement, the other Loan Documents and this Final Order, in such amount or amounts as may be made available to Borrowers by Lender, all in accordance with the terms and conditions set forth in the Credit Agreement, the other Loan Documents and this Final Order.
3. Use of Loan and Letter of Credit Proceeds. Borrowers shall use the proceeds of the Loans and Letters of Credit made or arranged for by Lender to Borrowers pursuant to the Credit Agreement, the other Loan Documents and this Final Order, for (a) the payment of employee salaries, payroll, taxes, the purchase of goods, materials and other general corporate and working capital purposes in accordance with the Loan Documents and this Final Order, including amounts paid for such purposes which may constitute allowed administrative expense claims (including, without limitation, cure costs incurred with respect to the assumption of real property leases in accordance with Section 365 of the Bankruptcy Code) attributable to the operation of Debtors' businesses as authorized by order of the Court and in accordance with

the Loan Documents; (b) the fees of the United States Trustee, the fees of the Clerk of this Court, the allowed fees and expenses of attorneys, accountants and other professionals retained under Section 327 or 1103(a) of the Bankruptcy Code by the Debtors and the Committee; and (c) all present and future costs and expenses, including all reasonable consultants' and advisors' fees, attorneys' fees and legal expenses (provided, that, the Debtors shall provide notice of such attorneys' fees and legal expenses to the Office of the United States Trustee and counsel for the Committee), paid or incurred by Lender at any time in connection with the financing transactions as authorized and provided for in this Final Order and the Loan Documents, all of which unpaid fees, commissions, costs and expenses shall be added to, and are included as part of, the principal amount of the Obligations, secured by the Collateral and afforded all of the rights, priorities and protections afforded to Lender in respect of the Obligations under this Final Order and the Loan Documents.

4. Authorization to Enter Into and Comply with Loan Documents. Debtors are authorized and directed to continue performing under and comply in all respects with all of the terms and conditions of the Credit Agreement and the other Loan Documents, each of which constitute valid, binding, enforceable and non-avoidable obligations of the Debtors for all purposes during the Debtors' Chapter 11 cases, any subsequently converted case(s) of any Debtor under Chapter 7 of the Bankruptcy Code or after the dismissal or reorganization of any of the Debtors' bankruptcy case(s). Debtors are hereby authorized and directed to perform all acts, and execute and comply with the terms of such other documents, instruments, and agreements as Lender may reasonably require as evidence of and for the protection of the Obligations and the Collateral or which may be otherwise deemed necessary by Lender to effectuate the terms and conditions of this Final Order and the Loan Documents, each of such additional documents,

instruments, and agreements being included in the definition of "Loan Documents" contained herein.

5. Approval of Loan Documents. The terms, conditions and covenants of the Credit Agreement and the other Loan Documents are hereby approved in all respects and shall be deemed to be incorporated into the terms and conditions of this Final Order. Such terms and conditions shall be sufficient and conclusive evidence of the borrowing and financing arrangements among Debtors and Lender for all purposes, including, without limitation, the payment of all principal, interest, fees (including, without limitation, unused line fees, servicing fees, letter of credit fees, closing fees, syndication fees, early termination fees, appraisal fees), Lender's legal and other professional expenses, and other fees and expenses, as more fully set forth in the Credit Agreement and the other Loan Documents.

6. Lien Grant. To secure the prompt payment and performance of any and all Obligations under the Credit Agreement, the other Loan Documents and/or this Final Order, Lender shall have, and is hereby granted in accordance with the terms and conditions of the Loan Documents, effective on and after the Petition Date, valid, perfected, enforceable and non-avoidable first priority security interests in and liens, senior and superior in priority to all other secured and unsecured creditors of the Debtors' estates, including, without limitation, the Priming Liens (but subject to the liens and claims set forth in paragraph 8 of this Final Order), upon all assets and properties of the Debtors and their estates (excluding any avoidance actions brought by or on behalf of any Debtor under Chapter 5 of the Bankruptcy Code and the proceeds thereof), including, without limitation, the following (the "Collateral"²):

² All defined terms used in the description of Collateral as set forth in paragraph 6 above shall have the meanings ascribed to such terms in the Security Agreement.

- (a) all Accounts;
- (b) all general intangibles, including, without limitation, all Intellectual Property;
- (c) all goods, including, without limitation, Inventory and Equipment;
- (d) all Real Property and fixtures;
- (e) all chattel paper (including all tangible and electronic chattel paper);
- (f) all instruments (including all promissory notes);
- (g) all documents;
- (h) all Deposit Accounts;
- (i) all letters of credit, banker's acceptances and similar instruments and including all letter-of-credit rights;
- (j) all supporting obligations and all present and future liens, security interests, rights, remedies, title and interest in, to and in respect of Receivables and other Collateral, including (i) rights and remedies under or relating to guaranties, contracts of suretyship, letters of credit and credit and other insurance related to the Collateral, (ii) rights of stoppage in transit, replevin, repossession, reclamation and other rights and remedies of an unpaid vendor, lienor or secured party, (iii) goods described in invoices, documents, contracts or instruments with respect to, or otherwise representing or evidencing, Receivables or other Collateral, including returned, repossessed and reclaimed goods, and (iv) deposits by and property of account debtors or other persons securing the obligations of account debtors;
- (k) all (i) investment property (including securities, whether certificated or uncertificated, securities accounts, security entitlements, commodity contracts or commodity accounts) and (ii) monies, credit balances, deposits and other property of Grantor now or hereafter held or received by or in transit to Agent, any Lender or their respective affiliates or at any other depository or other institution from or for the account of Grantor, whether for safekeeping, pledge, custody, transmission, collection or otherwise;
- (l) all Commercial Tort Claims, including, without limitation, those identified on Item K of Schedule I to the Security Agreement;

- (m) to the extent not otherwise described above, all Receivables and all present and future claims, rights, interests, assets and properties recovered by or on behalf of Grantor or any trustee of Grantor;
- (n) all Records; and
- (o) all products and proceeds of the foregoing, in any form, including insurance proceeds and all claims against third parties for loss or damage to or destruction of or other involuntary conversion of any kind or nature of any or all of the other Collateral.

Notwithstanding the foregoing, "Collateral" shall not include: (a) any Capital Securities (as defined in the Credit Agreement) of the Insurance Captive (as defined in the Credit Agreement), and (b) investment property consisting of Capital Securities of an issuer that is a Foreign Subsidiary (as defined in the Credit Agreement) (other than a Foreign Subsidiary that (i) is treated as a partnership under the Code (as defined in the Credit Agreement) or (ii) is not treated as an entity that is separate from (x) any Debtor pledging such Capital Securities, (y) any Person (as defined in the Credit Agreement) that is treated as a partnership under the Code or (z) any "United States person" (as defined in Section 7701(a)(30) of the Code)) of any Debtor, in excess of 65% of the total combined voting power of all Capital Securities of each such Foreign Subsidiary; provided further, however, that, in the event that Section 956 of the Code or such other provisions of the Code are modified, amended or supplemented such that the pledge of shares of Capital Securities in excess of 65% of the Capital Securities of an issuer that is a Foreign Subsidiary to secure the Obligations would not result in a negative tax impact under the Code, then such Debtor and/or such Foreign Subsidiary shall execute and deliver, in form and substance satisfactory to Agent, such additional Loan Documents or amendments to existing Loan Documents pledging in favor of Lender such number of shares of Capital Securities of such issuer not already pledged to Lender to secure the Obligations. In no event shall (a) any lien or

security interest granted to Lender pursuant to the Loan Documents or this Final Order be subject to any lien or security interest that is avoided and preserved for the benefit of the Debtors' estates under Section 551 of the Bankruptcy Code; (b) any person or entity who pays (or through the extension of credit to any Debtor, causes to be paid) any of the Obligations be subrogated, in whole or in part, to any rights, remedies, claims, privileges, liens or security interests granted in favor of, or conferred upon, Lender by the terms of the Loan Documents or this Final Order, until such time as all of the Obligations are indefeasibly paid in full in cash in accordance with the Loan Documents and this Final Order; and (c) Lender be subject to the equitable doctrine of "marshaling" or any similar doctrine with respect to the Collateral. Upon this Final Order becoming final and non-appealable, all pre-petition liens and security interests of the Pre-Petition Lender in the Pre-Petition Lender Collateral (provided that such pre-petition liens and security interests shall not exceed the amount of the Prepetition Lender Debt) shall be deemed to be assigned (and not terminated and released to the extent so assigned) to Lender as additional collateral security for all Obligations, and such assignment shall be in addition to, and shall not limit, prejudice or impair in any way any of the claims or liens and security interests of Lender in the Collateral granted pursuant to the Loan Documents and this Final Order. In no event shall Lender have any liability in connection with such assignment or the pre-petition liens so assigned (including, without limitation, any liability relating to a Pre-Petition Lien/Claim Challenge (as defined in paragraph 15(e) herein) or a Disgorgement Action), and in no event shall the Pre-Petition Lender continue to have any rights or benefits in connection with such liens so assigned; provided, that, the Pre-Petition Lender shall be responsible for controlling, directing and funding its costs in respect of any defense and/or prosecution of any Disgorgement Action or any Pre-Petition Lien/Claim Challenge. Neither this Final Order nor the liens and claims granted hereby

are intended to, or shall, prime or in any way affect (i) valid and unavoidable set off and recoupment rights that any party in interest may have with respect to the Debtors' accounts receivable, and (ii) valid trust claims of creditors under the Perishable Agricultural Commodities Act, as amended, 7 U.S.C. §499a et seq., or the Packers and Stockyards Act of 1921, as amended, 7 U.S.C. §§ 181 et seq.

7. Lien Perfection. This Final Order shall be sufficient and conclusive evidence of the priority, perfection and validity of all of the liens and security interests in and upon the property of each Debtor's estate granted to Lender, as set forth herein and in the Loan Documents, without the necessity of filing, recording or serving any financing statements, mortgages, deeds of trust or other agreements, documents or instruments which may otherwise be required under federal or state law in any jurisdiction (collectively, "Lien Recording Documents") or the taking of any other action to validate or perfect the security interests and liens granted to Lender in this Final Order and the Loan Documents. Such security interests and liens granted to Lender shall be prior and senior to all security interests, liens, claims, and encumbrances of all other creditors in and to such property, subject to paragraph 8 of this Final Order. If Lender shall, in its discretion, elect for any reason to file any such Lien Recording Documents with respect to such security interests and liens, Debtors are authorized and directed to execute, or cause to be executed, all such Lien Recording Documents upon Lender's request and the filing, recording or service thereof (as the case may be) of such Lien Recording Documents shall be deemed to have been made on the Petition Date. Lender may, in its discretion, file a certified copy of this Final Order in any filing or recording office in any county or other jurisdiction in which Debtors have an interest in real or personal property and, in such event, the subject filing or recording officer is authorized and directed to file or record such

certified copy of this Final Order. To the extent that any applicable non-bankruptcy law would otherwise restrict the grant, scope, enforceability, attachment or perfection of the security interests and liens authorized or created hereby, or otherwise would impose filing or registration requirements with respect thereto, such law is hereby preempted to the maximum extent permitted by the Bankruptcy Code, applicable federal law, and the judicial power of this Court (provided that Lender may still take such steps as it wishes to perfect its security interests and liens under otherwise applicable state law without waiving the benefits of this provision of this Final Order). In the event that any Lien Recording Document which Lender elects to file in accordance with this paragraph contains any limitations, defects, deficiencies or other information which might otherwise limit or adversely affect Lender's liens upon and security interests in the Collateral or any of Lender's claims, rights, priorities and/or protections afforded under this Final Order and the Loan Documents, such limitations, defects, deficiencies or other information shall not impair, limit, restrict or adversely affect in any way any of Lender's liens and security interests in the Collateral or its claims, rights, priorities and/or protections granted under this Final Order and/or the Loan Documents. Agent shall, in addition to the rights granted to it under the Loan Documents, be deemed the successor-in-interest to the Pre-Petition Agent with respect to all Pre-Petition Lender Collateral access agreements and other agreements with third parties granting rights in, or waiving claims against, any Pre-Petition Lender Collateral, including, without limitation, each collateral access agreement duly executed and delivered by any landlord of the Borrowers or any of their Subsidiaries (as defined in the Credit Agreement).

8. Permitted Liens and Claims. Except as otherwise provided pursuant to the provisions of this Final Order, the security interests and liens of Lender in and upon the Collateral shall not have priority over (a) the liens upon Debtors' property that are permitted in

Section 7.2.3 of the Credit Agreement to the extent that such liens are expressly entitled to priority over Lender's liens in the Collateral as provided for in such Section 7.2.3, (b) security interests and liens that are (i) valid, perfected, non-avoidable and in existence immediately prior to the Petition Date (other than Pre-Petition Lender's liens in the Pre-Petition Lender Collateral securing the Pre-Petition Lender Debt and/or the Pre-Petition Lender Junior Liens securing the Contingent Pre-Petition Lender Debt) to the extent such liens and security interest have priority over Lender's liens under applicable law, and (ii) valid, non-avoidable and in existence immediately prior to the Petition Date but are perfected subsequent to the Petition Date pursuant to Bankruptcy Code Section 546(b) to the extent that such liens and security interests have priority over Lender's liens under applicable law; and (c) the Carve Out Expenses, including, without limitation, the Professional Fee Carve-Out as and to the extent set forth in this Final Order. The foregoing is without prejudice to the rights of Debtors, the Committee, or any other party in interest, including Lender, to object to the validity, extent, priority, enforceability or allowance of any such liens and security interests referenced in clauses (a) and (b) above in this paragraph.

9. Repayment and Termination of Pre-Petition Lender Debt; Adequate Protection. The repayment of the Pre-Petition Lender Debt and the grant to Pre-Petition Lender of the Pre-Petition Lender Junior Liens in accordance with the provisions of the Interim Order and this Final Order are hereby ratified and reaffirmed. In addition, as collateral security for the prompt performance, observance and payment in full of any Continuing Pre-Petition Lender Debt, the Pre-Petition Lender shall hold and continue to have a senior lien and security interest in and right to set off against the Pre-Petition Lender Cash Collateral in accordance with the terms and conditions set forth below. Pre-Petition Lender shall release and remit back to the Debtors

the Pre-Petition Lender Cash Collateral, less any amounts thereof previously applied by Pre-Petition Lender to Continuing Pre-Petition Lender Debt, upon the earlier of (a) the expiration of the time in which an adversary proceeding may be commenced against Pre-Petition Lender in accordance with paragraph 15(e) of this Final Order, or (b) such other date as agreed upon by the written agreement among Debtors, Pre-Petition Lender and Lender.

10. Use of Pre-Petition Lender's Cash Collateral. During the period commencing immediately after the filing of the Debtors' Chapter 11 petitions and terminating upon the date at which this Final Order becomes final and non-appealable (the "Cash Collateral Use Period"), the Debtors shall be authorized to use, subject to the terms contained in this paragraph, the Pre-Petition Lender's cash collateral (as defined in Section 363(a) of the Bankruptcy Code). The right of the Pre-Petition Lender to seek, as adequate protection against the diminution in the value of the Pre-Petition Lender Junior Liens occasioned by the imposition of the automatic stay and the Debtors' use of the Pre-Petition Lender's cash collateral in accordance with Sections 361, 362 and 363 of the Bankruptcy Code, a Section 507(b) claim in an amount equal to any diminution in the value of the Pre-Petition Lender Junior Liens is hereby reserved; provided, however, any Section 507(b) claim granted to Pre-Petition Lender pursuant to this paragraph or otherwise (a) shall terminate and be released upon this Final Order becoming final and non-appealable, and (b) shall be junior and subordinate in right of payment to all Obligations.

11. Nullifying Pre-Petition Restrictions to Post-Petition Financing.
Notwithstanding anything to the contrary contained in any pre-petition agreement, contract, lease, document, note or instrument to which any Debtor is a party or under which any Debtor is obligated, any provision that restricts, limits or impairs in any way any Debtor's ability or right

to grant to Lender security interests in or liens upon any of its assets or properties (including, among other things, any anti-lien granting or anti-assignment clauses in any leases or other contractual arrangements to which any Debtor is a party) under the Credit Agreement, the other Loan Documents, the Interim Order and/or this Final Order or otherwise enter into and comply with all of the terms, conditions and provisions thereof (all such provisions being collectively referred to as "Restrictive Clauses") shall not be effective and shall be unenforceable against any such Debtor(s) and Lender to the maximum extent permitted under the Bankruptcy Code and other applicable law, but only with respect to the entry of this Final Order granting such post-petition financing (and in no event shall this paragraph preclude any lessor from enforcing any provision of its applicable lease in the event that (1) Lender becomes a tenant or lessee under such lease by foreclosing on the leasehold mortgage granted herein with respect to such lease, and (2) any reorganized Debtor obtains new financing, including exit financing), and, therefore, shall not adversely affect the validity, priority or enforceability (subject to paragraphs 18, 19 and 20 hereof) of the liens, security interests, claims, rights, priorities and/or protections granted to Lender pursuant to this Final Order, the Credit Agreement and/or the other Loan Documents or any of the rights of Lender hereunder or thereunder to the maximum extent permitted under the Bankruptcy Code and other applicable law. Subject to paragraphs 18, 19 and 20 hereof, such Restrictive Clauses shall not, to the maximum extent permitted under the Bankruptcy Code and applicable law, render any contract or lease unable to be assumed and/or assigned by any Debtor (or by Agent, on behalf of any Debtor, pursuant to the provisions contained in this Final Order), or in any way impair or limit the ability or right of any Debtor (or by Agent, on behalf of any Debtor, pursuant to the provisions contained in this Final Order) to assume and/or assign any

contract or lease, or any lessor's right to object to such relief on any other grounds, under Sections 365 or 1123 of the Bankruptcy Code.

12. Cash Management Authorization. In accordance with the provisions of the Loan Documents and this Final Order, Debtors are authorized and directed either to deposit or cause to be deposited into the Majority Accounts (as defined in the Credit Agreement), or to remit, in kind, immediately to Lender, all monies, checks, drafts and any other payments received from its account debtors and other parties, now or hereafter obligated to pay Debtors for services provided by Debtors or for inventory or other property of Debtors' estates. Lender is authorized to apply such payments and proceeds received by Debtors to the Obligations in accordance with the Credit Agreement, the other Loan Documents and this Final Order.

13. Modification of Automatic Stay. Except as otherwise specifically provided with respect to Lender's rights and remedies after the occurrence of an Event of Default under the terms of the Loan Documents and subject to the provisions of paragraph 18 below, the automatic stay provisions of Section 362 of the Bankruptcy Code are vacated and modified to the extent necessary to permit Lender to implement the provisions of the Loan Documents and this Final Order.

14. Superpriority Claim. For all Obligations now existing or hereafter arising pursuant to the Credit Agreement, the other Loan Documents and/or this Final Order, Lender is hereby granted an allowed superpriority administrative claim pursuant to Section 364(c)(1) of the Bankruptcy Code, which claim shall have priority in right of payment over any and all other obligations, liabilities and indebtedness of Debtors, now in existence or hereafter incurred by any of the Debtors and over any and all administrative expenses or priority claims of the kind

specified in, or ordered pursuant to, inter alia, Sections 105, 326, 328, 330, 331, 503(b), 506(c), 507(a), 507(b), 364(c)(1) and/or 546(c) of the Bankruptcy Code (the "Superpriority Claim"), provided, however, that the Superpriority Claim shall be subordinate to the Carve-Out Expenses as and to the extent set forth in this Final Order.

15. (a) Professional Fee Carve-Out and Other Carve-Out Expenses.

Subject to the terms and conditions contained in this paragraph 15, Lender's Superpriority Claim and security interests in and liens upon the Collateral shall be subordinate only to (collectively, the "Carve-Out Expenses"):

- (i) the fees and expenses of the Clerk of this Court and the Office of the United States Trustee pursuant to 28 U.S.C. § 1930(a);
- (ii) the allowed reasonable fees and expenses of any Chapter 7 Trustee appointed for any Debtor's Chapter 7 case; provided, that such allowed fees and expenses shall not exceed \$50,000 in the aggregate for purposes of constituting a part of the Carve Out Expenses; and
- (iii) on and after the Default Point (as defined below), the allowed unpaid and outstanding reasonable fees and expenses approved by order of the Court pursuant to Sections 326, 328, 330, or 331 of the Bankruptcy Code (collectively, the "Allowed Professional Fees") by attorneys, accountants and other professionals retained under Section 327 or 1103(a) of the Bankruptcy Code by the Debtors and the Committee (collectively, the "Professionals") in an aggregate amount not to exceed \$12,000,000 (the "Professional Fee Carve-Out"). As used herein, "Default Point" means

the date when both (x) an Event of Default (as defined in the Credit Agreement or this Final Order) shall have occurred, and (y) the Lender has ceased making to Borrowers advances or other extensions of credit in accordance with the terms of the Credit Agreement and the other Loan Documents.

(b) Payment of Professional Fee Carve-Out. Any payment or reimbursement made either directly by or on behalf of Lender or by or on behalf of the Debtors on or after the Default Point in respect of any Allowed Professional Fees shall, in either case, permanently reduce the Professional Fee Carve-Out on a dollar-for-dollar basis. Any payments made to Professionals in respect of Allowed Professional Fees at any time prior to the Default Point shall not reduce the Professional Fee Carve-Out. Any payments made at any time in respect of any Carve Out Expenses other than Allowed Professional Fees subject to the Professional Fee Carve-Out shall not reduce the Professional Fee Carve-Out. Lender's obligation to fund or otherwise pay Carve Out Expenses, including Allowed Professional Fees subject to the Professional Fee Carve-Out, shall be added to and made a part of the Obligations, secured by the Collateral, and Lender shall be entitled to all of the rights, claims, liens, priorities and protections under this Final Order, the Loan Documents, the Bankruptcy Code, and/or applicable law in connection therewith. Payment of any obligations relating to the Professional Fee Carve-Out or other Carve Out Expenses, whether by or on behalf of Lender, shall not and shall not be deemed to reduce the Obligations and shall not and shall not be deemed to subordinate any of Lender's liens and security interests in the Collateral or its Superpriority Claim to any junior pre-petition or post-petition lien, interest, or claim in favor of any other party. Except as otherwise provided herein with respect to the Professional Fee Carve-Out and

the other Carve Out Expenses, Lender shall not be responsible for the direct payment or reimbursement of any fees or disbursements of any Professionals incurred in connection with the Debtors' cases under any chapter of the Bankruptcy Code, and nothing in this Final Order or otherwise shall be construed to obligate Lender, in any way, to pay compensation to or to reimburse expenses of any Professional, or to guarantee that the Debtors have sufficient funds to pay such compensation or reimbursement.

(c) Professional Fee Carve-Out Reserve. Without limiting any of Lender's rights under the Loan Documents or this Final Order, Lender shall implement a Reserve (as defined in the Credit Agreement) in respect of the Professional Fee Carve-Out and the other Carve-Out Expenses in accordance with the terms and conditions of the Credit Agreement. Such Reserve shall reduce the amount of Loans and Letters of Credit otherwise available to Borrowers under the Credit Agreement.

(d) Excluded Professional Fees. Notwithstanding anything to the contrary in this Final Order, the Professional Fee Carve-Out shall not be used to pay any Allowed Professional Fees or any other claims incurred in connection with any of the following:

(i) an assertion or joinder in any claim, counter-claim, action, proceeding, application, motion, objection, defense, or other contested matter seeking any order, judgment, determination or similar relief: (A) challenging the legality, validity, priority, perfection, or enforceability of the Obligations or Lender's liens on and security interests in the Collateral, (B) invalidating, setting aside, avoiding, or subordinating, in whole or in part, the Obligations or Lender's liens on and security interests in the Collateral, or (C) preventing, hindering, or delaying Lender's assertion or enforcement of any lien, claim, right or security interest or realization upon any Collateral, (ii) a request to use the Cash Collateral (as such term is defined in Section 363 of the Bankruptcy



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Code) without the prior written consent of Lender, (iii) a request for authorization to obtain postpetition loans or other financial accommodations pursuant to Section 364(c) or (d) of the Bankruptcy Code other than from Lender without the prior written consent of Lender, (iv) the commencement or prosecution of any action or proceeding of any claims, causes of action, or defenses against Lender or any of their respective officers, directors, employees, agents, attorneys, affiliates, assigns, or successors, or (v) any act which has or could have the effect of materially and adversely modifying or compromising the rights and remedies of Lender, or which is contrary, in a manner that is material and adverse to Lender to any term or condition set forth in or acknowledged by the Loan Documents or this Final Order. Nothing contained herein shall limit or prevent the Professional Fee Carve-Out to be used to investigate and/or bring claims against the Pre-Petition Lender with respect to the Pre-Petition Lender Debt or Pre-Petition Lender's liens and security interests in the Pre-Petition Lender Collateral in accordance with paragraph 15(e) of this Final Order.

(e) Subject to the terms of this paragraph, the repayment of the Pre-Petition Lender Debt as set forth in paragraph 9 of this Final Order shall be without prejudice to the rights of the Committee, on behalf of the Debtors' estates or a Trustee on behalf the Debtors' estates, to seek to disallow the Pre-Petition Lender's claims in respect of the Pre-Petition Lender Debt, pursue any claims against Pre-Petition Lender in connection with the Pre-Petition Loan Documents or avoid any security interest or liens in the Pre-Petition Lender Collateral or in any other asset or property of the Debtors in which the Pre-Petition Lender claims an interest, including, without limitation, any claim, action or proceeding brought against Pre-Petition Lender in accordance with this paragraph 15(e) that requires the Pre-Petition Lender to disgorge the repaid Pre-Petition Lender Debt (or any portion thereof) as a result of any of Pre-Petition

Lender's claims against the Debtors or liens upon and security interests in any of the assets and properties of Debtors (including the Pre-Petition Lender Collateral) and their estates being invalidated, avoided, subordinated, impaired or compromised in any way, either by an order of this Court (or other court of competent jurisdiction) or by settlement (collectively, a "Disgorgement Action"). The Committee or Trustee, as referred to above, shall have seventy-five (75) calendar days from the date of appointment of counsel for the Committee within which to commence an adversary proceeding (collectively, a "Pre-Petition Lien/Claim Challenge") with respect to the Pre-Petition Lender's claims in respect of the Pre-Petition Lender Debt or security interest in the Pre-Petition Lender Collateral, or any other claims or causes of action against the Pre-Petition Lender relating to the Pre-Petition Loan Documents. If such a Pre-Petition Lien/Claim Challenge is not timely commenced within such applicable period set forth above, (i) the Pre-Petition Lender Debt and Pre-Petition Lender's security interests in and liens upon the Pre-Petition Lender Collateral shall be recognized and allowable as valid, binding, in full force and effect, not subject to any claims, counterclaims, setoff or defenses and perfected, and (ii) Pre-Petition Lender and its respective agents, officers, directors and employees shall be deemed released and discharged from all claims and causes of action of any kind, nature or description arising at any time immediately prior to the Petition Date in accordance with the Pre-Petition Loan Documents entered into with Debtors, and all of the Debtors' acknowledgements, releases and waivers of claims granted to or in favor of Pre-Petition Lender relating to the Pre-Petition Loan Documents in accordance with this Interim Order shall be binding upon all parties in interest in the Debtors' Chapter 11 cases and/or in any subsequently converted case(s) under Chapter 7 of the Bankruptcy Code.

16. Disposition of Collateral. Debtors shall not sell, transfer, lease, encumber or otherwise dispose of any portion of the Collateral, and Debtors shall not assume, assign or reject or seek to assume, assign or reject (except that any Debtor shall assume, assign or reject pursuant to an order from the Court approving any real property lessor's motion to compel such actions) any Leasehold Property (as defined in the Credit Agreement) or other rights under any lease or license of real or personal property without the prior written consent of Agent (and no such consent shall be implied, from any other action, inaction or acquiescence by Lender or an order of this Court), except for sales of Debtors' Inventory (as defined in the Credit Agreement) in the ordinary course of their businesses or except as otherwise provided for in the Credit Agreement, the other Loan Documents and this Final Order. Nothing contained in this paragraph shall limit or impair the right of any real property lessor of any Debtor to request that the Court compel the Debtors to assume or reject any real property lease.

17. Waiver of 506(c) Claims Against Lender. No costs or expenses of administration which already have been, or may hereafter be, incurred in the Debtors' Chapter 11 cases or in any subsequently converted case under Chapter 7 of the Bankruptcy Code shall be charged or asserted by the Debtors against Lender, its claims or the Collateral, pursuant to Section 105 or 506(c) of the Bankruptcy Code or otherwise without the prior written consent of Lender (and no such consent shall be implied from any other action, inaction or acquiescence by Lender). Nothing contained in this paragraph shall waive the rights of the Committee or any other party in interest to assert a claim under Section 506(c) of the Bankruptcy Code; provided, that the foregoing does not and shall not be construed to grant standing to any such party to assert a claim under Section 506(c) of the Bankruptcy Code.

18. Remedies upon Occurrence of Event of Default. In the event of the occurrence of any of the following: (a) the failure of Debtors to perform in any material respect any of their obligations pursuant to this Final Order, (b) the occurrence of any Event of Default under the Credit Agreement or the other Loan Documents, (c) the termination or non-renewal of the Loan Documents as provided for in the Credit Agreement, or if terminated sooner by an order of this Court, (d) the conversion of any Debtor's Chapter 11 case to a case under Chapter 7 of the Bankruptcy Code, (e) the appointment of a trustee pursuant to Section 1104(a) of the Bankruptcy Code in Debtors' Chapter 11 cases, (f) the appointment of any examiner with expanded powers pursuant to Section 1106(b) of the Bankruptcy Code in Debtors' Chapter 11 cases, (g) the entry of any order modifying, reversing, revoking, staying, rescinding, vacating or amending this Final Order without the express prior written consent of Lender (and no such consent shall be implied from any other action, inaction or acquiescence by Lender), (h) the failure of this Final Order to become final and non-appealable within sixty (60) days after the date of the Motion, (i) the failure of Debtors to remain current in payment of any material amount of post-petition administrative obligations, except for amounts the validity of which is being contested in good faith by Debtors, (j) if any party obtains relief from the automatic stay to enable such party to foreclose or otherwise enforce any junior lien (including contractually junior liens) or other rights such other party may have that are junior, inferior or subject to the rights and claims of Lender in and to any property of the estate of Debtors upon which Lender holds a lien or security interest, or (k) a plan of reorganization or liquidation being filed by any Debtor, or the acceptance by the requisite class(es) of creditors and/or interest holders in any Debtor's estate to enable confirmation under Section 1129 of the Bankruptcy Code of any plan of reorganization or liquidation filed by any party, that, in each case, does not provide for the

payment in full in immediately available funds of all Obligations on the effective date thereof on terms and conditions reasonably acceptable to Lender (each of the foregoing being referred to in this Final Order, individually, as an "Event of Default" and collectively, as "Events of Default"); then (unless such Event of Default is specifically waived in writing by Lender, which waiver shall not be implied from any other action, inaction or acquiescence by Lender) and upon or after the occurrence of any of the foregoing, and at all times thereafter, after giving five (5) business days notice in writing, served by hand or telefax upon the Court (including filing such notice electronically on the Court's docket), Debtors' counsel, counsel to the Committee, any trustee of Debtors, if appointed, the United States Trustee and counsel for various real property lessors of the Debtors as listed on Exhibit "A" to this Final Order: (i) all of the Obligations shall become immediately due and payable, (ii) the automatic stay provided for pursuant to Section 362 of the Bankruptcy Code and any other restrictions on the enforcement by Lender of its liens upon and security interests in the Collateral or any other rights under the Loan Documents granted to or for the benefit of Lender or pursuant to this Final Order shall be automatically vacated and modified without any further action being required, and (iii) Lender, without further notice, hearing or approval of this Court (subject to paragraphs 19 and 20 hereof), shall be, and hereby is authorized, in the discretion of Lender, to take any and all actions or remedies which Lender may deem appropriate to proceed against and realize upon the Collateral and any other assets and properties of Debtors' estates upon which Lender has been or may hereafter be granted liens and security interests to obtain the full and indefeasible repayment of the Obligations. Nothing contained in this Final Order or otherwise shall be construed to obligate Lender in any way to lend or advance any additional funds to Debtors, or provide other financial accommodations to Debtors upon or after the occurrence of an Event of Default.

19. Leasehold Property Rights of Lender. Without limiting any of the rights or remedies of Lender (including, without limitation, all rights afforded under applicable state law) provided in paragraph 18 hereof or otherwise herein or in any of the Loan Documents, upon or after the occurrence of an Event of Default, and subject to such notices as are otherwise provided for herein, Agent shall have the right, in its discretion, to file and pursue (on behalf of any Debtor or as the secured party with respect to any Leasehold Property) or direct and require any Debtor to immediately file and diligently pursue, and prosecute any motion or other appropriate pleading with this Court seeking the assumption, assignment or rejection of such of the leases with respect to the Leasehold Property as Agent shall specify and in the case of the assignment, assigned to such person or other entity as Agent shall specify and any such assignment shall be on terms and conditions as are acceptable to Agent and subject to (i) higher and better offers to the extent required under Section 363 of the Bankruptcy Code and (ii) the affected lessor's rights under the applicable lease(s) (to the extent such rights are enforceable or effective under Section 365 of the Bankruptcy Code) and the Bankruptcy Code. Debtors are authorized and directed to execute and deliver such agreements, documents and instruments as Agent may request to effectuate the foregoing, but no such agreements, documents or instruments shall be required for such purpose.

20. Collateral Rights. Until all of the Obligations shall have been indefeasibly paid and satisfied in full in immediately available funds and without further order of the Court:

(a) In the event that any party who holds a lien or security interest in any asset or property of the Debtors or their estates that is junior and/or subordinate to the liens and claims of Lender in such property receives or is paid proceeds of the Collateral prior to the indefeasible payment and satisfaction in full of all Obligations, such junior or subordinate lienholder shall be

deemed to have received, and shall hold, such Collateral proceeds in trust for Lender and shall immediately turnover to Lender such proceeds for application to the Obligations in accordance with the Loan Documents and this Final Order.

(b) Upon and after the occurrence of an Event of Default, and subject to Agent obtaining relief from the automatic stay as provided for herein, in connection with a liquidation of any of the Collateral Agent (or any of its employees, agents, consultants, contractors or other professionals) shall have the right, at the costs and expense of Debtors, to: (i) enter upon, occupy and use any personal property, fixtures and equipment owned or leased by Debtors and (ii) use any and all trademarks, tradenames, copyrights, licenses, patents or any other similar assets of Debtors, which are owned by or subject to a lien of any third party and which are used by Debtors in their businesses. Lender will be responsible for the payment of any applicable fees, rentals, royalties or other amounts due such lessor, licensor or owner of such property for the period of time that Agent actually uses the equipment or the intellectual property (but in no event for any accrued and unpaid fees, rentals or other amounts due for any period prior to the date that Agent actually occupies or uses such assets or properties); and

(c) On and after the occurrence of an Event of Default, and subject to Agent obtaining relief from the automatic stay as provided for herein, upon Agent providing five (5) business days notice to any Debtor's real property lessor of Agent's intention to enter onto or into such lessor's leased premises to remove or otherwise dispose of any Collateral located at such leased premises in accordance with the terms of this paragraph, Agent (or any of its employees, agents, consultants, contractors or other professionals) shall have the right, following the expiration of such five (5) business days notice period described in this paragraph, to enter onto or into such leased premises for the purpose of removing the Collateral off the leased

premises or selling such Collateral at the leased premises, in each case subject to the applicable terms of such Debtor's lease arrangements with such lessor to the extent enforceable or effective under the Bankruptcy Code and subject to the rights of Agent provided for herein. The Debtors shall remain obligated to perform any obligation and to pay any rent and additional rent due under the terms of their leases at all times, including during the period commencing upon Agent obtaining the right to enter the Debtors' leased premises in accordance with this paragraph through and including the date at which Agent vacates the leased premises and provides such lessor with written confirmation of such vacation and delivers in connection with such written confirmation any keys, access cards or other means of access to the leased premises to the extent such items are then available to Agent (the "Collateral Access Period"). In the event that such rental or other obligations incurred during the Collateral Access Period are not otherwise fulfilled or performed by or on behalf of Debtors, then Lender will be responsible for the performance and payment of such rental charges (provided, that, any such rental charges for which Lender is responsible during the Collateral Access Period under this paragraph shall be calculated on a per diem basis) and such other obligations under such applicable lease (subject to the provisions of the Bankruptcy Code) and except as otherwise provided by an Order of this Court. Nothing herein shall require the Lender to assume any lease or cure any defaults as a condition to the rights afforded in this paragraph. Notwithstanding anything contained herein to the contrary or otherwise, in relation to the Debtors' leased real property, Agent shall have the right, in its discretion, to seek, or direct and require any Debtor to seek, approval from the Court to conduct "going-out-of-business sales" or other sales at any leased location outside the ordinary course of Debtors' businesses conducted at such location, subject to the terms and guidelines approved by the Court and the rights of any lessor of such leased location under their respective

leases and Section 365 of the Bankruptcy Code, and nothing contained herein shall be deemed to prejudice the rights of any real property lessor of any Debtor to any affected leased location to object to such relief.

21. Amendment to Loan Documents. Agent, with the consent of Debtors, is hereby authorized to amend and/or modify the Loan Documents without further order of the Court for purposes of, among other things, implementing the syndication of the financing provided for in the Credit Agreement and the other Loan Documents (which syndication may result in increased costs charged to the Borrowers under the Credit Agreement and the other Loan Documents) and modifying or waiving compliance with financial covenants contained in the Credit Agreement or increasing the amount of loans available to Borrowers or changes related to any of the foregoing; provided, that, any such amendments and modifications must be in writing and served upon counsel for the Committee and the United States Trustee.

22. Reservation of Lender's Rights. Entry of this Final Order shall not be deemed to prejudice any and all rights, remedies, claims and causes of action Lender may have against third parties, and shall not prejudice the rights of Lender from and after the entry of this Final Order to seek any other relief in the Debtors' Chapter 11 cases. Entry of this Final Order shall not in any way constitute: (a) a preclusion or a waiver of any right of Lender to file, or to prosecute if already filed, a motion for relief from stay, a motion or request for relief, including but not limited to any adversary proceeding; (b) agreement, consent, or acquiescence to the terms of any plan of reorganization by virtue of any term or provision of this Final Order; (c) a preclusion or waiver to assert any other rights, remedies or defenses available to Lender, or to respond to any motion, application, proposal, or other action, all such rights, remedies, defenses

and opportunities to respond being specifically reserved by Lender; or (d) a preclusion, waiver or modification of any rights or remedies that Lender has against any other person or entity.

23. Release Upon Repayment of Obligations Upon the payment in full of all Obligations owed to Lender and termination of the Credit Agreement and the other Loan Documents, Lender shall be released by each Debtor and its bankruptcy estate from any and all obligations, liabilities or responsibilities arising in connection with or related to this Final Order, the Credit Agreement and the other Loan Documents in accordance with the terms and conditions contained in the Loan Documents; provided, that, in the event that Lender forecloses on any real property leasehold interest of any Debtor and, as a result, becomes a tenant or lessee under such lease, then the releases provided for in this paragraph in favor of Lender shall not extend to the lease obligations of Lender in its capacity as tenant or lessee under the applicable lease. Upon repayment in full of all Obligations owed to Lender, the releases granted in favor of Lender, and the termination of the Credit Agreement and the other Loan Documents, all in accordance with this paragraph, the Debtors shall file with this Court a notice evidencing the termination and release of Lender's liens and claims against the Debtors and all assets and properties of their estates.

24. Restrictions on Use of Cash Collateral, Additional Financing. All post-petition advances and other financial accommodations under the Credit Agreement and the other Loan Documents are made in reliance on this Final Order. In the event that any order is entered at any time in Debtors' Chapter 11 cases or in any subsequently converted case under Chapter 7 of the Bankruptcy Code which (a) authorizes the use of cash collateral of Debtors in which Lender has an interest or the sale, lease, or other disposition of property of Debtors' estates in which Lender has a lien or security interest, except as expressly permitted hereunder or in the

Loan Documents, or (b) authorizes under Section 364 of the Bankruptcy Code the obtaining of credit or the incurring of indebtedness secured by a lien or security interest which is equal or senior to a lien or security interest in property in which Lender holds a lien or security interest, or which is entitled to priority administrative claim status which is equal or superior to that granted to Lender herein, then, in each instance described in clauses (a) and (b) of this paragraph, (i) Lender shall first have given its express prior written consent thereto, no such consent being implied from any other action, inaction or acquiescence by Lender, or (ii) such other order shall require that all Obligations first shall be indefeasibly paid in full in immediately available funds. The security interests and liens granted to or for the benefit of Lender hereunder and the rights of Lender pursuant to this Final Order and the Loan Documents with respect to the Obligations and the Collateral are cumulative and shall not be altered, modified, extended, impaired, or affected by any plan of reorganization of Debtors and, if Lender shall expressly consent in writing that the Obligations shall not be repaid in full upon confirmation thereof, shall continue after confirmation and consummation of any such plan.

25. Binding Effect of Final Order and Loan Documents.

(a) The provisions of this Final Order and any actions taken pursuant hereto shall survive entry of any order which may be entered converting Debtors' Chapter 11 cases to a Chapter 7 case, dismissing any of Debtors' bankruptcy cases (in the case of any such dismissal, to the maximum extent permitted under the Bankruptcy Code and other applicable law) or any order which may be entered confirming or consummating any plan of reorganization of Debtors, and the terms and provisions of this Final Order as well as the priorities in payment, liens, and security interests granted pursuant to this Final Order and the Loan Documents shall continue in this or any superseding case under the Bankruptcy Code, and such priorities in

payment, liens and security interests shall maintain their priority as provided by this Final Order until all Obligations are indefeasibly paid and satisfied; provided, that, all obligations and duties of Lender hereunder, under the Loan Documents or otherwise with respect to any future loans and advances or otherwise shall terminate immediately upon the earlier of the date of any Event of Default or the date that a plan of reorganization of the Debtors becomes effective unless Lender has given its express prior written consent thereto, no such consent being implied from any other action, inaction or acquiescence by Lender.

(b) The provisions of this Final Order and the Loan Documents shall inure to the benefit of Debtors, Lender and the Pre-Petition Lender and shall be binding upon Debtors, Lender, and the Pre-Petition Lender and their respective successors and assigns, including any Chapter 11 or Chapter 7 Trustee or other fiduciary hereafter appointed as a legal representative of Debtors or with respect to property of the estate of Debtors, whether under Chapter 11 of the Bankruptcy Code or any subsequent Chapter 7 case, and shall also be binding upon all creditors of Debtors and other parties in interest.

26. No Modification or Stay of This Final Order. If any or all of the provisions of this Final Order are hereafter modified, vacated or stayed, such modification, vacation or stay shall not affect (a) the validity of any obligation, indebtedness or liability incurred by Debtors to Lender or the Pre-Petition Lender prior to the effective date of such modification, vacation or stay, (b) the validity or enforceability of any security interest, lien, or priority authorized or created hereunder or pursuant to the Loan Documents, as applicable, or (c) the indefeasible repayment by Debtors of the Pre-Petition Lender Debt. Notwithstanding any such modification, vacation or stay, any indebtedness, obligations or liabilities incurred by Debtors to Lender or the Pre-Petition Lender prior to the effective date of such modification,

vacation or stay shall be governed in all respects by the original provisions of this Final Order, and Lender and the Pre-Petition Lender shall be entitled to all the rights, remedies, privileges and benefits granted herein with respect to all such indebtedness, obligations and/or liabilities. The obligations and indebtedness of Debtors to Lender under this Final Order and/or the Loan Documents shall not be discharged by the entry of an order confirming a plan of reorganization in Debtors' bankruptcy cases pursuant to Section 1141(d)(4) of the Bankruptcy Code or otherwise, unless and until all Obligations of Debtors to Lender are indefeasibly paid in full in accordance with the terms and conditions of the Loan Documents prior to or concurrently with the entry of such order.

27. No Waivers or Modification of Final Order. Debtors irrevocably waive any right to seek any modifications or extensions of this Final Order without the prior written consent of Lender and no such consent shall be implied by any other action, inaction or acquiescence by Lender. Notwithstanding anything to the contrary contained herein, no provision of this Final Order concerning the repayment of the Pre-Petition Lender Debt pursuant to the provisions of this Final Order shall be modified, vacated, stayed or altered in any manner or respect.

28. Conflicting Provisions. To the extent the terms and conditions of the Loan Documents are in conflict with the terms and conditions of this Final Order, the terms and conditions of this Final Order shall control.

29. Reservation of Rights Concerning Reclamation Claims. For purposes of paragraphs 29 and 30 hereof, a "Reclamation Creditor" is a vendor of goods that has asserted a reclamation demand against a Debtor in accordance with Section 546(c)(1) of the Bankruptcy

Code and/or with any statutory or common law right of a seller of goods that has sold goods to a debtor, in the ordinary course of such vendor's business, to reclaim such goods if the debtor received such goods while insolvent. For purposes of paragraphs 29 and 30 hereof, the claim of such Reclamation Creditor arising from the reclamation demand is considered a "Reclamation Claim". None of (i) the entry of this Final Order, the Interim Order, the Cash Collateral Order and/or any extensions thereof (collectively, the "Financing Orders"), (ii) the provisions of and the relief granted in the Financing Orders, and/or (iii) any action taken (or not taken) pursuant to the Financing Orders, shall in any way affect the treatment or allowance of the Reclamation Claim of a Reclamation Creditor. For purposes of the determination of Reclamation Claims, the entry of the Financing Orders does not effect an exercise of foreclosure rights in any respect and no party in interest may assert that the Financing Orders or any assignment of any pre-petition lien is in any way equivalent to, or an exercise of, foreclosure rights; provided that the right of any Reclamation Creditor to "opt out" of the provisions of this paragraph 29 are reserved in accordance with the ruling of this Court on the record at the Final Hearing, as so ordered, with respect to the Motion, or upon further order of this Court.

30. Reclamation Claims. Notwithstanding anything to the contrary contained in this Final Order (including, without limitation, paragraph 29 hereof), any order approving the Debtors' Motion for Order (A) Authorizing Return of Goods Pursuant to 11 U.S.C. Section 546(g), (B) Establishing Procedures for Treatment of Reclamation Claims, and (C) Prohibiting Third Parties from Interfering with Delivery of Goods, filed on February 22, 2005 (docket no. 21) or any other order of this Court that has been or may hereafter be entered in any Debtor's Chapter 11 case in connection with any Reclamation Claim, any lien and/or administrative expense claim granted by the Court pursuant to Section 546(c) of the Bankruptcy Code to a

Reclamation Claim of a Reclamation Creditor shall be immediately subordinate to the liens, and shall be subordinate to the superpriority administrative claims, granted and assigned herein to the Lender and the Pre-Petition Lender, and shall be subject to all of the provisions of the Financing Orders (including, without limitation, paragraph 20 hereof).

31. Good Faith. The terms of the financing arrangements among Debtors and Lender have been negotiated in good faith and at arms' length among Debtors and Lender and any loans, advances or other financial accommodations which are made or caused to be made to Debtors by Lender pursuant to the Loan Documents are deemed to have been made and provided in good faith, as the term "good faith" is used in Section 364(e) of the Bankruptcy Code, and shall be entitled to the full protection of Section 364(e) of the Bankruptcy Code in the event that this Final Order or any provision hereof is vacated, reversed or modified, on appeal or otherwise. Consistent with Section 364(e) of the Bankruptcy Code, if any or all of the provisions of this Final Order are hereafter modified, vacated or stayed:

- i. such stay, modification or vacation shall not affect the validity of any obligation, indebtedness, liability or lien granted or incurred by any Debtor to Lender prior to the effective date of such stay, modification or vacation, or the validity, enforceability or priority of any lien, priority or right authorized or created under the original provisions of this Final Order or pursuant to the Loan Documents;
- ii. any indebtedness, obligation or liability incurred by any Debtor to Lender under the Loan Documents prior to the effective date of such stay, modification or vacation shall be governed in all respects by the original

provisions of this Final Order, and Lender shall be entitled to all the rights, remedies, privileges and benefits, including the liens, security interests and priorities granted herein and pursuant to the Loan Documents, with respect to any such indebtedness, obligation or liability; and

- iii. since the loans made pursuant to the Loan Documents are made in reliance on this Final Order, the Obligations owed Lender prior to the effective date of any stay, modification or vacation of this Final Order cannot, as a result of any subsequent order in these Chapter 11 cases, or in any superseding case, be subordinated, lose their lien priority or superpriority administrative expense claim status, or be deprived of the benefit of the status of the liens and claims granted to Lender under this Final Order and/or the Loan Documents.

Dated: New York, New York
March 23, 2005

/s/ Robert D. Drain
United States Bankruptcy Judge

20050627000316630 78/89 \$278.00
Shelby Cnty Judge of Probate, AL
06/27/2005 11:53:55AM FILED/CERT

EXHIBIT A

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20050627000316630 80/89 \$278.00
Shelby Cnty Judge of Probate, AL
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EXHIBIT C

Description of the Land

#469



20050627000316630 81/89 \$278.00
Shelby Cnty Judge of Probate, AL
06/27/2005 11:53:55AM FILED/CERT

EXHIBIT "B"

A parcel of land in the East ½ of the Southeast 1/4 of Section 21, Township 20 South, Range 3 West, Shelby County, Alabama, more particularly described as follows:

Commence at the Northeast corner of the NE 1/4 of the SE 1/4 of said Section 21; thence run West along the quarter line 596.95 feet; thence left 90°00', 360.00 feet to the south line of Brookline Parkway and the Point of Beginning of the property described herein; thence continue southerly along the same course 483.08 feet; thence right 87°17'50" Westerly 661.68 feet to a point on the easterly right-of-way of Shelby County Highway No. 17; thence right 89°58'14" Northerly 323.00 feet; thence right 90°00'26" Easterly 202.30 feet; thence left 90°00'38" Northerly 182.79 feet to the South line of Brookline Parkway; thence right 92°48'04" Easterly 482.99 feet to the Point of Beginning.

Said parcel contains 6.846 Acres (298,202.343 square feet) more or less.

Inst # 1997-37152

11/13/1997-37152
03:16 PM CERTIFIED
SHELBY COUNTY JUDGE OF PROBATE
006 MCD 4232.50

EXHIBIT "B"

509


20050627000316630 82/89 \$278.00
Shelby Cnty Judge of Probate, AL
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CHELSEA PROPERTY

WINN-DIXIE PARCEL

A parcel of land situated in the East 1/2 of the S.W.1/4 and the West 1/2 of the S.E.1/4 of Section 27, Township 19 South, Range 1 West, Shelby County, Alabama, being more particularly described as follows:

Commence at the Southwest corner of the S.E.1/4 of the S.W.1/4 of Section 27, Township 19 South, Range 1 West, Shelby County, Alabama and run in a Northerly direction along the West line of said 1/4-1/4 section a distance of 1048.33 feet to a point; thence $66^{\circ}52'40''$ to the right in a Northeasterly direction a distance of 210.13 feet to a point; thence $16^{\circ}06'07''$ to the right in a Northeasterly direction a distance of 109.35 feet to a point; thence $18^{\circ}54'05''$ to the left in a Northeasterly direction a distance of 117.46 feet to a point; thence $67^{\circ}45'50''$ to the right in a Southeasterly direction a distance of 20.00 feet to a point; thence $90^{\circ}00'$ to the left in a Northeasterly direction a distance of 568.78 feet to a point on the Southerly right-of-way line of U.S. Highway #280; thence $90^{\circ}26'05''$ to the right in a Southeasterly direction a distance of 38.32 feet along said right-of-way line to a point; thence $90^{\circ}00'$ to the left in a Northeasterly direction a distance of 210.00 feet along said right-of-way line to a point; thence $24^{\circ}53'00''$ to the right in a Northeasterly direction a distance of 72.77 feet, along said right-of-way line to the POINT OF BEGINNING, said point being on the Southerly right-of-way line of U.S. Highway #280; thence continue along the last stated course and along said U.S. Highway #280 right-of-way a distance of 78.70 feet to a point; thence $103^{\circ}34'46''$ to the right in a Southeasterly direction (leaving said U.S. Highway #280 right-of-way) a distance of 153.75 feet to a point; thence $90^{\circ}00'$ to the left in a Northeasterly direction a distance of 188.09 feet to a point; thence $90^{\circ}00'$ to the left in a Northwesterly direction a distance of 63.48 feet to a point; thence $51^{\circ}18'02''$ to the right in a Northeasterly direction a distance of 158.21 feet to a point on the

Southerly right-of-way line of said U.S. Highway #280; thence $39^{\circ}04'58''$ to the right in a Northeasterly direction along said U.S. Highway #280 right-of-way line a distance of 59.66 feet to a point; thence $89^{\circ}51'10''$ to the right in a Southeasterly direction (leaving said U.S. Highway #280 right-of-way) a distance of 768.12 feet to a point; thence $90^{\circ}00'$ to the right in a Southwesterly direction a distance of 411.32 feet to a point; thence $44^{\circ}42'40''$ to the right in a Northwesterly direction a distance of 106.15 feet to a point; thence $44^{\circ}42'40''$ to the left in a Southwesterly direction a distance of 237.33 feet to a point; thence $98^{\circ}39'02''$ to the right in a Northerly direction a distance of 157.75 feet to the P.C. (point of curve) of a curve to the right having a radius of 485.00 feet and a central angle of $28^{\circ}31'25''$; thence Northerly and Northeasterly along the arc of said curve a distance of 241.45 feet to the P.T. (point of tangent) of said curve; thence in the tangent to said curve in a Northeasterly direction a distance of 120.00 feet to a point; thence $5^{\circ}38'36''$ to the left in a Northeasterly direction a distance of 75.19 feet to the P.C. (point of curve) of a curve to the left having a radius of 355.00 feet and a central angle of $22^{\circ}21'54''$; thence Northeasterly and Northerly along the arc of said curve a distance of 138.57 feet to the POINT OF BEGINNING.

December 17, 1997

desc592


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Shelby Cnty Judge of Probate, AL
06/27/2005 11:53:55AM FILED/CERT

Inst # 1998-33230

08/26/1998-33230
08:47 AM CERTIFIED
SHELBY COUNTY JUDGE OF PROBATE
006 CRH 4560.50

EXHIBIT D

Description of Lease(s)


20050627000316630 84/89 \$278.00
Shelby Cnty Judge of Probate, AL
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EXHIBIT D

to Leasehold Mortgage, Security Agreement,
Assignment of Rents and Leases and Fixture Filing

Description of Leases

Shelby County, Alabama

STORE #: 469 Helena, Shelby County, Alabama

LEASE: Evidenced by Short Form Lease, filed on November 13,
1997 in Inst. # 1997-37152 of the public records of Shelby
County, Alabama.

Amendment to Lease and Amendment to Short Form Lease,
filed on April 3, 2001 in Inst. # 2001-12332 of the public
records of Shelby County, Alabama.

STORE #: 509 Chelsea, Shelby County, Alabama

LEASE: Evidenced by Short Form Lease, filed on August 26, 1998 in
Inst. # 1998-33230 of the public records of Shelby County,
Alabama.

Store No. 469
Fee Owner:
Helena Marketplace, L.L.C.


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Shelby Cnty Judge of Probate, AL
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Store No. 509
Fee Owner:
CENTURY MANAGEMENT AND

EXHIBIT E

Tax Affidavit

(See Attached)



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Shelby Cnty Judge of Probate,AL
06/27/2005 11:53:55AM FILED/CERT

EXHIBIT E



20050627000316630 87/89 \$278.00
Shelby Cnty Judge of Probate, AL
06/27/2005 11:53:55AM FILED/CERT

STATE OF FLORIDA)
 :
DUVAL COUNTY)

A F F I D A V I T

Before me, the undersigned Notary Public in and for said county and said state, personally appeared Kellie Hardee as Vice President of **Winn-Dixie Montgomery, Inc.** ("W-D Montgomery"), **Winn-Dixie Raleigh, Inc.** ("W-D Raleigh"), and **Winn-Dixie Logistics, Inc.** ("W-D Logistics"), all Florida corporations and debtors and debtors in possession (the "Mortgagor"), who is known to me, and who being first duly sworn by me, deposes and says as follows:

1. W-D Montgomery and W-D Raleigh are the mortgagors under two (2) substantially identical Leasehold Mortgages, Security Agreement, Assignment of Rents and Leases and Fixture Filing (Alabama) (the "Leasehold Mortgages") in favor of Wachovia Bank, National Association, as administrative agent and collateral monitoring agent (the "Mortgagee").

2. W-D Logistics is a mortgagor under a fee Mortgage, Security Agreement, Assignment of Rents and Leases and Fixture Filing (Alabama) (the "Fee Mortgage") in favor of Mortgagee.

3. The Leasehold Mortgages and the Fee Mortgage (collectively, the "Mortgages") convey interests in real property and fixtures located in the counties as identified on **Exhibit "A"** attached hereto and will be recorded in the Probate Office of each such county.

4. The total maximum principal amount of the indebtedness to be secured by the Mortgages is \$40,000,000 (the "Loan").

5. The value of all real property and fixtures located in the State of Alabama, given by the Mortgagor through the Mortgages executed by Mortgagor in connection with the Loan as security for such indebtedness is \$40,000,000.00.

6. The undersigned has executed this Affidavit in his capacity as aforesaid for the purpose of assisting the Probate Judges in the counties identified on **Exhibit A** in establishing the amount of the recording tax to be collected for the recordation of the Mortgages.

Kellie Hardee
Affiant

Sworn to and subscribed before me
this 13 day of June, 2005.



Rebecca L. Sawyer
Notary Public

My commission expires: 6/2/06

[NOTARIAL SEAL]



REBECCA L. SAWYER
Notary Public, State of Florida
My comm. expires June 2, 2006
Comm. No. DD 114255

Exhibit "A"

<u>COUNTY</u>	<u>VALUE</u>	<u>SUBTOTAL</u>	<u>PERCENTAGE</u>
<u>WINN-DIXIE LOGISTICS, INC.</u>			
Montgomery County	\$15,563,649.00	\$15,563,649.00	38.91%
<u>WINN-DIXIE MONTGOMERY, INC.</u>			
Autauga County	\$1,313,322.00		3.29%
Baldwin County	\$4,256,584.00		10.65%
Calhoun County	\$3,213,441.00		8.03%
Chilton County	\$714,461.00		1.79%
Coffee County	\$361,042.00		0.90%
Covington County	\$546,761.00		1.37%
Dallas	\$1,441,458.00		3.60%
Elmore County	\$1,435,913.00		3.59%
Escambia County	\$1,185,423.00		2.96%
Etowah County	\$51,879.00		0.13%
Houston County	\$881,442.00		2.20%
Jefferson County	\$709,822.00		1.77%
Lauderdale County	\$439,972.00		1.10%
Lee County	\$103,758.00		0.26%
Mobile County	\$670,683.00		1.68%
Monroe County	\$51,879.00		0.13%
Montgomery County	\$4,748,574.00		11.87%
Shelby County	\$103,758.00		0.26%
Talladega County	\$232,372.00		0.58%
Tallapoosa County	\$407,532.00		1.02%
Tuscaloosa County	\$1,141,953.00	\$24,012,029.00	2.85%
<u>WINN-DIXIE RALEIGH, INC.</u>			
Barbour County	\$372,443.00		0.93%
Russell County	\$51,879.00	\$424,322.00	0.13%
Totals	\$40,000,000.00	\$40,000,000.00	100.00%

EXHIBIT F


20050627000316630 89/89 \$278.00
Shelby Cnty Judge of Probate, AL
06/27/2005 11:53:55AM FILED/CERT

Locations

Shelby County, Alabama

STORE #: 509 150 Chelsea Corners, Chelsea, AL 35043

STORE #: 469 335 Helena Market Place, Helena, AL 35080