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Bernard J. Youngblood  
Wayne Co. Register of Deeds

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## LEASEHOLD MORTGAGE

THIS IS A FUTURE ADVANCE MORTGAGE. THIS MORTGAGE SECURES A LOAN FOR THE CONSTRUCTION OF IMPROVEMENTS ON THE REAL ESTATE DESCRIBED BELOW AND CONSTITUTES A CONSTRUCTION MORTGAGE AND SECURITY AGREEMENT FOR THE PURPOSES OF ARTICLE 9 OF THE MICHIGAN UNIFORM COMMERCIAL CODE.

Amount  
\$60,000.00

THIS LEASEHOLD MORTGAGE ("Mortgage") made on July 28, 2004, is from **THE FIELDHOUSE LLC** (the "Mortgagor"), a Michigan limited liability company, whose address is 45300 Mound Road, Shelby Township, Michigan 48317, to **FIFTH THIRD BANK (EASTERN MICHIGAN)** (the "Bank"), a Michigan banking corporation, with offices located at 18800 Hall Rd., Clinton Township, Michigan 48038.

WHEREAS the Mortgagor is the owner of a leasehold estate in the premises located in the **City of Detroit, Wayne County, Michigan as described on the attached Exhibit "A"** (the "Real Estate") pursuant to that certain Lease dated February, 2004, between the State of Michigan by the Department of Management and Budget for the Department of Agriculture ("Landlord"), and Mortgagor, as Tenant, (the "Lease").

FOR VALUE RECEIVED, Mortgagor assigns, grants a security interest in, mortgages and warrants to Bank the following:

- (a) the Lease and the leasehold estate created under the Lease and all other interests created or acquired pursuant to the Lease or such leasehold estate;
- (b) all modifications, extensions and renewals of the Lease and all credits, deposits, options, purchase options, privileges and rights of the Mortgagor under the Lease, including, but not limited to, the right, if any, to renew or extend the Lease for a succeeding term or terms or to acquire fee title to or other interest in all or any portion of the Real Estate or the Improvements or any portion of the Real Estate or other interest;
- (c) all of the Mortgagor's rights and remedies at any time arising under or pursuant to Section 365(h) of the Bankruptcy Code (defined below), including, without limitation, all of

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the Mortgagor's right under the Bankruptcy Code to remain in possession of the Real Estate and all improvements; and

(d) and (i) all buildings, structures and other improvements now or in the future located on the land and all easements, hereditaments and appurtenances now or in the future belonging to the land, (ii) all fixtures now or in the future attached to or used in connection with the land, (iii) all equipment (including, without limitation, all machinery, engines, boilers, elevators and plumbing, heating, air conditioning and ventilating equipment) owned by Mortgagor, now or in the future located on the land, all of which equipment shall be considered to be fixtures and a part of the realty, and (iv) all rents, income and profits arising from the land or from the buildings, structures, other improvements, fixtures and equipment now or in the future located on the land.

In this Mortgage, the Lease and the above-described land, buildings, structures, improvements, easements, hereditaments, appurtenances, fixtures and equipment are collectively called the "Premises."

This Mortgage secures payment and performance of all indebtedness and obligations now and in the future owing to bank by Mortgagor, including all obligations of Mortgagor under this Mortgage. The indebtedness and obligations now owing to Bank by Mortgagor include, but are not necessarily limited to, the promissory note listed below (the "Promissory Note") and any extensions, renewals, modifications, replacements or substitutions thereof:

Document	Date	Principal Amount	Party Who Executed
Promissory Note	July 28, 2004	\$760,000.00	Mortgagor
Promissory Note	July 28, 2004	\$100,000.00	Mortgagor

Mortgagor is sometimes referred to in this Mortgage as "Obligor".

This Mortgage secures all present and future indebtedness and obligations owing to Bank by Obligor, regardless of whether any such indebtedness or obligation is: (a) not listed above; (b) not presently intended or contemplated by Bank or Obligor; (c) indirect, contingent or secondary; (d) unrelated to the premises or to any financing of the Premises by Bank; (e) of a kind or class that is different from any indebtedness or obligation now owing to Bank by Obligor; or (f) evidenced by a note or other document that does not refer to this Mortgage. The indebtedness and obligations secured by this Mortgage are collectively referred to in this Mortgage as the "Indebtedness".

Mortgagor further warrants, represents and agrees as follows:

1. **Payment of Indebtedness.** Mortgagor agrees to pay or perform all of the Indebtedness now or in the future owing by Mortgagor, including all interest on it, in accordance with the terms of the Promissory Note or other instruments, documents, or agreements evidencing it ("Instruments").

2. **Warranties.** Mortgagor warrants and represents to Bank that all financial statements and other information concerning Mortgagor, the Premises, any guarantor of any of the Indebtedness and any person obligated on any of the Indebtedness, that have been or in the future are furnished to Bank by Mortgagor, are and shall be true and correct in all material respects when made; that the execution, delivery and performance of this Mortgage by Mortgagor will not violate any law, rule, judgment, order, agreement or instrument binding upon Mortgagor and will not require the approval of any public authority or any third party; and that this Mortgage is the valid and binding obligation of Mortgagor, enforceable in accordance with its terms. Mortgagor further represents and warrants to Bank that Mortgagor is a limited liability company duly organized and validly existing in good standing in the State of Michigan; that Mortgagor has full power and authority to carry on its business as presently conducted and to enter into and perform its obligations under this Mortgage; that the execution, delivery and performance of this Mortgage by Mortgagor have been duly authorized by all necessary action of its sole Member, and will not violate Mortgagor's articles of organization or operating agreement.

In addition, the Mortgagor represents and warrants that: (i) the Mortgagor is the holder of the Tenant's interest under the Lease, (ii) the Lease is in full force and effect and has not been modified in any manner whatsoever except for the assignment of the Tenant's interest under the Lease to Mortgagor, (iii) there is no default under the Lease to the best of Mortgagor's knowledge, and no event has occurred, which, but for the passage of time, or notice, or both, would constitute a default under the Lease, (iv) all rent, additional rent and other sums due and payable under the Lease have been paid in full, and (v) no action has been commenced, and no notice has been given or received, for the purpose of terminating the Lease.

### 3. **Leasehold Mortgage Provisions.**

(a) **Mortgagor's Performance Of Obligations; Notices.** The Mortgagor shall: (i) pay all rents, additional rents and other sums required to be paid by the Mortgagor as Tenant under and pursuant to the provisions of the Lease, (ii) diligently perform and observe (or cause to be performed or observed) all of the terms, covenants and conditions of the Lease to the extent the Mortgagor, as Tenant under the Lease, is obligated to perform or observe such terms, covenants and conditions, unless such performance or observance shall be waived or not required in writing by the Landlord under the Lease, to the end that all things shall be done which are necessary to keep unimpaired the rights of the Mortgagor, as Tenant, under the Lease, (iii) promptly give Notice to the Bank in writing of any default by the Mortgagor or Landlord under the Lease, (iv) promptly (A) give Notice to the Bank of (1) the giving of each notice by the Landlord under the Lease to the Mortgagor (other than notices regarding monthly payments customarily sent on a regular basis prior to any default by the Mortgagor) and (2) any notice noting or claiming any default by the Mortgagor under the

Lease, and (B) deliver to the Bank a true copy of each such notice, (v) promptly (A) give Notice to the Bank in writing of (1) the commencement of any litigation by any party to the Lease, and (2) any request made by either party to the Lease for arbitration proceedings pursuant to the Lease, and (3) the institution of any arbitration proceedings, as well as of all other proceedings under the Lease, and (B) promptly deliver to the Bank a copy of each decision and each order of the judge in each such litigation, and each determination of the arbitrators in each such arbitration proceeding (the Bank shall have the right to participate in such litigation and such arbitration proceedings, in association with the Mortgagor, or on the Bank's own behalf as an interested party), (vi) furnish to the Bank, within ten (10) days after demand, proof of payment of all items which are required to be paid by the Mortgagor pursuant to the Lease, and (vii) not consent to the subordination of the Lease to either (A) any mortgage of the fee interest in the Premises (or any part thereof or interest therein), or (B) any interest of the Landlord under the Lease, except such as agreed to by the Bank.

(b) Bank's Right To Cure Mortgagor's Defaults. If the Mortgagor shall default under the Lease, or if the Bank shall receive or become aware of any notice or claim of any default by the Mortgagor or any other party having an interest as the Tenant under the Lease, then, without limiting the generality of the other provisions of this Mortgage, and without waiving or releasing the Mortgagor from any of its obligations under this Mortgage (and even though such default or the nature thereof is denied by the Mortgagor or any other person), the Bank shall have the right, but shall be under no obligation: (i) to pay any sums, and to perform any act, or take any action, to perform any one or more of the obligations of the Mortgagor under the Lease, and (ii) to take any other action to keep the Lease in full force and effect or to preserve any other rights of the Bank with respect to the Lease. All sums so paid by the Bank and all reasonable costs and expenses incurred by the Bank in connection with the performance of any such act shall be paid by the Mortgagor to the Bank, upon demand by the Bank, together with interest at the highest rate in effect after Maturity of the Promissory Notes as set forth on the face of the Promissory Notes (the "Default Rate"). All such sums, costs, and expenses shall be deemed to be secured by this Mortgage and shall be a lien on the Premises prior to any right, title to, interest in or claim upon the Premises (or any part thereof or interest therein) attaching subsequent to the lien of this Mortgage. In any such event, the Bank and any person designated by the Bank shall have, and are hereby granted, the right to enter upon the Premises at any time and from time to time for the purpose of taking any such action. If the Landlord under the Lease shall deliver to the Bank a copy of any notice of default sent by said Landlord to the Mortgagor, as Tenant under the Lease, then the Bank may rely on such notice and assume that all defaults specified in such notice have in fact taken place. The Bank shall have no liability to the Mortgagor or any other party for any action taken or omitted to be taken by the Bank, in good faith, in reliance on such notice.

(c) No Termination Or Modification. The Mortgagor, shall not, without the prior written consent of the Bank, surrender the leasehold estate created by the Lease or terminate or cancel the Lease or modify, change, supplement, alter or amend the Lease, in any respect, either orally or in writing. The Mortgagor hereby assigns to the Bank (as further security for the payment of the Indebtedness and for the performance and observance of the Mortgagor's obligations under this Mortgage), all of the rights, privileges and prerogatives of

the Mortgagor, as Tenant under the Lease (i) to surrender the leasehold estate created by the Lease or (ii) to terminate, cancel, modify, change, supplement, alter or amend the Lease, and any such surrender of the leasehold estate created by the Lease or termination, cancellation, modification, change, supplement, alteration or amendment of the Lease without the prior written consent of the Bank shall be void and of no force and effect.

(d) Assignment of Mortgagor's Rights In Landlord's Bankruptcy. Mortgagor shall not, without the Bank's prior written consent, elect to treat the Lease as terminated under Section 365(h)(1) of the Bankruptcy Code (or any comparable or successor or replacement provision). Any such election made without the Bank's prior written consent shall be void. The Mortgagor hereby unconditionally assigns, transfers and sets over to the Bank all of the Mortgagor's claims and rights to the payment of damages arising under the Bankruptcy Code from any rejection by the Landlord under the Lease. The Bank shall have the right 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 the Lease, including, without limitation, the right to file and prosecute, to the exclusion of the Mortgagor, any proofs of claim, complaints, motions, applications, notices and other documents, in any case in respect of such Landlord under the Bankruptcy Code. This assignment constitutes a present, irrevocable and unconditional assignment of each of the claims, rights and remedies specified in this paragraph. This assignment shall continue in effect until: (i) all of the Indebtedness and obligations secured by the Mortgage shall have been satisfied and discharged in full, and (ii) the Bank has no further obligation under any of the Loan Documents or with respect to the Mortgagor or the Indebtedness. Any amounts received by the Bank as damages arising out of the rejection of the Lease as specified in this paragraph shall be applied first to all costs and expenses of the Bank (including, without limitation, attorneys' fees) incurred in connection with the exercise of any of its rights or remedies under this Section and then shall be applied against the Indebtedness in such order, priority and proportion as the Bank shall determine. If any action, motion or notice shall be commenced or filed in respect of either the Mortgagor, as Tenant under the Lease, or the Premises (or any part thereof or interest therein) in connection with any case under the Bankruptcy Code, then the Mortgagor shall give the Bank prompt written Notice of each such action, motion or notice, and the Bank shall have the option, to the exclusion of the Mortgagor, exercisable upon notice from the Bank to the Mortgagor, to conduct and control any such litigation with counsel of the Bank's choice. However, if the Mortgagor files a petition under the Bankruptcy Code, or is adjudicated to be a debtor in an involuntary case under the Bankruptcy Code, then the Bank may exercise such control over any such litigation as is permitted by applicable laws. The Bank may proceed in its own name, or in the name of the Mortgagor, in connection with any such litigation, and the Mortgagor agrees to execute any and all powers, authorizations, consents and other documents required by the Bank in connection with any such litigation. The Mortgagor shall, upon demand, pay to the Bank all costs and expenses (including reasonable attorneys' fees) paid or incurred by the Bank in connection with the prosecution or conduct of each such litigation. All such costs or expenses (except to the extent paid by the Mortgagor as provided above in this paragraph) shall be secured by the lien of the Mortgage and shall be added to the Indebtedness. The Mortgagor shall not commence any action, suit, proceeding or case, or file any application or make any motion, in respect of the Lease in any such case under the Bankruptcy Code without the prior written consent of the Bank. The

Mortgagor shall give notice by telephone to the Bank and its counsel of any filing (by or against the Landlord under the Lease) of a petition under the Bankruptcy Code. Such notice shall be given immediately after the Mortgagor becomes aware of any such filing. The Mortgagor shall thereafter (not later than five (5) days after such telephonic notice) give written Notice of such filing to the Bank, setting forth the date of such filing, the court in which the petition was filed and the relief sought in such petition. The Mortgagor shall promptly deliver to the Bank a copy of each notice, summons, pleading, application and other document received by the Mortgagor in connection with any such petition or any proceeding relating to such petition (such copy shall be delivered to the Bank within five (5) days after such item is received by the Mortgagor).

(e) Power Of Attorney. Effective upon the occurrence of an Event of Default, the Mortgagor hereby irrevocably appoints the Bank as the Mortgagor's true and lawful attorney-in-fact, in the Mortgagor's name or otherwise: (i) to do any and all acts and (ii) to execute any and all documents, which, in any such case, in the reasonable opinion of the Bank may be necessary or desirable to preserve any rights of the Mortgagor in, to or under the Lease, or any occupancy lease, license or concession, including, without limitation, the right (but not the obligation) (A) to cure any defaults of the Mortgagor as Tenant under the Lease, (B) to preserve any rights of the Mortgagor whatsoever in respect of the Premises (or any part thereof or interest therein) or (C) to execute an extension or renewal (or exercise any option for such extension or renewal) of the Lease as set forth below in this paragraph. Such power of attorney shall be irrevocable and shall be deemed to be coupled with an interest and granted for a valuable consideration.

(f) Estoppels. The Mortgagor shall, within twenty (20) days of request by the Bank, obtain from the Landlord under the Lease such certificates of estoppel with respect to compliance by the Mortgagor with the terms of the Lease as may be requested by the Bank.

(g) Options. The Mortgagor shall exercise each individual option, if any, to extend or renew the term of the Lease upon the earlier of: (i) within ten (10) days after a demand by the Bank, or (ii) sixty (60) days before the last day upon which any such option may be exercised; provided, however, the Mortgagor shall not be in default pursuant to this paragraph for failing to extend or renew the term of the Lease, as provided in this sentence, if and to the extent that the Mortgagor is not entitled to extend or renew the Lease. The Mortgagor hereby expressly authorizes and appoints the Bank the Mortgagor's attorney-in-fact to exercise, either jointly or individually, any such option in the name of and on behalf of the Mortgagor.

(h) Particular Provisions Not Limiting Generality. The generality of the provisions of this Section relating to the Lease shall not be limited by other provisions of this Mortgage or any other agreement between the Bank and the Mortgagor, setting forth particular obligations of the Mortgagor which are also required of the Mortgagor as Tenant under the Lease.

(i) New Lease. If the Lease shall be terminated prior to the natural expiration of its term due to an event of default under the Lease, and if the Bank or its designee shall acquire,

from the Landlord under the Lease, a new lease of the Premises and the improvements, then the Mortgagor shall have no right, title or interest in or to such new lease or the leasehold estate created thereby, or renewal privileges in such new lease.

(j) **No Merger.** So long as either any portion of the Indebtedness shall remain unpaid, or the Bank or Mortgagor shall have any obligation under the related loan documents, and unless the Bank shall otherwise consent, (i) the fee title to the Premises, and (ii) the leasehold estate created pursuant to the Lease, shall not merge, but shall always be kept separate and distinct, notwithstanding the union of such estates in the Mortgagor or in any other person, by purchase, operation of law or otherwise. If the Bank shall acquire the fee title to the Premises and the improvements and the leasehold estate created pursuant to the provisions of the Lease, by foreclosure of this Mortgage or otherwise, such estates shall not merge as a result of such acquisition and shall remain separate and distinct for all purposes after such acquisition unless and until the Bank shall elect to merge such estates.

4. **Assignment of Leases and Contracts.** Mortgagor assigns and mortgages to Bank, and grants to Bank a security interest in, as additional security for the Indebtedness, all of Mortgagor's right, title and interest in and to all existing and future oral or written leases of all or any part of the Premises or of any interest in them and all existing and future land contracts or other agreements by which the Premises or any interest in them is being or shall be sold, together with all rents and profits arising from, and all other proceeds of, those leases, land contracts or other agreements. Mortgagor will not cancel, accept a surrender of, modify, consent to an assignment of the Tenant's interest under, or make any other assignment or other disposition of, any lease, land contract or other agreement or of any interest of Mortgagor in it without the written consent of Bank. Mortgagor will not collect or accept any payment of rent or of principal or interest or any other amount more than one month before it is due and payable. Mortgagor will pay and perform all obligations and covenants required of it by the terms of each lease, land contract or other agreement. If Mortgagor shall default in the payment or performance of any obligation or covenant, then Bank shall have the right, but shall have no obligation, to pay or perform it on behalf of Mortgagor, and all sums expended by Bank in doing so shall be payable by Mortgagor to Bank upon demand, together with interest at the Default Rate. Neither this paragraph or paragraph 11 of this Mortgage implies that Bank consents to the sale or transfer of the Premises or any interest in them.

5. **Minerals.** Mortgagor assigns and mortgages to Bank, and grants to Bank a security interest in, as additional security for the Indebtedness, all of Mortgagor's right, title and interest in and to (a) all oil, gas and other minerals located in, on or under the Premises, (b) all oil, gas or mineral leases, royalty agreements and other contracts that have been or in the future are entered into with respect to the Premises or with respect to any oil, gas or other minerals located in, on or under the Premises ("Mineral Leases"), and (c) all rents, profits, royalties and income at any time arising from the Mineral Leases or from the sale of oil, gas or other minerals located in, on or under the Premises. Upon the occurrence of an event of default as defined in Paragraph 15 of this Mortgage, Bank shall be entitled to the present and full possession, receipt and use of and right to such oil, gas,

other minerals, Mineral Leases, rents, profits, royalties and income, for application to the Indebtedness in any manner that Bank in its sole discretion shall determine.

6. **Taxes.** Mortgagor will pay, or cause to be paid, before they become delinquent, all taxes, assessments, and other similar charges levied upon or with respect to the Premises and will promptly deliver to Bank satisfactory evidence of payment of them. Upon default by Mortgagor, which default has not been timely cured during the applicable cure period, if any, and demand by Bank, Mortgagor will pay to Bank periodically, on each date that Bank shall designate, an amount equal to (a) the amount that Bank from time to time estimates will be sufficient to permit Bank to pay each annual tax, assessment and any other similar charge levied upon or with respect to the Premises, at least 30 days before it is due and payable, divided by (b) the number of payments by Mortgagor that will occur between (i) the date of Bank's request, the date of any new estimate by Bank of the amount of the annual tax, assessment or other charge or the date when Bank last paid the tax, assessment or other charge on behalf of Mortgagor (whichever date is applicable), and (ii) the thirtieth day before the tax, assessment or other charge will be due and payable. Further, upon ten (10) days notice from Bank to Mortgagor, Mortgagor will pay to Bank any additional sums that are necessary to make up any deficiency in the amount necessary to enable Bank to pay fully those taxes, assessments and other similar charges when due. All sums that Mortgagor pays to Bank under this paragraph may be commingled with the general funds of Bank, and no interest shall be payable to Mortgagor with respect to them. Upon default by Mortgagor, which default has not been timely cured during the applicable cure period, if any, Bank may apply any funds of Mortgagor it then holds under this paragraph against the Indebtedness, in any manner that Bank shall determine.

7. **Insurance.** Mortgagor will cause all buildings, improvements, other insurable parts of the Premises and rents and other income from the Premises to be insured against loss or damage by fire, by hazards included within extended coverage and by other risks that Bank from time to time may require, in amounts and with insurers that are acceptable to Bank, and Mortgagor shall cause all premiums on the insurance to be paid when due. Each policy evidencing the insurance shall provide that loss shall be payable to Bank as its interest shall appear at the time of the loss, shall contain a standard mortgage clause, shall be in form and substance acceptable to Bank and shall be delivered to Bank. Each policy shall provide that the insurer shall give Bank at least 10 days' prior written notice of any cancellation of or any material change in the insurance. Each renewal of each policy shall be delivered to Bank at least 10 days before the expiration date of the policy. Upon foreclosure of this Mortgage or other transfer of the Premises in satisfaction of the Indebtedness, all right, title and interest of Mortgagor in and to any insurance policies then in force, including the right to any premium refund, shall vest in the purchaser or grantee. In the event of a fire or other casualty to the improvements on the Premises, which fire or other casualty is not caused by the willful misconduct of Mortgagor, Mortgagor shall be entitled to utilize the proceeds of the casualty insurance for the rebuilding or restoration of such improvements to their condition prior to such fire or other casualty, subject to the following conditions:

(a) There shall exist no event of default (which has not been cured within the applicable cure period, if any) under this Mortgage, the Promissory Notes which it secures, or any other Loan Documents (as defined in such loan agreement of even date between the Mortgagor and the Bank (the "Loan Agreement"));

(b) Bank shall have determined, in its reasonable discretion, that the use of the proceeds for rebuilding or restoration of the Premises will not cause the likelihood of repayment of the Indebtedness or security for the Indebtedness to be impaired; and

(c) Such rebuilding or restoration shall be capable of being completed within 9 months of the fire or other casualty.

Upon the determination by Bank that insurance proceeds may be utilized for repair or restoration of the improvements, all insurance proceeds shall be deposited with Bank and advances for repair and restoration shall be made in accordance with and subject to all limitations and conditions of the Loan Agreement. Interest shall be payable to Mortgagor in connection with the insurance proceeds so deposited at the Mortgagor's passbook savings account rate in effect from time to time. Regularly scheduled payments under the Promissory Notes shall remain payable as provided therein notwithstanding said fire or other casualty and regardless whether Mortgagor consents to the use of proceeds for rebuilding or restoration as provided herein.

8. **Maintenance and Repair.** Mortgagor will maintain the Premises in good condition and repair; will not commit or suffer any waste of the Premises; will not remove, demolish or substantially alter any building or fixture on the Premises without the prior written consent of Bank; will cause to be complied with all laws, ordinances, regulations and requirements of any governmental authority applicable to the Premises or to activities on the Premises; will promptly repair, restore, replace or rebuild any part of the Premises that is damaged or destroyed by any casualty; and will promptly pay when due all charges for utilities and other services to the Premises.

9. **Bank's Right to Perform; Receiver.** If Mortgagor shall default in the performance of any obligation of Mortgagor under this Mortgage (including, without limitation, its obligations to keep the Premises in good condition and repair, to pay taxes and assessments and to obtain and maintain insurance), then, after notice to Mortgagor and failure of Mortgagor to cure within the applicable cure period, if any, Bank shall have the right, but shall have no obligation, to perform, or cause to be performed, the obligation, and all sums expended by Bank in doing so shall become part of the Indebtedness, payable by Mortgagor to Bank upon demand, together with interest at the Default Rate. Bank and any persons authorized by Bank shall have the right to enter upon the Premises at all reasonable times for the purpose of inspecting the Premises or effecting maintenance or repairs or taking any other action under the preceding sentence. The failure of Mortgagor to pay any taxes, assessments or similar charges upon the Premises when due or to obtain and maintain required insurance shall constitute waste and shall entitle Bank to the appointment by a court of competent jurisdiction of a receiver of the Premises for the

purpose of preventing the waste. The receiver, subject to the order of the court, may collect the rents and income from the Premises and exercise control over the Premises as the court shall order. Any payment or performance by Bank, under Paragraph 3 or Paragraph 4 of this Mortgage, of an obligation that Mortgagor has failed to perform under a lease, land contract or other agreement, and any exercise by Bank of any right, remedy or option under a lease, land contract or other agreement, shall not be considered an assumption by Bank of the lease, land contract or other agreement or of any obligation or liability under it.

10. **Condemnation.** Unless otherwise agreed in writing by the Bank, If all or any part of the Premises are taken, whether temporarily or permanently, under power of eminent domain or by condemnation, the lesser of the then outstanding Indebtedness or entire proceeds of the award or other payment for the taking shall be paid directly to Bank and credited against the Indebtedness.

11. **Sale or Transfer.** If there shall be a sale or transfer, by operation of law or otherwise, of all or any part of the Premises, Bank may deal with the buyer or transferee with respect to this Mortgage and the Indebtedness as fully and to the same extent as it might with Mortgagor, without in any way releasing, discharging or affecting the liability of Mortgagor under this Mortgage and upon the Indebtedness, and without waiving Bank's right to accelerate payment of the Indebtedness, under Paragraph 15 of this Mortgage, by reason of the sale or transfer.

12. **Property Information.** During any period when any part of the Premises is leased, Mortgagor shall promptly furnish to Bank, upon Bank's request from time to time, (a) copies of all leases then in effect with respect to all or any part of the Premises, including all amendments, (b) a written schedule that shows for each Tenant the Tenant's name, the current rental rate (including any percentage rent), any rental or leasing concessions, the units or area leased and the lease expiration date, (c) a description of any parts of the Premises that are not then leased, (d) detailed financial statements relating to the Premises, in form reasonably acceptable to the Bank, for the periods and as of the dates that Bank shall require, which statements shall show, without limitation, all income and expenses, capital expenditures, Tenant improvements, leasing commissions, and all indebtedness secured by mortgages or liens upon the Premises, and (e) any additional information concerning the Premises and the leasing of them that Bank shall request. Bank shall have the right at any reasonable time (whether or not any part of the Premises is then being leased) to inspect and make copies of Mortgagor's records concerning the Premises and any lease of or other transaction or matter concerning the Premises.

13. **Environmental Warranties and Agreements.** Mortgagor warrants and represents to Bank, and agrees, as follows:

(a) To the best of Mortgagor's knowledge, the Premises, and all operations and activities on the Premises, are and shall continue to be in compliance with all environmental laws; and the Premises are not and shall not become (i) contaminated by, or the site of the disposal or release of, any hazardous substance, (ii) the source of any

contamination, by any hazardous substance, of any adjacent property or of any groundwater or surface water, or (iii) the source of any air emissions in excess of any legal limit now or later in effect; and, except as expressly disclosed by Mortgagor to Bank in writing, and to the best of Mortgagor's knowledge, no asbestos or polychlorinated biphenyls are present or contained in or on the Premises.

(b) Mortgagor shall take all actions necessary to investigate, clean up and eliminate the source of any past, present or future contamination of the Premises by any hazardous substance and to prevent any additional contamination of the Premises. The taking of action by Mortgagor under this subparagraph (b) shall not limit any other right or remedy available to Bank by reason of any contamination (including Bank's right to accelerate payment of the Indebtedness).

(c) For purposes of this Mortgage, (i) "environmental law" means any past, present or future federal, state, local or foreign law, ordinance, rule, regulation or order that regulates or is intended to protect public health or the environment or that establishes liability for the investigation, removal or cleanup of, or damage caused by, any environmental contamination, including, without limitation, any law, ordinance, rule, regulation or order that regulates or prescribes requirements for air quality, water quality or the disposition, transportation or management of waste materials or toxic substances; (ii) "hazardous substance" means any product or waste that is now or later regulated by or subject to any environmental law and any other hazardous substance, pollutant, contaminant or waste, including, without limitation, asbestos and polychlorinated biphenyls, and (iii) property shall be considered to be "contaminated" by a hazardous substance if a hazardous substance is present on or in the Premises in an amount or level in violation of environmental law.

**14. Environmental Audit; Appraisal.** In the event Bank has good faith reason to believe that the Premises have become, or may become, contaminated in violation of environmental law, Bank and any persons authorized by Bank shall have the right to enter upon the Premises at all reasonable times for the purpose of conducting or obtaining an environmental audit or investigation (including, without limitation, drilling test wells and taking soil and water samples) and/or an appraisal of the Premises. If, at the time of the audit, investigation or appraisal, there shall have occurred and be continuing an event of default, as defined in Paragraph 15 of this Mortgage, then Mortgagor shall reimburse Bank upon ten (10) days notice from Bank to Mortgagor for all reasonable costs and expenses of the audit, investigation or appraisal, together with interest at the Default Rate.

**15. Events of Default and Acceleration.** Upon the occurrence of any of the following events of default, all or any part of the Indebtedness shall, at the option of Bank, become immediately due and payable without notice or demand:

(a) If default occurs in the payment or performance of any of the Indebtedness, when and as it shall be due and payable, whether at Maturity or otherwise which is not cured within the applicable cure period, if any.

(b) If default occurs in the performance of any obligation to Bank under any Instrument or under any other mortgage, security agreement, loan agreement, assignment, guaranty or other agreement that now or in the future secures or relates to any of the Indebtedness or that evidences, secures or relates to any guaranty of any of the Indebtedness ("Security Documents") or if default occurs in the performance of any obligation to Bank under this Mortgage, which is not cured within the applicable cure period, if any, whether or not Bank shall have performed the obligation on Mortgagor's behalf, under paragraph 9 of this Mortgage, and whether or not Mortgagor shall have reimbursed Bank for any payments or expenses it incurred in curing the default.

(c) If any warranty, representation or statement that has been or is later made to Bank by Mortgagor or by any guarantor of all or part of the Indebtedness ("Guarantor") in this Mortgage or in any Security Document, credit application, financial statement or otherwise, shall have been false in any material respect when made or furnished.

(d) If Mortgagor or any Guarantor shall dissolve, become insolvent or make an assignment for the benefit of creditors or if both of the natural person Guarantors die.

(e) If Mortgagor, without the prior written consent of Bank, shall sell, convey or transfer the Premises or any interest in the Premises or any rents or profits from the Premises or if any mortgage, lien or other encumbrance or any writ of attachment, garnishment, execution or other legal process shall be issued against or placed upon the Premises or any interest in them or any rents or profits from them, except in favor of Bank, or if any part of the Premises or any interest in them shall be transferred by operation of law; or, if any change in Mortgagor's ownership shall occur except for ownership transfers by any partners, members or shareholders of Mortgagor for estate planning purposes.

(f) If all or any material part of the Premises shall be damaged or destroyed by fire or other casualty, without adequate insurance coverage to cover such loss, or shall be taken by condemnation or power of eminent domain.

(g) If any law or government regulation shall impose a tax or assessment upon mortgages or debts secured by mortgages unless Mortgagor shall pay such tax or assessment upon demand by Bank.

(h) If any guaranty that now or in the future secures payment or performance of all or any part of the Indebtedness shall be terminated or limited, for any reason, without the written consent or agreement of Bank.

(i) If at any time Bank in good faith believes that the prospect of payment or performance of any part or all of the Indebtedness is impaired.

(j) If (i) the Mortgagor shall default in the observance or performance of any term, covenant or condition of the Lease on the part of the Mortgagor, as Tenant under the Lease, to be observed or performed, unless any such observance or performance shall have been waived or not required in writing by the Landlord under the Lease, or (ii) any one or more of

the events referred to in the Lease shall occur which would or may cause the Lease to terminate without notice or action by the Landlord under the Lease or which would entitle the Landlord under the Lease to terminate the Lease, and the term of the Lease, by giving notice to the Mortgagor, as Tenant under the Lease, or (iii) the leasehold estate created by the Lease shall be surrendered, in whole or in part, or (iv) the Lease shall be terminated or cancelled for any reason or under any circumstance whatsoever, or (v) any of the terms, covenants or conditions of the Lease shall in any manner be modified, changed, supplemented, altered or amended without the consent of the Bank

(k) If a voluntary or involuntary case in bankruptcy or receivership shall be started by Mortgagor or any Guarantor, then the entire Indebtedness shall automatically become immediately due and payable, without notice or demand. In the event an involuntary case in bankruptcy or receivership shall be started against Mortgagor or any Guarantor, and provided Mortgagor or the applicable Guarantor diligently pursues action to obtain dismissal of such proceedings, Mortgagor or the applicable Guarantor shall have sixty (60) days from the filing of such proceedings to obtain dismissal of the proceedings prior to Bank accelerating the Indebtedness. All or any part of the Indebtedness also may become, or may be declared to be, immediately due and payable under the terms and conditions contained in any Security Document, Instrument or other agreement that at any time evidences, secures or relates to the Indebtedness.

Notwithstanding the foregoing: (i) upon the occurrence of any event of default described in paragraph 15(a) above, the Indebtedness evidenced hereby shall become immediately due and payable at the option of Bank ten (10) days after notice to Mortgagor of the default and failure by Mortgagor to cure the default within said period; (ii) upon the occurrence of any event of default under paragraphs 15(b), 15(f) or 15(i) above, the Indebtedness evidenced hereby shall become immediately due and payable at the option of Bank thirty (30) days after notice to Mortgagor of the default and failure by Mortgagor to cure the default within said period, unless Bank shall determine in good faith that Bank's interest or security would be impaired during said 30-day period, in which case Bank may provide such shorter notice and opportunity to cure as Bank may reasonably determine.

16. **Remedies.** Bank shall have all rights and remedies given by this Mortgage or otherwise permitted by law. In addition, if the Indebtedness shall not be paid at maturity, Bank shall have the right and is hereby authorized:

(a) To collect and receive all rents, profits and other amounts that are due or shall later become due under the terms of any leases, land contracts or other agreements, now or in the future in effect, by which the Premises or any interest in them are then being sold or leased or under any Mineral Lease, and to exercise any other right or remedy of Mortgagor under any lease, land contract, other agreement or Mineral Lease; but Bank shall have no obligation to make any demand or inquiry as to the nature or sufficiency of any payment received or to present or file any claim or take any other action to collect or enforce the payment of any amounts to which Bank may become entitled, and Bank shall not be liable for any of Mortgagor's obligations under any lease, land contract or other agreement.

(b) To obtain or update abstracts of title, title searches, title insurance and surveys with respect to the Premises, and Mortgagor shall reimburse Bank for all costs of doing so, together with interest at the Default Rate.

(c) To foreclose this Mortgage by action under applicable law.

(d) To sell, release and convey the Premises at public sale, and to sign and deliver to the purchasers at the sale good and sufficient deeds of conveyance, paying any surplus funds, after payment of the Indebtedness in full and the expenses of the sale, including attorney fees as provided by law, to Mortgagor, all in accordance with Chapter 32 of the Michigan Revised Judicature Act, as it may be amended from time to time, and any similar statutory provisions that may later be enacted in addition to Chapter 32 or in substitution for it. The Premises may, at the option of Bank, be sold in one parcel.

(e) To exercise any and all rights and options under any lease, land contract or other agreement by which any part or all of the Premises are then being leased or purchased, including any option to purchase the Premises or to renew or extend the term of any lease, land contract or other agreement, but Bank shall have no obligation to exercise any right or option.

All rights and remedies of Bank under this Mortgage, whether or not exercisable only on default, shall be cumulative and may be exercised from time to time, and no delay by Bank in the exercise of any right or remedy shall be a waiver of it, and no single or partial exercise of any right or remedy shall prevent other or further exercise of it or the exercise of any other right or remedy, except to the extent otherwise provided by law. In this Mortgage, "Maturity" means the time when the Indebtedness shall be or shall become due and payable, whether by the terms of the Instruments or pursuant to paragraph 15 of this Mortgage or otherwise.

17. **Security Interest In Fixtures.** Mortgagor grants to Bank a security interest in all fixtures now or in the future located on the Premises. If the Indebtedness is not paid at maturity, Bank, at its option, may enforce this security interest in fixtures under the Michigan Uniform Commercial Code or other applicable law or may include fixtures in any foreclosure of this Mortgage under paragraph 16 of this Mortgage. Any requirement of reasonable notice with respect to any sale or other disposition of fixtures shall be met if Bank sends the notice at least 5 days before the date of sale or other disposition.

18. **Indemnification.** Mortgagor shall indemnify and hold harmless Bank with respect to any and all claims, demands, causes of action, liabilities, damages, losses, judgments and expenses (including attorney fees) that shall be asserted against or incurred by Bank by reason of (a) any representation or warranty by Mortgagor in this Mortgage being inaccurate in any material respect, (b) any failure of Mortgagor to perform any of Mortgagor's obligations under this Mortgage, or (c) any past, present or future condition or use of the Premises (whether known or unknown), other than an excluded condition or use, including, but not limited to, liabilities arising under any "environmental

law", as defined in Paragraph 13 of this Mortgage. An "excluded condition or use" is one that both (i) does not exist or occur, to any extent, at any time before Mortgagor has permanently given up possession and control of the Premises by reason of a foreclosure of this Mortgage or Bank's acceptance of a conveyance of the Premises to Bank in lieu of foreclosure and (ii) was not caused or permitted to exist, in whole or part, by an act or omission of Mortgagor. Indemnification by Mortgagor under this paragraph shall not limit any other right or remedy (including Bank's right to accelerate payment of the Indebtedness) that is available to Bank by reason of the circumstance in respect of which indemnity is made. Mortgagor's obligations under this paragraph shall survive foreclosure of this Mortgage and any conveyance of the Premises in lieu of foreclosure.

#### 19. **Waivers.**

(a) Mortgagor and any other person who in the future obtains a mortgage or lien upon, or any other interest in, the Premises waives, with respect to any foreclosure of this Mortgage, (i) any right to marshaling of the Premises and any right to require a minimum bid or "upset" price, and (ii) the benefit of any stay, extension, exemption or moratorium law, now existing or later enacted.

(b) Bank may at any time release all or any part of the Premises from the lien of this Mortgage or release the liability of any person for the Indebtedness, with or without consideration and without giving notice to, or obtaining the consent of, the holder of any mortgage or lien upon, or other interest in, the Premises. A release shall not impair or affect the validity or priority of this Mortgage, regardless of the effect of the release upon the mortgage, lien or other interest or the holder of it. This subparagraph does not imply that Bank consents to the placing of a mortgage, lien or other encumbrance on the Premises.

(c) Mortgagor (i) waives notice of any advances or other extensions of credit included in the Indebtedness, (ii) waives any right to require Bank to sue upon or otherwise enforce payment of the Indebtedness or to enforce any security for it before exercising its rights and remedies under this Mortgage, and (iii) agrees that the validity and enforceability of this Mortgage shall not be impaired or affected by any failure of Bank to obtain or perfect, or to secure priority of, any other security at any time given, or agreed to be given, by any person for the Indebtedness.

(d) Bank is authorized, from time to time and without notice to or consent of Mortgagor and with or without consideration, to give and make any extensions, renewals, modifications, waivers, settlements and compromises, on such terms and conditions as Bank may see fit, with regard to any of the Indebtedness or with regard to any security for the Indebtedness. Any of these actions shall not impair or affect the validity or enforceability of this Mortgage.

20. **Expenses.** Mortgagor shall pay to Bank on demand all reasonable expenses, including reasonable attorney fees and legal expenses, paid or incurred by Bank in collecting or attempting to collect the Indebtedness or in protecting and enforcing the

rights of and obligations to Bank under any provision of this Mortgage, including, without limitation, taking any action in any bankruptcy, insolvency or reorganization proceeding concerning Mortgagor or foreclosing this Mortgage by advertisement or by action. The expenses shall bear interest, from the date paid or incurred by Bank, at the Default Rate.

21. **Application of Proceeds.** If any rents or profits or any proceeds of insurance or proceeds of any condemnation or eminent domain award or proceeds from any sale of the Premises at foreclosure are paid to Bank, Bank shall have the right to apply the rents or profits or proceeds, in amounts and proportions that Bank shall in its sole discretion determine, to the full or partial satisfaction of any or all of the indebtedness and obligations secured by this Mortgage, including any contingent or secondary obligations, whether or not they shall then be due and payable by the primary obligor.

22. **Other.** All notices to Mortgagor and to Bank shall be considered to be given upon either: (i) personal delivery thereof; or (ii) two (2) days after mailing by certified mail, return receipt requested by United States mail, postage prepaid. The provisions of this Mortgage shall be binding upon and inure to the benefit of Mortgagor and Bank and their respective successors, assigns, heirs and personal representatives. Any provision of this Mortgage prohibited or unenforceable by any applicable law shall be ineffective only to the extent and for the duration of the prohibition or unenforceability without invalidating the remaining provisions of this Mortgage.

IN WITNESS WHEREOF, Mortgagor has signed this Mortgage as of the date stated on the first page of this Mortgage.

MORTGAGOR:

**THE FIELDHOUSE LLC,**  
a Michigan limited liability company

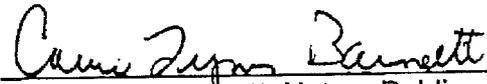
By: The Fieldhouse League Sports  
Facility Limited Partnership,  
a Michigan limited partnership  
Its: Sole Member

By: In a League of Its Own, Inc.,  
a Michigan corporation  
Its: General Partner

By:   
Brian D. Siegel  
Its: President

STATE OF MICHIGAN     )  
                                  ) ss  
COUNTY OF MACOMB    )

The foregoing instrument was acknowledged before me on July 28, 2004, by Brian D. Siegel, President of In a League of Its Own, Inc., a Michigan corporation, the General Partner of The Fieldhouse League Sports Facility Limited Partnership, a Michigan limited partnership, the sole Member of The Fieldhouse LLC, a Michigan limited liability company, on behalf of the company.



Carrie Lynn Barnett, Notary Public  
Macomb County, Michigan  
Acting in Macomb County, Michigan  
My Commission Expires: 2/23/2005

This instrument prepared by  
and when recorded return to:

G. Timothy Moore  
O'Reilly Rancilio P.C.  
12900 Hall Road, Suite 350  
Sterling Heights, MI 48313

**EXHIBIT "A" TO LEASEHOLD MORTGAGE****LEGAL DESCRIPTION**

Real property located in the City of Detroit, Wayne County, Michigan, described as:

A parcel of land in the northwest  $\frac{1}{4}$  of section 2, town 1 south, range 11 east, City of Detroit, Wayne County, Michigan and being more particularly described as commencing at the northwest corner of said section 2; thence south 01 degree 59 minutes 26 seconds east 33.00 feet to the north line of Germans Montrose Park Subdivision and the south right of way of Eight Mile Road; thence north 88 degrees 00 minutes 34 seconds east 1323.68 feet, on the north line of Germans Montrose Subdivision to the east line of said subdivision; thence south 01 degree 41 minutes 24 seconds east 1008.30 feet on the east lines of Germans Montrose Subdivision and State Fair Subdivision No. 2 to the south line of said State Fair Subdivision No. 2; thence south 88 degrees 21 minutes 23 seconds west 26.86 feet on said south line to a point on the northerly extension of the east wall line of the Agriculture Building; thence south 01 degree 34 minutes 55 seconds east 48.37 feet along said extension to the northeast corner of said building, said point also being the point of beginning; thence along the exterior wall line of said Agriculture Building for the following twelve (12) courses: 1) south 01 degree 34 minutes 55 seconds east 92.35 feet; 2) north 88 degrees 25 minutes 05 seconds east 10.50 feet; 3) south 01 degree 34 minutes 55 seconds east 59.00 feet; 4) south 88 degrees 25 minutes 05 seconds west 10.50 feet; 5) south 01 degree 34 minutes 55 seconds east 92.37 feet; 6) south 88 degrees 25 minutes 05 seconds west 11.95 feet; 7) south 01 degree 43 minutes 31 seconds east 11.00 feet; 8) south 88 degrees 16 minutes 29 seconds west 95.89 feet; 9) north 01 degree 43 minutes 31 seconds west 11.00 feet; (10) south 88 degrees 16 minutes 29 seconds west 12.00 feet; 11) north 01 degree 38 minutes 51 seconds west 243.74 feet; 12) north 88 degrees 17 minutes 55 seconds east 120.13 feet to the point of beginning.

TOGETHER WITH THE FOLLOWING NON-EXCLUSIVE EASEMENT FOR ACCESS / PARKING:

An Easement for Access and Parking, located in the northwest  $\frac{1}{4}$  of section 2, town 1 south, range 11 east, City of Detroit, Wayne County, Michigan and more particularly described as commencing at the northwest corner of said Section 2; thence south 01 degree 59 minutes 26 seconds east 33.00 feet to the north line of Germans Montrose Park Subdivision and the south right of way of Eight Mile Road; thence north 88 degrees 00 minutes 34 seconds east 1323.68 feet, on the north line of Germans Montrose Subdivision to the east line of said Subdivision and the point of beginning; thence south 01 degree 41 minutes 24 seconds east 1008.30 feet on the east lines of Germans Montrose Subdivision and State Fair Subdivision No. 2 to the south line of State Fair Subdivision No. 2; thence south 88 degrees 21 minutes 23 seconds west 1382.91 feet on said south line to the easterly right of way of Woodward Avenue; thence south 26 degrees 34 minutes 10 seconds east 72.78 feet on said right of way; thence north 88 degrees 21 minutes 23 seconds east 914.77 feet; thence north 01 degree 30 minutes 57 seconds west 16.22 feet;

thence north 88 degrees 09 minutes 55 seconds east 410.49 feet to the northeast corner of the Agriculture Building; thence along the east wall line of the Agriculture Building and its south extension for the next five (5) courses: 1) south 01 degree 34 minutes 55 seconds east 92.35 feet; 2) north 88 degrees 25 minutes 05 seconds east 10.50 feet; 3) south 01 degree 34 minutes 55 seconds east 59.00 feet; 4) south 88 degrees 25 minutes 05 seconds west 10.50 feet; 5) south 01 degree 34 minutes 55 seconds east 103.34 feet; thence north 88 degrees 16 minutes 29 seconds east 95.05 feet to the south extension of the west wall line of the Coliseum Building; thence along said extension and wall line for the next nine courses: 1) north 01 degree 39 minutes 22 seconds west 55.69 feet; 2) south 88 degrees 20 minutes 38 seconds west 1.71 feet; 3) north 01 degree 36 minutes 44 seconds west 27.96 feet; 4) north 86 degrees 33 minutes 27 seconds east 1.81 feet; 5) north 01 degree 41 minutes 23 seconds west 95.78 feet; 6) south 89 degrees 14 minutes 23 seconds west 9.56 feet; 7) north 01 degree 30 minutes 15 seconds west 55.32 feet; 8) north 88 degrees 29 minutes 45 seconds east 9.09 feet; 9) north 01 degree 30 minutes 15 seconds west 19.88 feet; thence south 88 degrees 29 minutes 45 seconds west 17.56 feet; thence north 01 degree 41 minutes 24 seconds west 1056.67 feet to the south right of way of Eight Mile Road; thence south 88 degrees 00 minutes 34 seconds west 50.00 feet along said south right of way to the point of beginning.

Ward 01, Tax Item No. 9845

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