IOWA STATE BAR ASSOCIATION
Official Form No. 13.1 (Trade-Mark Registered, State of Iowa, 1967)

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★ Note: This form has clauses for a six months' and a 60 day period of redemption. Use official Form No. 13.2 for the twelve months period.

REAL ESTATE MORTGAGE–IOWA

(Open-End: To Secure Present and Future Obligations and Advances)

This Indenture made this 18th day of December, A. D. 19 85

between Mandolfo Investments, Incorporated, a corporation organized under the laws of the State of Nebraska, and authorized to do business in the State of Iowa, Mortgagors

of the County of Cass, and the State of ~~Iowa~~ NE and

Pizza Hut, Inc.

Mortgagee

of the County of _____, and State of _____

WITNESSETH: That the said Mortgagors, in consideration of Two hundred thousand ---------- DOLLARS

($ 200,000.00) loaned by Mortgagee, received by Mortgagors, and evidenced by the promissory note hereinafter referred to, and such additional loan or loans at the option of the Mortgagee, referred to in Paragraph 1, below, do, by these presents SELL, CONVEY AND MORTGAGE, unto the said Mortgagee Pizza Hut, Inc.

(To create a joint tenancy for more than one Mortgagee, use appropriate words)

the following described Real Estate situated in the County of Madison, State of Iowa, to-wit:

Lot 7 of Helen McCall Huntoon Addition, Plat I to the City of Winterset, Madison County, Iowa.

FOR RELEASE OF ANNEXED MORTGAGE SEE MORTGAGE RECORD 145 PAGE 448

Compared

FILED NO. 1404
BOOK 144 PAGE 634
1986 JAN -9 AM 9:31
MARY E. WELTY
RECORDER
MADISON COUNTY, IOWA
Fee $10.00

together with all personal property that may integrally belong to, or be or hereafter become an integral part of said real estate, and whether attached or detached (such as, light fixtures, shades, rods, blinds, venetian blinds, awnings, storm windows, storm doors, screens, linoleum, water heater, water softener, automatic heating equipment and other attached fixtures), and hereby granting, conveying and mortgaging also all of the easements, servient estates appurtenant thereto, rents, issues, uses, profits and right to possession of said real estate, and all crops raised thereon from now until the debt secured thereby shall be paid in full. As to any such personal property, or fixtures, or both, a Security Interest hereby attaches thereto, as provided by the Uniform Commercial Code.

Said Mortgagors hereby covenant with Mortgagee, or successor in interest, that said Mortgagors hold clear title to said personal property, and title in fee simple to said real estate; that they have good and lawful authority to sell, convey and mortgage the same; that said premises are Free and Clear of all Liens and Encumbrances Whatsoever except as may be above stated; and said Mortgagors Covenant to Warrant and Defend the said premises and the said personal property against the lawful claims of all persons whomsoever, except as may be above stated.

Each of the undersigned hereby relinquishes all rights of dower, homestead and distributive share in and to the above described premises and waives all rights of exemption, as to any of said property.

CONDITIONED HOWEVER, That if said Mortgagors shall pay or cause to be paid to said Mortgagee, or his successors, or assigns said sum of money which shall be legal tender in payment of all debts and dues, public and private, at time of payment, all at the time, place, and upon the terms provided by one promissory note of Mortgagors to Mortgagee, of even date herewith, and as may be supplemented by loans under Paragraph I below, and shall perform the other provisions hereof, then these presents will be void, otherwise to remain in full force and effect.

1. **OPEN-END FEATURE.** This mortgage shall stand as security for said note, and for any and all future and additional advances made to the Mortgagors by the holder of said note in such amount or amounts so that **the total of such future additional advances outstanding and unpaid at any one time shall not exceed $**_____ and Mortgagee is hereby given authority to make such future and additional advances to Mortgagors herein, upon their signed order or receipt, and secured as the original obligation herein. Such limitation upon the total amount of principal shall not be considered as limiting the amounts secured hereby if for accruing interest or for any amount for any protective disbursement advanced, or that may be taxed as costs to protect the security for loan or loans made, in accordance with the terms and provisions contained in this mortgage. **THIS PARAGRAPH SHALL NOT CONSTITUTE A COMMITMENT TO MAKE ADDITIONAL LOANS IN ANY AMOUNT.**

2. **TAXES.** Mortgagors shall pay each installment of all taxes and special assessments of every kind, now or hereafter levied against said property, or any part thereof before same become delinquent, without notice or demand; and shall procure and deliver to said Mortgagee, on or before the fifteenth day of October of each year, duplicate receipts of the proper officers for the payment of all such taxes and assessments then due.

3. **INSURANCE.** Mortgagors shall keep in force insurance, premiums therefor to be prepaid without notice or demand, against loss by fire, tornado and other hazards, casualties and contingencies as Mortgagee may require on personal property as herein referred to, and on all buildings and improvements, in companies to be approved by Mortgagee in an amount not less than the full insurable value of such personal property and improvements or not less than the unpaid balance herein, whichever amount is smaller, with such insurance payable to Mortgagors and Mortgagee, as their interests may appear. Mortgagors shall promptly deposit such policies with proper riders with the Mortgagee.

4. **REPAIRS TO PROPERTY.** Mortgagors shall keep the buildings and other improvements on said premises in as good repair and condition as same may now be or are hereafter placed, ordinary wear and tear only excepted; and shall not suffer or commit waste on or to said security.

5. **ATTORNEYS' FEES.** In case of any action, or in any proceedings in any court, to collect any sums payable or secured by this mortgage, or to protect the lien or title herein of the Mortgagee, or in any other case permitted by law in which attorney fees may be collected from Mortgagors, or charged upon the above described property, Mortgagors agree to pay reasonable attorney fees.

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6. **CONTINUATION OF ABSTRACT.** *In event of any default herein by Mortgagors, Mortgagee may, at the expense of Mortgagors* procure an abstract of title, or continuation thereof, for said premises, and charge and add to the mortgage debt the cost of such abstract or continuation with interest upon such expense at the default rate provided in the note secured hereby.

7. **ADVANCES OPTIONAL WITH MORTGAGEE.** It is expressly understood and agreed that if the insurance above provided for is not promptly effected, or if the taxes or special assessments assessed against said property shall become delinquent, Mortgagee (whether electing to declare the whole mortgage due and collectible or not), may (but need not) effect the insurance above provided for, and need not, but may and is hereby authorized to pay said taxes and special assessments (irregularities in the levy or assessment of said taxes being expressly waived), and all such payments with interest thereon at the default rate provided in the note secured hereby from time of payment shall be a lien against said premises.

8.1. **ACCELERATION OF MATURITY AND RECEIVERSHIP.** It is agreed that if default shall be made in the payment of said note, or any part of the interest thereon, or any other advance or obligation which may be secured hereby or any agreed protective disbursement, such as *taxes, special assessments, insurance and repairs,* or if Mortgagors shall suffer or commit waste on or to said security, or if there shall be a failure to comply with any and every condition of this mortgage, then, at the option of the Mortgagee, said note and the whole of the indebtedness secured by this mortgage, including all payments for taxes, assessments or insurance premiums, shall become due and shall become collectible at once by foreclosure or otherwise after such default or failure, and without notice of broken conditions: and at any time after the commencement of an action in foreclosure, or during the period of redemption, the court having jurisdiction of the case shall, at the request of the Mortgagee, appoint a receiver to take immediate possession of said property, and of the rents and profits accruing therefrom, and to rent or cultivate the same as he may deem best for the interest of all parties concerned, and shall be liable to account to said Mortgagors only for the net profits, after application of rents, issues and profits upon the costs and expenses of the receivership and foreclosure and the indebtedness, charges and expenses hereby secured and herein mentioned. And it is hereby agreed, that after any default in the payment of either principal or interest, such sums in default secured by this mortgage shall draw interest at the default rate provided in the note secured hereby.

8.2. **SIX MONTHS' AND 60 DAY PERIOD FOR REDEMPTION.** It is further agreed that if this mortgage covers less than 10 acres of land, and in the event of the foreclosure of this mortgage and sale of the property by sheriff's sale in such foreclosure proceedings, the time of one year for redemption from said sale provided by the statutes of the State of Iowa shall be reduced to 6 months provided the Mortgagee, in such action files an election to waive any deficiency judgment against the Mortgagors which may arise out of the foreclosure proceedings; all to be consistent with the provisions of Chapter 628, Code of Iowa. It is further agreed that the period of redemption after a foreclosure of this mortgage shall be reduced to 60 days if all of the three following contingencies develop: (1) The mortgaged real estate herein is less than 10 acres in size; (2) the Court finds affirmatively that said real estate has been abandoned by the owners and those persons personally liable under this mortgage at the time of such foreclosure; and (3) the Mortgagee in such action files an election to waive any deficiency judgment against the Mortgagors or their successor in interest in such action. If the redemption period is so reduced, the Mortgagors or their successors in interest or the owner shall have the exclusive right to redeem for the first 30 days after such sale, and the time provided for redemption by creditors as provided in Sections 628.5, 628.15 and 628.16 of the Code shall be reduced to 40 days. Entry of appearance by pleading or docket entry by or on behalf of the Mortgagors shall be a presumption that the property is not abandoned. Any such short redemptive period shall be consistent with all of the provisions of Chapter 408, 62nd G. A., amending Chapter 628, Code of Iowa.

9. **DEFINITION OF TERMS.** Unless otherwise expressly stated the word "Mortgagors", as used here, includes successors in interest of such "Mortgagors"; the "Mortgagee", as used herein, unless otherwise expressly stated, includes the successors in interest of such "Mortgagee". All words referring to "Mortgagor" or "Mortgagee" shall be construed to be of the appropriate gender and number, according to the context. This construction shall include the acknowledgment hereof.

10. **The address of the Mortgagee is** 9111 E. Douglas, P. O. Box 428,
(Street and Number)

Wichita (City) Kansas (State) 67201 (Zip Code) (See last sentence of Section 447.9 I.C.A.)

11. **ADDITIONAL PROVISIONS.** The following additional provisions are hereby incorporated herein: **(Insert date of final payment if desired)** The date of the final payment of the principal obligation herein, the one promissory note above referred to is

(Date)

IN WITNESS WHEREOF, said Mortgagors have hereunto set their hands the day and year first above written.

MANDOLFO INVESTMENTS, INCORPORATED,

BY Joseph Mandolfo
President

Herbert J. Elworth
Assistant Secretary

Mortgagors

STATE OF IOWA, _____ COUNTY, ss:

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STATE OF ~~IOWA~~ NEBRASKA, CASS COUNTY, ss:

On this 18 day of December, A.D. 19 85, before me, the undersigned, a Notary Public in and for the State of ~~Iowa~~ NE, personally appeared Joseph Mandolfo and Herbert J. Elworth, to me personally known, who, being by me duly sworn, did say that they are the President and Assistant Secretary, respectively, of said corporation executing the within and foregoing instrument ~~xxxxxxxxxxxxxxxxxxxxxxxx~~ **to which this is attached,** that (no seal has been procured by the said) corporation; that said instrument was signed ~~(and sealed)~~ on behalf of (the seal affixed thereto is the seal of said)

said corporation by authority of its Board of Directors; and that the said Joseph Mandolfo and Herbert J. Elworth as such officers acknowledged the execution of said instrument to be the voluntary act and deed of said corporation, by it and by them voluntarily executed.

GENERAL NOTARY – State of Nebraska
TONDA J. HAITH
My Comm. Exp. July 13, 1988

Tonda J. Haith
_____, Notary Public in and for the State of Iowa.

IOWA STATE BAR ASSOCIATION
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(Sections 558.28 and 558.29, Code of Iowa)
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