

2  
This Instrument Prepared By:

Dale Corley, Esq.  
2100 16th Avenue South  
Suite 300  
Birmingham, AL 35205

MORTGAGE

STATE OF ALABAMA     )  
JEFFERSON COUNTY    )

KNOW ALL MEN BY THESE PRESENTS:

BOOK 449 PAGE 793  
THAT WHEREAS, AFTCO Properties, Inc., (hereinafter called "Mortgagors") is justly indebted to Florence B. Rutherford (hereinafter called "Mortgagee") in the sum of Four Million Seventy-Five Thousand Dollars (\$4,075,000.00), evidenced by promissory note of even date; and

WHEREAS, Mortgagor agreed, in incurring said indebtedness, that this mortgage should be given to secure the prompt payment thereof.

NOW, THEREFORE, in consideration of the premises, said Mortgagor, AFTCO Properties, Inc., does hereby grant, bargain, sell and convey unto the Mortgagee the following described real estate, situated in Shelby County, State of Alabama, to-wit:

Part of Section 20, Township 19 South, Range 2 West, Shelby County, Alabama, being more particularly described as follows:

Beginning at the southeast corner of the SW  $\frac{1}{4}$  of the SW  $\frac{1}{4}$  of said Section 20, run in a westerly direction along the south line of said SW  $\frac{1}{4}$  of SW  $\frac{1}{4}$  for a distance of 832.95 feet, more or less, to a point of intersection with the east right-of-way line of I-65 Highway; thence turn an angle to the right of 105°14'33" and run in a northeasterly direction along said right-of-way line for a distance of 875.62 feet to an existing concrete right-of-way monument; thence turn an angle to the left of 2°02'46" and run in a northeasterly direction along

2/5/9.

the said right-of-way line for a distance of 312.52 feet to an existing concrete right-of-way monument; thence turn an angle to the right of  $0^{\circ}47'12''$  and run in a northeasterly direction along said right-of-way line for a distance of 322.75 feet to an existing concrete right-of-way monument; thence turn an angle to the left of  $32^{\circ}13'41''$  and run in a northwesterly direction along said right-of-way line for a distance of 229.68 feet to an existing concrete right-of-way monument; thence turn an angle to the right and run along the curved right-of-way line of said I-65 Highway for a distance of 1,631.88 feet to an existing concrete right-of-way monument (said curve being concave in a westerly direction and having a radius of 4,009.72 feet); thence turn an angle to the left and run in a northwesterly direction along said right-of-way line for a distance of 725.42 feet, more or less, to a point of intersection with the north line of the SW  $\frac{1}{4}$  of NW  $\frac{1}{4}$  of said section; thence turn an angle to the right of  $110^{\circ}55'22''$  and run in an easterly direction along the north line of said SW  $\frac{1}{4}$  of NW  $\frac{1}{4}$  for a distance of 919.13 feet, more or less to the northeast corner of said SW  $\frac{1}{4}$  of NW  $\frac{1}{4}$ ; thence turn an angle to the right of  $88^{\circ}13'30''$  and run in a southerly direction along the east line of said SW  $\frac{1}{4}$  of NW  $\frac{1}{4}$  for a distance of 1,319.32 feet, more or less, to the southeast corner of said SW  $\frac{1}{4}$  of NW  $\frac{1}{4}$ ; thence turn an angle to the left of  $88^{\circ}25'48''$  and run in an easterly direction along the north line of the NE  $\frac{1}{4}$  of SW  $\frac{1}{4}$  of said section for a distance of 701.32 feet, more or less, to a corner of that parcel of land as described in deed book 277, page 204, in the Office of the Judge of Probate, Shelby County, Alabama; thence turn an angle to the left of  $55^{\circ}06'36''$  and run in a northeasterly direction a distance of 185.72 feet; thence turn an angle to the right of  $27^{\circ}59'56''$  and continue in a northeasterly direction a distance of 414.89 feet; thence turn an angle to the right of  $5^{\circ}46'56''$  and continue in a northeasterly direction a distance of 143.90 feet to its intersection with the east line of said SE  $\frac{1}{4}$  of NW  $\frac{1}{4}$ ; thence turn an angle to the left of  $70^{\circ}21'56''$  and run in a northerly direction along the east line of said  $\frac{1}{4}$ - $\frac{1}{4}$  a distance of 148.32 feet; thence turn an angle to the right of  $24^{\circ}40'30''$  and run in a northeasterly direction a distance of 98.4 feet; thence turn an angle to the right of  $42^{\circ}33'$  and run in a northeasterly direction a distance of 106.43 feet; thence turn an angle to the left of  $5^{\circ}37'$  and run in a northeasterly direction a distance of 87.53 feet; thence turn an angle to the right of  $5^{\circ}43'36''$  and run in a northeasterly direction a distance of 77.42 feet; thence turn an angle to the left of  $8^{\circ}54'$  and run in a northeasterly direction for a distance of 68.24 feet; thence turn an angle to the right of  $15^{\circ}13'12''$  and run in a northeasterly direction for a distance of 45.24 feet; thence turn an angle to the left of  $18^{\circ}52'$  and run in a northeasterly direction for a distance of 93.38 feet; thence turn an angle of  $3^{\circ}12'06''$  to the left and run in a northeasterly direction for a distance of 85.90 feet; thence turn an angle of  $2^{\circ}15'12''$  to the right and run in a northeasterly direction for a distance of 159.33 feet; thence turn an angle  $10^{\circ}13'12''$  to the left and run in a northeasterly direction for a distance of 84.80 feet to a point on the west line of Indian Valley Lake Estate 1st Sector, as recorded in map book 5, page 130, in the Office of the Judge of Probate, Shelby County, Alabama; thence turn an angle to the right of  $136^{\circ}24'$  and run in a southerly direction along said west line of said subdivision

for a distance of 1,076.40 feet to the southwest corner of Lot 17 in said subdivision; thence turn an angle to the left of  $88^{\circ}15'22''$  and run in an easterly direction along the south line of said Lot 17 for a distance of 197.52 feet; thence turn an angle to the right of  $88^{\circ}07'50''$  and run in a southerly direction along the west line of Indian Valley Lake Estate as recorded in map book 6, page 20, in the Office of the Judge of Probate, Shelby County, Alabama, for a distance of 1,047.31 feet; thence turn an angle to the left of  $52^{\circ}00'$  and run in a southeasterly direction for a distance of 234.46 feet to a point on the northwest right-of-way line of Valleydale Road; thence turn an angle to the right of  $101^{\circ}48'13''$  and run in a southwesterly direction along said Valleydale Road right-of-way line for a distance of 1,264.40 feet to an existing concrete right-of-way marker; thence turn an angle to the right of  $18^{\circ}20'10''$  and run in a southwesterly direction for a distance of 195.69 feet to an existing concrete right-of-way monument; thence turn an angle to the left of  $11^{\circ}00'$  and run in a southwesterly direction along said Valleydale Road right-of-way line for a distance of 778.33 feet to an existing concrete right-of-way monument; thence turn an angle to the left of  $0^{\circ}28'58''$  and run in a southwesterly direction along said right-of-way line for a distance of 135.81 feet to a point of intersection with the south line of SE  $\frac{1}{4}$  of SW  $\frac{1}{4}$  of said Section 20; thence turn an angle to the right of  $34^{\circ}53'40''$  and run in a westerly direction along the south line of said SE  $\frac{1}{4}$  of SW  $\frac{1}{4}$  of Section 20 for a distance of 516.39 feet, more or less, to the point of beginning.

LESS AND EXCEPT that 60 foot right-of-way for Indian Valley Lake Drive, as shown on map book 6, page 18, recorded in the Office of the Judge of Probate, Shelby County, Alabama.

Total acreage excluding the road right-of-way is 183.03 acres, more or less.

Said property is warranted free from all encumbrances and against any adverse claims, except as stated above. THIS IS A PURCHASE MONEY MORTGAGE.

As further terms and conditions of this said mortgage, the Mortgagor agrees to the following terms, which shall remain in effect, the breach thereof being a default in this said mortgage:

1. Release Provisions - The Mortgagor may request of the Mortgagee a release of certain tracts, which are a part of the said mortgage property set forth hereinabove. A schedule of the said tracts are as described on

BOOK 449 PAGE 796

Exhibit "A" hereto, further designated on a master plan for the development of all of the said property which is the subject of this mortgage, said master plan being dated and initialed the 31st day of May, 1984, as prepared by Robert Enoch, landscape architect. A copy of said master plan shall be delivered to the Mortgagee by the Mortgagor upon the execution of this said mortgage and said master plan shall be altered for release purposes, only upon the mutual consent of the Mortgagor and Mortgagee. The release schedule, Exhibit A, designates the sum required to release one or more of the said tracts. In addition to these sums, if the Mortgagor requests a release of more than one-half (50%) of the road frontage along Valley Dale Road (County Highway 119) and at the time of such request the Mortgagee has not been paid a minimum of one-half (50%) of the principal of this said mortgage and the promissory note represented hereby, then in such event, the Mortgagee may require for such release a substitution of collateral in addition to the said mortgage which shall be mutually agreed upon in an amount sufficient to cause the remaining balance of this said mortgage to be not less than one-half (50%) of its original amount stated herein. This substituted collateral shall be cumulative with this said mortgage.

2. Release of Roads, Rights-of-Ways and Easements -

In the event the Mortgagor requests a release of any road way, right of way, or easement which may be necessary for the development of the master plan, the mortgagee shall release any such parcel upon the presentment of a engineering drawing depicting the portion to be released with a legal description which said release shall be held in escrow by Frank C. Ellis, Jr. to be delivered upon payment of the release sum and the Mortgagor shall not be required to make payment thereon until such street, road or other such improvement shall be completed for actual use or dedication to Shelby County, whichever occurs first. The Mortgagor may commence improvement

of said streets and roads in accordance with the master plan, at any time without further approval of the Mortgagee. Upon the delivery of the release, the Mortgagor shall pay to the Mortgagee 1.25 times the per acre price of \$25,000.00 or the sum of \$31,250.00 per acre so released.

3. Maintenance of Lakes - The Mortgagor agrees to maintain the lakes in a reasonable manner until the mortgage is paid in full, however, in the event that one or more of the lakes require alteration or elimination in order for the Mortgagor to properly utilize the property at his sole discretion, then Mortgagees shall not object to such actions by the Mortgagor. If the Mortgagor unreasonably alters or damages one or more of the lakes, then he will reasonably restore the same until the same mortgage is paid in full.

4. The Mortgagor shall make available all engineering data relative to sewer, water, gas, electricity and telephone improvements and the Mortgagor shall not remove any of these said improvements to which it may have any rights or claims, in the event of a default.

TO HAVE AND TO HOLD the above granted property unto said Mortgagee, Mortgagee's successors, heirs, and assigns forever; and for the purpose of further securing the payment of said indebtedness, the undersigned agrees to pay all taxes or assessments when imposed legally upon said premises, and should default be made in the payment of same, the said Mortgagee may at Mortgagee's option pay off the same; all amounts so expended by said Mortgagee for taxes or assessments shall become a debt to said Mortgagee or assigns, additional to the debt hereby specially secured, and shall be covered by this Mortgage, and bear interest from date of payment by said Mortgagee, or assigns, and be at once due and payable. In the event of a default of this mortgage, the mortgagee or purchaser at foreclosure shall have the perpetual right to use any roads installed on such property prior to the foreclosure which said right shall run with the remaining land not previously released from this mortgage.

BOOK 449 PAGE 797

Upon condition, however, that if the said Mortgagor pays said indebtedness, and reimburses said Mortgagee or assigns for any amounts Mortgagees may have expended for taxes and assessments and interest thereon, then this conveyance to be null and void; but should default be made in the payment of any sum expended by the said Mortgagee or assigns, or should said indebtedness hereby secured, or any part thereof, or the interest thereon, remain unpaid at maturity, or should the interest of said Mortgagee or assigns in said property become endangered by reason of the enforcement of any prior lien or encumbrance thereon, so as to endanger the debt hereby secured, then in any one of said events, the whole of said indebtedness hereby secured shall at once become due and payable, and this mortgage shall be subject to foreclosure as now provided by law in case of past due mortgages, and the said Mortgagee, agents or assigns, shall be authorized to take possession of the premises hereby conveyed, and with or without first taking possession, after giving twenty-one days' notice, by publishing once a week for three consecutive weeks, the time, place and terms of sale, by publication in some newspaper published in said County and State, sell the same in lots or parcels or en masse as Mortgagee, agents or assigns deem best, in front of the Court House door of said County, (or the division thereof) where said property is located, at public outcry, to the highest bidder for cash, and apply the proceeds of the sale: First, to the expense of advertising, selling and conveying, including a reasonable attorney's fee; Second, to the payment of any amounts that may have been expended, or that it may then be necessary to expend, in paying taxes or other encumbrances, with interest thereon; third, to the payment of said indebtedness in full, whether the same shall or shall not have fully matured at the date of said sale, but no interest shall be collected beyond the day of sale; and fourth, the balance, if any, to be turned over to the said Mortgagor and undersigned

further agree that said Mortgagee, agents or assigns may bid at said sale and purchase said property, if the highest bidder therefor; and undersigned further agree to pay a reasonable attorney's fee to said Mortgagee or assigns, for the foreclosure of this mortgage in Chancery, should the same be so foreclosed, said fee to be a part of the debt hereby secured.

IN WITNESS WHEREOF, the undersigned have hereunto set their signature and seal, this the 31<sup>st</sup> day of May, 1984.

attest:

Bon Mout  
Secretary

AFTCO PROPERTIES, INC.

By Albert F. Thomasson  
Albert F. Thomasson  
Its President

STATE OF ALABAMA     )  
JEFFERSON COUNTY     )

I, the undersigned, a Notary Public, in and for said County, in said State, hereby certify that Albert F. Thomasson, whose name as President of AFTCO Properties, Inc., a corporation, is signed to the foregoing conveyance and who is known to me, acknowledged before me on this day that, being informed of the contents of the conveyance, he, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand and seal this the 31<sup>st</sup> day of May, 1984.

Daniel  
Notary Public

BOOK 449 PAGE 799



## EXHIBIT "A"

SOUTHLAKE PROJECT  
RELEASE SCHEDULE  
1984

	SIZE	\$/SF/AC	AMOUNT
SHOPPING CTR SITE	12.60	43750	551,250
C-1	0.90	43750	39,375
C-2	1.00	43750	43,750
C-3	2.80	43750	122,500
C-4	1.30	43750	56,875
C-5	0.60	43750	26,250
C-6	0.50	43750	21,875
C-7	0.60	43750	26,250
C-8	0.60	43750	26,250
OFFICE DEVELOPMENT			
SINGLE BLDG SITES			
O-6	3.10	31250	96,875
O-7	3.10	31250	96,875
O-14	1.00	43750	43,750
OFFICE COMPLEX SITES			
OC-1	4.80	31250	150,000
OC-2	6.44	31250	201,250
OC-3	3.82	31250	119,375
OC-4	15.48	31250	483,750
OC-5	29.40	31250	918,750
OC-6	2.48	31250	77,500
RIVERBEND-RUTHERFORD	20.00	31250	625,000
APARTMENT SITE (216 u's)	26.24	31250	820,000
CONDO DEVELOPMENT			
LAKE SIDE SITE (45 u's)	12.50	31250	390,625
HILL SIDE SITE (84 u's)	18.50	31250	578,125
TOTAL R'FORD RELEASE	167.76		5,516,250

BOOK 449 PAGE 800

STATE OF ALA. SHELBY CO. (6)  
I CERTIFY THIS  
INSTRUMENT IS

1984 MAY 31 PM 4:15

Mtg. Tax - 6112.50

Rec. 12.00

Ind. 1.00

6125.50