

# MORTGAGE

STATE OF ALABAMA

COUNTY OF

Blount

This MORTGAGE, made this the 19th day of Janury, 1985

KNOW ALL MEN BY THESE PRESENTS: That, BMG Properities

(hereinafter called the Mortgagor), has become justly indebted to THE CITIZENS BANK, ONEONTA, ALABAMA, a corporation, (hereinafter called the Mortgagee), in the sum of Forty-eight thousand

DOLLARS (\$48,000.00 ),

and no/100----- money lent and advanced (including interest with interest from date) at the rate of Bank's Prime Rate ~~per annum~~ per annum on the balance until paid, for which amount the Mortgagor has signed and delivered unto the said Mortgagee a certain promissory note bearing even date with these presents and/or making reference to this Mortgage, the said principal and interest to be payable at the office of THE CITIZENS BANK, ONEONTA, BLOUNT COUNTY, Alabama, or at such other place as the holder may designate in writing. ~~in monthly installments of~~

~~and on the same day of each month thereafter~~ ~~until said principal and interest have been paid in full.~~

In addition to the specific indebtedness above described, this mortgage shall also secure any other indebtedness by the Mortgagor to the Mortgagee which may hereafter arise, whether said other indebtedness be evidenced by note or by open account, or otherwise, irrespective of the amount. Any payments made may, at the option of the Mortgagee, be applied in reduction of the original indebtedness hereby secured, or in reduction of any subsequent indebtedness hereby secured.

NOW, THEREFORE, THIS INDENTURE WITNESSETH: That Mortgagor, BMG Properities

for the purpose of securing (1) payment of said indebtedness as in said note provided, (2) payment of all other moneys secured hereby (3) payment of any additional indebtedness owing by the Mortgagor to the Mortgagee prior to the full payment of the indebtedness secured hereby, and (4) the performance of all the covenants, conditions, stipulations and agreements herein contained, do hereby grant, bargain sell, convey and confirm unto Mortgagee the following described

lands and premises situated in Shelby County, Alabama.

Part of the E $\frac{1}{2}$  of the SW $\frac{1}{2}$  of Section 30, Township 19 South, Range 2 West, Shelby County, Alabama, being more particularly described as follows: Beginning at the Southwest corner of Lot 2, 2nd Amendment Commercial Subdivision Riverchase East First Sector as recorded in the Office of the Judge of Probate Shelby County, Alabama, in Map Book 6, Page 99, run in a Northerly direction along the West line of said Lot 2 for a distance of 175.00 feet; thence turn an angle to the left of 90 degrees and run in a Westerly direction for a distance of 161.95 feet; thence turn an angle to the left 90 degrees and run in a Southerly direction for a distance of 278.29 feet, more or less, to a point on the North right-of-way line of Valleydale Road; thence turn an angle to the left of 122 degrees 31 minutes 43 seconds and run in a Northeasterly direction along said North right-of-way line of Valleydale Road for a distance of 192.03 feet more or less to the point of beginning.

According to the Survey of Laurence D. Weygand, REG. P.E. & L.S. #10373, dated October 15, 1984.

Together with all rights, privileges, interest, easements, improvements, tenements, hereditaments and appurtenances thereunto belonging or pertaining, and all fixtures, equipment and appliances now or subsequently attached to or used in connection with said premises, and all the rents, issues, and profits thereof (all said property being herein referred to as "the premises").

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

As further security for payment of said indebtedness and any additional indebtedness owing by the Mortgagor to the Mortgagee prior to the full payment of the indebtedness secured hereby and performance of the obligations, covenants and agreements secured hereby, Mortgagor hereby transfers, sets over and assigns to Mortgagee:

First Citizens Bank

of Alabama

P. O. Box

Oneonta, Alabama 35121

a. All rents, issues and profits of the premises from time to time accruing, whether under leases or tenancies now existing or hereafter created, reserving to Mortgagor, however, so long as Mortgagor is not in default hereunder, the right to receive and retain such rents, issues and profits.

b. All judgments, awards or damages and settlements hereafter made as a result or in lieu of any taking of the premises or any part thereof under the power of eminent domain, or for any damage (whether caused by such taking or otherwise) to the premises or the improvements thereon or any part thereof.

Mortgagor covenants and agrees with Mortgagee as follows:

1. Mortgagor is lawfully seized of an indefeasible estate in fee simple, free from encumbrances, has good right and power to convey the premises, and does hereby warrant and will forever defend it against the lawful claims of all persons whomsoever.

2. To pay all sums secured hereby when due.

3. To pay, when due, all taxes and assessments of every type or nature levied or assessed against the premises or upon Mortgagee's interest therein, and any claim, lien or encumbrance against the premises which may be or become prior to this mortgage.

4. The said Mortgagor, if required, shall procure or cause to be procured from some reliable life insurance company, a policy or policies of life insurance of a kind and amount satisfactory to the Mortgagee on the life of some person acceptable to said Mortgagee as an insurance risk until the debt secured hereby is paid, and as additional collateral for the indebtedness hereunder secured will keep said policy or policies constantly assigned to said Mortgagee in accordance with the terms of a form of assignment to be furnished by said Mortgagee.

5. If required presently or in the future by the Mortgagee, the Mortgagor shall also make monthly deposits with the Mortgagee, in a non-interest bearing account, together with, at the time of, and in addition to the required payments under the terms of said note, of a sum equal to one-twelfth (1/12) of the estimated yearly taxes and assessments levied or to be levied against the premises herein described, together with a sum equal to one-twelfth (1/12) of the known or estimated yearly premiums necessary to maintain the life insurance herein described and the insurance on the premises herein described, all as estimated by the Mortgagee. Such deposits shall be applied by the Mortgagee to the payment of such taxes, assessments and insurance premiums when due. Any insufficiency of such account to pay such taxes, assessments and insurance premiums when due shall be payable by the Mortgagor on demand. Upon default in any obligation under this paragraph, the Mortgagee may apply any excess of payments so made to any obligation when due under this mortgage, and upon such default the Mortgagee may also at its option declare the entire sum of principal and interest secured by this mortgage due and payable at once without notice. The Mortgagee may at any time hereafter at its option waive, and after such waiver reinstate, any or all of the provisions of this paragraph with respect to the making of monthly deposits for estimated yearly taxes and assessments and insurance premiums, by notifying the Mortgagor in writing of such waiver or reinstatement. While any such waiver is in effect the Mortgagor covenants and agrees to pay taxes, assessments or insurance premiums, as to which monthly deposits have been waived, as elsewhere provided in this mortgage.

6. To pay all taxes which may be assessed upon this mortgage, or said note, or indebtedness secured hereby, without regard to any law, heretofore or hereafter enacted, imposing payment of all or any part thereof upon Mortgagee. In event of enactment of any law imposing payment of all or any portion of any such taxes upon Mortgagee, or the rendering by any court of competent jurisdiction of a decision that the undertaking by Mortgagor, as herein provided, to pay such tax or taxes is legally inoperative, then, unless Mortgagor nevertheless pays such taxes, all sums hereby secured, without any deduction, shall at the option of Mortgagee become immediately due and payable, notwithstanding anything contained herein or any law heretofore or hereafter enacted.

7. To keep the premises insured against loss or damage by fire, windstorm and such other hazards as may be required by Mortgagee, in form and amounts satisfactory to, and in insurance companies approved by Mortgagee, the policies for which insurance shall be payable to Mortgagee. Such policies, and abstracts and other title evidence, shall be delivered to and held by Mortgagee without liability. Upon foreclosure of this mortgage or other acquisition of the premises or any part thereof by Mortgagee, said policies, abstracts and title evidence shall become the absolute property of Mortgagee.

8. That Mortgagor (i) will not remove or demolish nor alter the design or structural character of any building now or hereafter erected upon the premises, nor remove or permit the removal of any fixtures, equipment or appliances therefrom, unless Mortgagee shall first consent thereto in writing; (ii) will maintain the premises in good condition and repair; (iii) will not commit or suffer waste thereof; (iv) will not cut or remove nor suffer the cutting or removal of any trees or timber on the premises (except for domestic purposes) without Mortgagee's written consent; (v) will comply with all laws, ordinances, regulations, covenants, conditions and restrictions affecting the premises, and will not suffer or permit any violation thereof.

9. If Mortgagor fails to pay any claim, lien or encumbrance which is prior to this mortgage, or, when due, any tax or assessment or insurance premium, or to keep the premises in repair, or shall commit or permit waste, or if there be commenced any action or proceeding affecting the premises or the title thereto, then Mortgagee, at its option, may pay said claim, lien, encumbrance, tax, assessment or premium, with right of subrogation thereunder, may procure such abstracts or other evidence of title as it deems necessary, may make such repairs and take such steps as it deems advisable to prevent or cure such waste, and may appear in any such action or proceeding and retain counsel therein, and take such action therein as Mortgagee deems advisable, and for any of said purposes Mortgagee may advance such sums of money as it deems necessary. Mortgagee shall be the sole judge of the legality, validity and priority of any such claim, lien, encumbrance, tax assessment and premium, and of the amount necessary to be paid in satisfaction thereof.

10. Mortgagor will pay to Mortgagee, immediately and without demand, all sums of money advanced by Mortgagee pursuant to this mortgage, together with interest on each such advancement at the rate of eight per cent per annum, and all such sums and interest thereon shall be secured hereby.

11. Upon request of Mortgagor, Mortgagee may, at its sole option, from time to time before full payment of all indebtedness secured hereby, make further advances to Mortgagor. Mortgagor shall execute and deliver to Mortgagee a note evidencing each and every such further advance which Mortgagee may make, such note to be payable on or before maturity of the indebtedness secured hereby and to contain such terms as Mortgagee shall require. Mortgagor shall pay all such further advances with interest, and the same, and each note evidencing the same, shall be secured hereby. All provisions of this mortgage shall apply to each further advance as well as to all other indebtedness secured hereby. The word "Mortgagor" as used in this paragraph, includes any successor in ownership of the premises.

12. If default be made in payment of any installment of principal or interest of said note, or any part thereof, when due, or in the payment, when due, of any additional indebtedness owing by the Mortgagor to the Mortgagee, or in payment, when due, of any other sum secured hereby, or in performance of any of Mortgagor's obligations, covenants or agreements hereunder,

(a) All of the indebtedness secured hereby shall become and be immediately due and payable at the option of Mortgagee without notice or demand which are hereby expressly waived, and this mortgage may be foreclosed, at the option of Mortgagee, and Mortgagee shall have the right and is hereby authorized to enter upon and take possession of said property, and, after or without taking possession, to sell the same before the County courthouse door in the County in which the above described premises or a part thereof is situated, at public outcry, for cash, after first giving twenty-one days' notice

of the time, place and terms of such sale, by publication once a week for three successive weeks immediately prior to said sale, in some newspaper published in the county in which the above described premises or a part thereof is situated, all in compliance with the laws of Alabama, and upon the payment of the purchase money shall execute to the purchaser at such sale a deed to the property so purchased. The proceeds of said sale Mortgagee shall apply first to the expenses incurred hereunder, including a reasonable attorney's fee for such services as may be incurred for the collection of said indebtedness and the foreclosure of this mortgage; then to the payment of whatever sum or sums Mortgagee may have paid or become liable to pay in carrying out the terms and stipulations of this mortgage, together with interest thereon; then to payment of any other indebtedness owing by the Mortgagor to the Mortgagee; and, finally, to the payment and satisfaction of said note. The balance (if any) shall be paid over to Mortgagor. In the event of a sale under the power contained herein Mortgagee may purchase said property at such sale, and in that case the auctioneer is hereby authorized and empowered to execute a deed to the purchaser in the name and on behalf of Mortgagor herein, or

(b) This mortgage may be foreclosed by suit in equity, in which case a reasonable attorney's fee shall, among other expenses and costs, be first allowed and paid out of the proceeds of the sale of said property.

(c) Irrespective of whether Mortgagee accelerates the maturity of all indebtedness secured hereby, or institutes foreclosure proceedings, Mortgagee may collect the rents, issues and profits of the premises, and may enter and take possession thereof and manage and operate the same and take any action which, in Mortgagee's judgment, is necessary or proper to conserve the value of the premises, or Mortgagee at its option may have a receiver appointed to take possession of the premises, to manage, operate and conserve the value thereof and to collect the rents, issues and profits thereof. Either Mortgagee or such receiver may also take possession of, and for these purposes use, any and all personal property contained in the premises and used by Mortgagor in the rental or leasing thereof or any part thereof. The right to enter and take possession of the premises and use any personal property therein, to manage, operate and conserve the same, and to collect the rents, issues and profits thereof, whether by a receiver or otherwise, shall be in addition to all other rights or remedies of Mortgagee hereunder or afforded by law, and may be exercised concurrently therewith or independently thereof. After paying costs of collection and any other expenses incurred the proceeds shall be applied to the payment of the indebtedness secured hereby in such order as Mortgagee shall elect, and Mortgagee shall not be liable to account to Mortgagor for any action taken pursuant hereto other than to account for any rents actually received by Mortgagee.

13. If the indebtedness secured hereby is now or hereafter further secured by chattel mortgage, pledges, contracts of guaranty, assignments of leases, or other securities, Mortgagee may at its option exhaust any one or more of said securities and the security hereunder, either concurrently or independently, and in such order as it may determine.

14. No failure of Mortgagee to exercise any option herein given to declare the maturity of the debt hereby secured, no forbearance by Mortgagee after the exercise of such option and no withdrawal or abandonment of foreclosure proceedings by Mortgagee after the exercise of such option shall be taken or construed as a waiver of its right to exercise such option or to declare such maturity by reason of any past, present or future default on the part of Mortgagor; and, in like manner, the procurement of insurance or the payment of taxes or other liens, debts or charges by Mortgagee shall not be taken or construed as a waiver of its right to declare the maturity of the indebtedness hereby secured by reason of the failure of Mortgagor to procure such insurance or to pay such taxes, debts, liens or charges.

15. Without affecting the liability of any person (other than any person released pursuant hereto) for payment of any indebtedness secured hereby, and without affecting the lien hereof upon any property not released, pursuant hereto, Mortgagee may at any time and from time to time, without notice:

- a. Release any person liable for payment of any indebtedness secured hereby.
- b. Extend the time, or agree to alter the terms, of payment of any of the indebtedness.
- c. Accept additional security of any kind.
- d. Release any property securing the indebtedness.
- e. Consent to the making of any map or plat of the premises, or the creation of any easements thereon or any covenants restricting use or occupancy thereof.

16. Any agreement hereafter made by Mortgagor and Mortgagee pursuant to this mortgage shall be superior to the rights of the holder of any intervening lien or encumbrance.




17. When all indebtedness secured hereby has been paid, this mortgage and all assignments herein contained shall be void and this mortgage shall be released by Mortgagee at the cost and expense of Mortgagor; otherwise, to remain in full force and effect.

18. This mortgage shall inure to and bind the heirs, legatees, devisees, administrators, executors, successors and assigns of the parties hereto. Whenever used herein, the singular number shall include the plural, the plural the singular, and the use of any gender shall be applicable to all genders.

19. This mortgage shall become immediately due and payable, at the option of the Mortgagee, if the Mortgagor shall sell, assign, lease-sell, transfer or encumber the above described property, voluntarily or otherwise, without the written consent of the Mortgagee.

20. The Mortgagee may collect a "late charge", not to exceed five cents (5 cents) for each one dollar (\$1.00) of each payment more than ten (10) days in arrears to cover the additional expense involved in handling delinquent payments.

Given under our hands and seals on the day and year first above written.

 (SEAL)  
 (SEAL)  
 (SEAL)  
\_\_\_\_ (SEAL)

STATE OF ALABAMA  
COUNTY OF

I, DEBORAH N. KENT

, a Notary Public in and for said State and County, hereby

certify that

whose name                      signed to the foregoing conveyance, and who

known to me, acknowledged before me on

this day that, being informed of the contents of the conveyance,  
same bears date.

executed the same voluntarily, on the day the

Given under my hand and seal this the

19 ~~30~~ day of January  
DWK

Deborah N. Kent  
NOTARY PUBLIC

1985



RECORDING FEES

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

1985 JAN 30 AM 9:02

Thomas A. Henderson, Jr.  
JUDGE OF PROBATE

Mortgage Tax	\$ <u>72.00</u>
Deed Tax	<u>          </u>
Mineral Tax	<u>          </u>
Recording Fee	<u>10.00</u>
Index Fee	<u>1.00</u>
TOTAL	\$ <u>83.00</u>

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NO \_\_\_\_\_

TO

THE CITIZENS BANK  
ONEONTA, ALABAMA

MORTGAGE

STATE OF ALABAMA,  
COUNTY OF

I, the undersigned Judge of Probate, in and  
for said County in said State, hereby certify  
that the within mortgage was filed for record

in this office on the \_\_\_\_\_ day of \_\_\_\_\_

19\_\_\_\_, and was

recorded in Book \_\_\_\_\_, Page \_\_\_\_\_ on the

\_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_

and fees paid thereon as follows:

Filing Fee	\$	.25
Recording Fee	\$	
Mortgage Tax	\$	
TOTAL	\$	

Judge of Probate