

# STATE OF ALABAMA — UNIFORM COMMERCIAL CODE — FINANCING STATEMENT FORM UCC-1 ALA.

**Important: Read Instructions on Back Before Filling out Form.**

REORDER FROM  
MODERN LAW FORMS  
ITASCA, IL  
(708) 875-1122

1-90

<input type="checkbox"/> The Debtor is a transmitting utility as defined in ALA CODE 7-9-105(n).	No. of Additional Sheets Presented: <b>6</b>	This FINANCING STATEMENT is presented to a Filing Officer for filing pursuant to the Uniform Commercial Code.
1. Return copy or recorded original to:  Roger Simon, Esq. Katten, Muchin & Zavis 1025 Thomas Jefferson Street, NW Suite 700 East Washington, DC 20007-5201 Pre-paid Acct. # _____		THIS SPACE FOR USE OF FILING OFFICER Date, Time, Number & Filing Office  <div style="text-align: center; font-weight: bold; transform: rotate(-90deg); transform-origin: center;">             Inst # 1997-20725              07/02/1997-20725              12:23 PM CERTIFIED              SHELBY COUNTY JUDGE OF PROBATE              008 SNA 21.00           </div>
2. Name and Address of Debtor (Last Name First if a Person)  Candlewood Birmingham, LLC c/o Candlewood Hotel Company, Inc. 9342 East Central Wichita, KS 67208  Social Security/Tax ID # _____		
2A. Name and Address of Debtor (IF ANY) (Last Name First if a Person)       Social Security/Tax ID # _____		
<input type="checkbox"/> Additional debtors on attached UCC-E		
3. SECURED PARTY name and address (Last Name First if a Person)  GMAC Commercial Mortgage Corporation 100 South Wacker Drive, Suite 400 Chicago, IL 60606 Attn: Phillip J. Keel Social Security/Tax ID # _____		4. ASSIGNEE OF SECURED PARTY (IF ANY) (Last Name First if a Person)       
<input type="checkbox"/> Additional secured parties on attached UCC-E		

5. The Financing Statement Covers the Following Types (or items) of Property:

See Schedule A and Exhibit A attached hereto and incorporated by reference herein.

5A. Enter Code(s) From Back of Form That Best Describes The Collateral Covered By This Filing:

0 0 0	8 0 0
1 0 0	— — —
2 0 0	— — —
3 0 0	— — —
5 0 0	— — —
6 0 0	— 1 —
7 0 0	— — —

Check X if covered: <input type="checkbox"/> Products of Collateral are also covered. 6. This statement is filed without the debtor's signature to perfect a security interest in collateral (check X, if so) <input type="checkbox"/> already subject to a security interest in another jurisdiction when it was brought into this state. <input type="checkbox"/> already subject to a security interest in another jurisdiction when debtor's location changed to this state <input type="checkbox"/> which is proceeds of the original collateral described above in which a security interest is perfected. <input type="checkbox"/> acquired after a change of name, identity or corporate structure of debtor <input type="checkbox"/> as to which the filing has lapsed.	Filed with <u>Judge of Probate</u> 7. Complete only when filing with the Judge of Probate: The initial indebtedness secured by this financing statement is \$ <u>4,450,000.00</u> Mortgage tax due (15¢ per \$100.00 or fraction thereof) \$ <u>6,675.00</u> 8. <input checked="" type="checkbox"/> This financing statement covers timber to be cut, crops, or fixtures and is to be cross indexed in the real estate mortgage records (Describe real estate and if debtor does not have an interest of record, give name of record owner in Box 5) <div style="text-align: right;">           Signature(s) of Secured Party(ies)            (Required only if filed without debtor's Signature — see Box 6)         </div>
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See attached signature page

Signature(s) of Debtor(s)   Signature(s) of Debtor(s)   Type Name of Individual or Business	Signature(s) of Secured Party(ies) or Assignee   Signature(s) of Secured Party(ies) or Assignee   Type Name of Individual or Business
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SIGNATURE PAGE TO UCC-1 FINANCING STATEMENT  
CANDLEWOOD BIRMINGHAM, LLC, DEBTOR  
GMAC COMMERCIAL MORTGAGE CORPORATION, SECURED PARTY

DEBTOR:

CANDLEWOOD BIRMINGHAM, LLC,  
a Delaware limited liability company

By: Candlewood Hotel Company, Inc.,  
a Delaware corporation, Manager

By: Kent L. Brown (SEAL)  
Name: Kent L. Brown  
Title: Vice President - Controller

Date: June 25, 1997

SCHEDULE A TO  
UCC-1 FINANCING STATEMENT  
CANDLEWOOD BIRMINGHAM, LLC, DEBTOR  
GMAC COMMERCIAL MORTGAGE CORPORATION, SECURED PARTY

All machinery, furnishings and equipment including, without limitation, all furnaces, boilers, oil burners, radiators and piping, coal stokers, refrigeration and sprinkler systems, wash-tubs, sinks, gas and electric fixtures, awnings, window shades, kitchen cabinets, plants and shrubbery and all other equipment and machinery, appliances, fittings and fixtures of every kind in or used in the operation of certain lands in Shelby County, State of Alabama, more particularly described in Exhibit A attached hereto and made a part hereof (collectively, the "Land"; together with all of the following described property, collectively, the "Property"), together with any and all replacements thereof and additions thereto, fixtures (including, without limitation, all heating, air conditioning, plumbing and bathroom, lighting, communications and elevator fixtures), inventory and articles of personal property and accessions thereof and renewals, replacements thereof and substitutions therefor (including, without limitation, beds, bureaus, chiffonniers, chests, chairs, desks, lamps, mirrors, bookcases, tables, rugs, carpeting, drapes, draperies, curtains, shades, venetian blinds, screens, paintings, hangings, pictures, divans, couches, luggage carts, luggage racks, stools, sofas, chinaware, linens, pillows, blankets, glassware, foodcarts, cookware, dry cleaning facilities, dining room wagons, keys or other entry systems, bars, bar fixtures, liquor and other drink dispensers, icemakers, radios, clock radios, television sets, intercom and paging equipment, electric and electronic equipment, dictating equipment, private telephone systems, medical equipment, potted plants, heating, lighting and plumbing fixtures, fire prevention and extinguishing apparatus, cooling and air conditioning systems, elevators, escalators, fittings, plants, apparatus, stoves, ranges, refrigerators, laundry machines, tools, machinery, engines, dynamos, motors, boilers, incinerators, switchboards, conduits, compressors, vacuum cleaning systems, floor cleaning, waxing and polishing equipment, call systems, brackets, electrical signs, bulbs, bells, fuel, conveyors, cabinets, lockers, shelving, spotlighting equipment, dishwashers, garbage disposals, washer and dryers), other customary equipment and other property of every kind and nature, whether tangible or intangible, whatsoever owned by Debtor, or in which Debtor has or shall have an interest, now or hereafter located upon the Land and the buildings, structures and improvements now or hereafter erected or located thereon or appurtenant thereto, including without limitation that "Candlewood" hotel (the "Project") to be constructed on the Land and all related amenities and improvements (collectively, the "Improvements"), and usable in connection with the present or future operation and occupancy of the Land and the Improvements and all equipment, materials and supplies of any nature whatsoever owned by Debtor, or in which Debtor has or shall have an interest, now or hereafter located upon the Land and the Improvements, or appurtenant thereto, or usable in connection with the present or future operation, enjoyment and occupancy of the Land and the Improvements (collectively, the "Personal Property"), and the right, title and interest of Debtor in and to any of the Personal Property which may be subject to any security interests, as defined in



the Uniform Commercial Code, as adopted and enacted by the state or states where any of the Property is located (the "Uniform Commercial Code"), superior in lien to the lien of the Mortgage, Assignment of Leases and Profits, Security Agreement and Fixture Filing from Debtor to Secured Party dated as of substantially even date herewith (the "Mortgage"), and all proceeds and products of the above;

All accounts (including, without limitation the Equity Deposit, as defined in the Building Loan Agreement between Debtor and Secured Party dated as of substantially even date herewith (the "Loan Agreement"), and all right, title and interest of Debtor in and to the Hotel Operating Account, Property Tax and Insurance Escrow Account, Equipment Replacement Reserve Account, Owner's Sweep Account and all other accounts as defined or described in the Management Agreement dated as of January 22, 1997 between Debtor and Candlewood Hotel Company, Inc., a Delaware corporation ("Manager"), as modified by that Subordination, Non-Disturbance and Attornment Agreement dated as of substantially even date herewith, among Debtor, Manager and Secured Party (the "Management Agreement"), escrows (including, without limitation, the Escrow Fund), documents, instruments, chattel paper, claims, deposits and general intangibles of Debtor, as such terms are defined in the Uniform Commercial Code, and all agreements, contracts, certificates, instruments, and other documents, now or hereafter entered into, including, without limitation, the Management Agreement, and all proceeds, substitutions and replacements thereof, all of Debtor's interest in contract rights, insurance proceeds, security deposits, franchises, books, records, appraisals, architectural and engineering plans, specifications, environmental and other reports relating to the Land, trademarks (to the extent assignable), trade names (to the extent assignable), service marks, logos, copyrights, goodwill, symbols, permits, licenses (to the extent assignable), approvals, actions, tenant or guest lists, advertising materials and telephone exchange numbers as identified in such materials, all refunds, rebates or credits in connection with a reduction in real estate taxes and assessments charged against the Land as a result of tax certiorari or any applications or proceedings for reduction, and causes of action which now or hereafter relate to, are derived from or are used in connection with the Land, or the use, operation, maintenance, occupancy or enjoyment thereof or the conduct of any business or activities thereon (collectively, "Intangibles");

All leases and other agreements affecting the use, enjoyment or occupancy of the Land or the Improvements heretofore or hereafter entered into (including, without limitation, subleases, licenses, concessions, tenancies and other occupancy agreements covering or encumbering all or any portion of the Land), together with any guarantees, supplements, amendments, modifications, extensions and renewals of any thereof, and all additional remainders, reversions, and other rights and estates appurtenant thereto, as the same may be amended from time to time (collectively, "Leases"); in the ordinary course, an extended stay by a hotel guest in the Improvements shall not constitute a Lease hereunder;

All of Debtor's right, title and interest in and to any agreement or instrument affecting or pertaining to the Property (collectively, the "Operating Agreements"), together with any



amendments, modifications, extensions and renewals of any thereof, and all subordinations, estoppels and other rights in connection therewith;

All agreements (including, without limitation, the Management Agreement and all agreements now or hereafter entered into for the use and enjoyment of all food, liquor and other beverage licenses), contracts (including, without limitation, all Construction Agreements, Plans and Property Agreements as defined and described in the Assignment of Construction Agreements, Plans and Property Agreements dated as of the date hereof from Debtor to Secured Party (the "Document Assignment")), certificates, instruments, franchises, permits, licenses (including, without limitation, food, liquor and other beverage licenses, to the extent assignable), plans, specifications and other documents, now or hereafter entered into, together with any amendments, modifications, extensions and renewals of any thereof, and all subordinating estoppel rights therein and thereto, respecting or pertaining to the use, occupation, construction, management or operation of the Land and any part thereof and any Improvements or respecting any business or activity conducted on the Land and any part thereof and all right, title and interest of Debtor therein and thereunder, including, without limitation, the right, while an Event of Default (as defined in the Mortgage) remains uncured, to receive and collect any sums payable to Debtor thereunder;

All of Debtor's right, title and interest in and to any easements and appurtenances affecting the Property;

All the right, in the name and on behalf of Debtor, to commence any action or proceeding to protect the interest of Secured Party in the Property and while an Event of Default remains uncured, to appear in and defend any action or proceeding brought with respect to the Property;

All (i) income, rents, room rates, receipts, issues, profits, revenues (including all oil and gas or other mineral royalties and bonuses), deposits and other benefits now due or which may become due or to which Debtor is now or hereafter may become entitled or which Debtor may demand or claim arising or issuing from or out of the operation of the business at the Land or any part thereof and all amounts paid as rents for such Land or the fees, charges, accounts or other payments for the use or occupancy of rooms and other public facilities in hotels, motels or other lodging facilities, including, without limitation, all revenues and credit card receipts collected from guest rooms, restaurants, bars, mini-bars, meeting rooms, banquet rooms, recreational facilities and otherwise; and (ii) receivables, customer obligations, installment payment obligations and other payment obligations whether already accrued, now accruing or to accrue in the future for the occupancy or use of the Property or any part thereof, or arising or created out of the sale, lease, sublease, license, concession or other grant of the right of the possession, use or occupancy of all or any portion of the Land or personalty located thereon, or the rendering of services by Debtor or any operator or manager of the hotel or the commercial space located in the Improvements or acquired from others including, without limitation, from the rental of any office space, retail space, commercial space, parking space, guest rooms or other space, halls, stores or

offices, including any deposits securing reservations of such space, exhibit or sales space of every kind, license, lease, sublease and concession fees and rentals, health club membership fees, food and beverage wholesale and retail sales, service charges, vending machine sales and proceeds, if any, from business interruption or other loss of income insurance relating to the use, enjoyment or occupancy of the Land, regardless of whether the revenues described in the preceding clauses (i) and (ii) are paid or accrued before or after the filing by or against Debtor of any petition for relief under the Bankruptcy Code (collectively, "Profits");

All additional lands, estates and development rights hereafter acquired by Debtor for use in connection with the Land and the development of the Land that ~~may~~, from time to time, by supplemental mortgage or otherwise be expressly made subject to the lien of the Mortgage;

All awards heretofore and hereafter made to Debtor for taking by eminent domain the whole or any part of the Land or any easement therein, including any awards for changes of grade of streets; and

Any and all other rights of Debtor in and to the foregoing; and

All proceeds and products of the foregoing collateral.

**EXHIBIT A**

**Legal Description of Land**

Land in the City of Hoover, Shelby County, Alabama, described as follows:

Lot 2D-1, according to the Map of The Resurvey of Lot 2D, Meadow Brook Corporate Park Phase I, as recorded in Map Book 21, page 92, in the Probate Office of Shelby County, Alabama.

Tax parcel identification numbers: 03-9-31-0-002-019.002 and 09-3-06-0-001-001.065

Inst # 1997-20725

07/02/1997-20725  
12:23 PM CERTIFIED  
SHELBY COUNTY JUDGE OF PROBATE  
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