

**OPERATION, RESTRICTION AND EASEMENT AGREEMENT  
AND DECLARATION**

THIS OPERATION, RESTRICTION AND EASEMENT AGREEMENT AND DECLARATION ("OREA") is made and entered into as of the 17 day of September, 1999, by and among **THE PEOPLES BANK AND TRUST COMPANY**, an Alabama banking corporation ("Peoples"), and **MOTT OIL, INC.**, an Alabama corporation ("Mott").

**WITNESSETH:**

WHEREAS, the parties own lots in the subdivision known as Helena Market Subdivision, which subdivision is recorded in the Probate Office of Shelby County, Alabama, in Map Book 26, at Page 20 (the "Subdivision"); and

WHEREAS, Peoples is the owner of Lot 2 ("Lot 2") of the Subdivision, and Mott is the owner of Lot 1 ("Lot 1"), Lot 3 ("Lot 3"), and Lot 4 ("Lot 4") of the Subdivision; and

WHEREAS, the parties hereto intend to develop and operate their respective Lots in conjunction with each other as integral parts of a commercial and retail subdivision, and for their mutual benefit and to assure the best and most appropriate development and improvement of the subdivision they desire to enter into certain covenants, restrictions and agreements, and to grant to each other certain reciprocal easements in, to, over, and across the respective Lots;

NOW, THEREFORE, in consideration of the premises, the covenants and agreements hereinafter set forth and in furtherance of the parties understanding, it is agreed and the parties declare as follows:

**ARTICLE I  
DEFINITIONS**

1.1 Building. "Building" shall mean any enclosed structure placed, constructed or located on a Lot, which for the purpose of this OREA shall include any appurtenant canopies, supports, loading docks, truck ramps, drive-in windows, automatic teller machines, and other outward extensions.

1.2 Open Area. "Open Area" shall mean all areas within the exterior boundaries of a particular Lot, exclusive of Buildings.

1.3 Development. "Development" shall mean Lots 1, 2, 3, and 4.

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1.4 Occupant. "Occupant" shall mean any Person from time to time entitled to the use and occupancy of any portion of a in the Development under an ownership right or any lease, sublease, license, concession, or other similar agreement.

1.5 Party. "Party" shall mean each signatory hereto and their respective successors and assigns who become owners of any portion of the Development.

1.6 Permittee. "Permittee" shall mean all Occupants and the officers, directors, employees, agents, contractors, customers, vendors, suppliers, visitors, invitees, licensees, subtenants, and concessionaires of Occupants insofar as their activities relate to the intended development, use and occupancy of the Development.

1.7 Person. "Person" shall mean any individual, partnership, firm, association, corporation, limited liability company, trust, or any other form of business or government entity.

1.8 Lot. "Lot" shall mean that portion of the Development owned by a Party.

1.9 Utility Lines. "Utility Lines" shall mean those facilities and systems for the transmission of utility services, including drainage and storage of surface water. "Common Utility Lines" shall mean those Utility Lines which are installed to provide the applicable service to more than one Lot. "Separate Utility Lines" shall mean those Utility Lines which are installed to provide the applicable service to only one Lot. For the purpose of this OREA, the portion of a Utility Line extending between a Common Utility Line and a Building shall be considered a Separate Utility Line.

1.10 Turn Out Access Drive(s). "Turn Out Access Drive(s)" shall mean the driveways shown on the Site Plan providing access to Shelby County Highway No. 17 from the Lots, as finally approved by governmental authorities, presently consisting of four such driveways of approximately 24 feet in width, together with any similar driveways which may be constructed in the future for providing access to the Lots from the said public highway.

## **ARTICLE II EASEMENTS**

2.1 Turn Out Access Drive Easements. Each Party grants and conveys to each other Party for its use and for the use of its Permittees, in common with others entitled to use the same, a perpetual non-exclusive easement for the passage of vehicles and pedestrians over and across the Turn Out Access Drives and extending across the Open Area of each Lot from that lot's frontage on Shelby County Highway No. 17 easterly for 30 feet from said public highway. Such mutual easements, however, shall not prohibit the construction of parking areas, landscaping, signs, or other improvements allowable hereunder and by law, provided that such improvements do not unreasonably interfere with vehicular access across the easement area to the Turn Out Access Drives.

## 2.2 Utilities.

(A) Each Party grants and conveys to each other Party non-exclusive perpetual easements in, to, over, under, along and across those portions of the Open Area located on each Lot necessary for the installation, operation, flow, passage, use, maintenance, connection, repair, relocation, and removal of Utility Lines serving each Lot, including but not limited to, sanitary sewers, storm drains, water (fire and domestic), gas, electrical, telephone and communication lines. The Party whose Lot is to be burdened by any such mutual easement is sometimes referred to herein as the "Grantor's," and the Party requesting the use of another Party's Lot for the purposes of this easement is sometimes referred to herein as the "Grantee." The initial location of any Utility Line shall be subject to the prior written approval the Grantor, such approval not to be unreasonably withheld or delayed. The easement area shall be no wider than necessary to reasonably satisfy the requirements of a private or public utility. Upon request, the Grantee at Grantee's expense shall provide to the Grantor a copy of an as-built survey showing the location of such Utility Line. All Utility Lines shall be underground except:

- (i) ground mounted electrical transformers;
- (ii) as may be necessary during periods of construction, reconstruction, repair, or temporary service;
- (iii) as may be required by governmental agencies having jurisdiction;
- (iv) as may be required by the provider of such service; and
- (v) fire hydrants.

At least thirty (30) days prior to exercising the right granted herein, the Grantee shall first provide the Grantor with a written statement describing the need for such easement, shall identify the proposed location of the Utility Line, the nature of the service to be provided, the anticipated commencement and completion dates for the work and shall furnish a certificate of insurance showing that its contractor has obtained the minimum insurance coverage required by 5.4(C) hereof. Except as otherwise agreed to by the grantor and the grantee, any Party installing Separate Utility Lines pursuant to the provisions of this subparagraph shall pay all costs and expenses with respect thereto and shall cause all work in connection therewith (including general clean-up and proper surface and/or subsurface restoration) to be completed as quickly as possible and in a manner so as to minimize interference with the use of any other Party's Lot.

(B) The Grantor under 2.2 (A) hereof shall have the right to relocate a Utility upon thirty (30) days' prior written notice, provided that such relocation:

- (i) shall not be commenced during the months of November, December or January;



- (ii) shall not interfere with or diminish the utility service to any other Party, except to the extent absolutely necessary to effect the relocation, such as the relocation of an electrical line/computer line, in which event the affected Party shall coordinate such interruption to eliminate any detrimental effects;
- (iii) shall not reduce or unreasonably impair the use of such Utility Line;
- (iv) shall be performed without cost or expense to any other Party;
- (v) shall be completed using materials and design standards which equal or exceed those originally used; and
- (vi) shall have been approved by the provider of such service and the appropriate governmental or quasi-governmental agencies having jurisdiction thereover.

Documentation of the relocated easement area, including the furnishing of an "as-built" survey, shall be the Grantor's expense and shall be accomplished as soon as possible following completion of such relocation.

### **ARTICLE III CONSTRUCTION**

#### **3.1 General Requirements.**

(A) The Parties agree that all construction activities performed by it on each respective Lot shall be performed in compliance with all applicable laws, rules, regulations, orders, and ordinances of the city, county, state, and federal government, or any department or agency thereof. All such construction shall utilize quality materials, and shall be performed in a good, safe, workman-like manner.

(B) The Parties further agree that their construction activities on each respective Lot shall not with respect to the other Party's Lot:

- (i) cause any unreasonable increase in the cost of constructing improvements;
- (ii) unreasonably interfere with construction work being performed;
- (iii) unreasonably interfere with the use, occupancy or enjoyment of such Lot;
- (iv) cause any Building located on the other Lot to be in violation of any law, rule, regulation, order or ordinance authorized by any city, county, state, federal government, or any department or agency thereof.

3.2 Open Areas. All work in Open Areas shall be done in a good and workmanlike manner and in accordance with good engineering standards, and meet the following minimum general design:

- (A) All sidewalks and pedestrian aisles shall be concrete or other similar materials.
- (B) Utility Lines that are placed underground shall be at adequate depths. If surface water retention and/or detention areas are located outside of the general parking lots, such areas shall be fenced or otherwise secured to impede public access thereto.
- (C) All parking areas shall contain sufficient ground level parking spaces in order to comply separately with applicable city and/or county codes.

3.3 Building Improvements in the Development.

- (A) While it is acknowledged and agreed that no Party shall have an obligation to commence construction of any Building on its Lot pursuant to this OREA, the Parties hereby agree once construction has been commenced, such Building shall be completed in a diligent and good and workmanlike manner.
- (B) Buildings shall be constructed so as to comply with the existing minimum building set back lines of the City of Helena, as shown on the Site Plan (even if such set back lines are later made less restrictive).

#### **ARTICLE IV MAINTENANCE AND REPAIR**

4.1 General Maintenance. Peoples and Mott shall maintain, or cause to be maintained, each of their respective Lots, in a sightly, safe condition and good state of repair. The aforementioned maintenance and repair obligation shall include but not be limited to the following:

- (i) Drive and Parking Areas. Maintaining all paved surfaces and curbs in a smooth and evenly covered condition, including, without limitation, replacement of base, skin patch, resealing and resurfacing. (For the purpose of this section, an overlay of the drives and parking areas shall be considered a maintenance item.)
- (ii) Debris and Refuse. Periodic removal of all papers, debris, filth, refuse, ice and snow (2" on surface), including sweeping to the extent necessary to keep the Lot in a first-class, reasonably clean and orderly condition.
- (iii) Non-Occupant Signs and Markers. Maintaining, cleaning and replacing any appropriate directional, stop or handicapped parking signs or markers;

restripe parking lots and drive lanes as necessary to maintain parking space designation and traffic direction; and keep clearly marked fire lanes, loading zones, no parking areas and pedestrian cross-walks.

- (iv) **Lighting.** Maintaining, cleaning and replacing lighting facilities, including light standards, wires, conduits, lamps, ballasts and lenses, time clocks and circuit breakers.
- (v) **Landscaping.** Maintaining and replacing of all landscape plantings, trees and shrubs in an attractive and thriving condition, trimmed and weed free. Maintain and replace landscape planters, including those adjacent to exterior walls of Buildings. Modify irrigation system to satisfy governmental water allocation or emergency requirements.
- (vi) **Common Utility Lines.** Maintaining, cleaning, replacing, and repairing any and all Common Utility Lines.
- (vii) **Obstructions.** Keeping the Open Area free from any obstructions including those caused by the sale or display of merchandise, unless such obstruction is permitted under the provisions of this OREA.
- (viii) **Sidewalks.** Maintaining, cleaning and replacing of all sidewalks, including those adjacent and contiguous to Buildings located within said Lots.

Notwithstanding anything to the contrary contained in this OREA, each Party shall have the obligation to operate, maintain, and repair, in a clean, sightly and safe condition, the following items located on its Lot: any exterior shipping/receiving dock area; any truck ramp or truck parking area; any recycling center or similarly designated area for the collection of items intended for recycling; and any refuse, compactor or dumpster area.

#### 4.3 Building Improvements.

(A) After completion of construction, Peoples and Mott covenant and agree to maintain and keep the exterior portion of the Buildings located on their respective Lots, in first-class condition and state of repair, in compliance with all governmental laws, rules, regulations, orders, and ordinances exercising jurisdiction thereover, and in compliance with the provisions of this OREA. Said Parties further agree to store all trash and garbage in adequate containers, to locate such containers so that they are not readily visible from the parking area, and to arrange for regular removal of such trash or garbage.

(B) In the event any of said Buildings are damaged by fire or other casualty (whether insured or not), the Party upon whose Lot such Building is located shall, subject to governmental regulations and/or insurance adjustment delays, immediately remove the debris



resulting from such event and provide a sightly barrier, and within a reasonable time thereafter shall either (i) repair or restore the Building so damaged to a complete unit, such repair or restoration to be performed in accordance with all provisions of this OREA, or (ii) erect another Building in such location, such construction to be performed in accordance with all provisions of this OREA or, (iii) demolish the damaged portion and/or the balance of such Building and restore the cleared area to either a hard surface condition or a landscaped condition until a replacement Building is erected. Such Party shall have the option to choose which of the foregoing alternatives to perform, but such Party shall be obligated to perform one of such alternatives. Such Party shall give notice to each other Party within ninety (90) days from the date of such casualty of which alternative it elects.

## **ARTICLE V OPERATION OF THE DEVELOPMENT**

### **5.1    Uses.**

(A)    The Development shall be used only for retail sales, general merchandise retail stores, offices (except as provided below), restaurants, one financial institution, one convenience store and gasoline service station, or other commercial retail purposes.

(B)    No use shall be permitted in the Development which is inconsistent with the operation of a first-class commercial and retail subdivision. Without limiting the generality of the foregoing, the following uses shall not be permitted:

- (i)    Any use which emits an obnoxious or unusual odor, noise, sound which can be heard or smelled outside of any Building in the Development;
- (ii)   Any operation primarily used as a storage warehouse operation and any assembling, manufacturing, distilling, refining, smelting, agricultural, or mining operation;
- (iii)   Any mobile home park, trailer court, labor camp, junkyard, or stockyard (except that this provision shall not prohibit the temporary use of construction trailers during periods of construction, reconstruction, or maintenance);
- (iv)   Any dumping, disposing, incineration, or reduction of garbage (exclusive of garbage compactors located near the rear of any Building);
- (v)    Any fire sale, bankruptcy sale (unless pursuant to a court order) or auction house operation;
- (vi)   Any central laundry, dry cleaning plant, or Laundromat: provided, however, this prohibition shall not be applicable to nominal supportive facilities for on-site service oriented to pickup and delivery by the ultimate consumer as the

same may be found in retail shopping districts in the metropolitan area where the Development is located;

- (vii) Any automobile, truck, trailer or recreational vehicle sales, leasing, display or body shop repair operation;
- (viii) Any bowling alley or skating rink;
- (ix) Any residential use, including but not limited to: single family dwellings, townhouses, condominiums, other multi-family units, and other forms of living quarters, sleeping apartments, or lodging rooms
- (x) Any animal raising facilities (except that this prohibition shall not prohibit pet shops);
- (xi) Any mortuary or funeral home;
- (xii) Any establishment selling or exhibiting pornographic materials (as determined by community standards for the area in which the Development is located) or drug-related paraphernalia, provided, that (a) the sale of "Playboy", "Playgirl" or "Penthouse" magazines shall not violate this covenant, and (b) the incidental sale of an image or series of images, the content of which has been rated "X" by the Motion Picture Rating Association or any successor thereto which do not exceed 10% of the gross leaseable square floor space of an Occupant;
- (xiii) Any massage parlor;
- (xiv) Any billiard or bingo parlor;
- (xv) Any off-track betting parlor;
- (xvi) Any carnival, amusement park or circus;
- (xvii) Any use which is illegal, dangerous, constitutes a nuisance, or is inconsistent with an integrated, community oriented retail and commercial shopping center;
- (xviii) Any video arcade, game room or amusement gallery (provided that retail facilities in the Development may operate or display for sale no more than four (4) such electronic games incidentally to their primary operations);



(C) No Party shall use, or permit the use of Hazardous Materials on, about, under or in its Lot, or the Development, except in the ordinary course of its usual business operations conducted thereon, and any such use shall at all times be in compliance with all Environmental Laws.

For the purpose of this paragraph (C), the term (i) "Hazardous Materials" shall mean: petroleum products, asbestos, polychlorinated biphenyls, radioactive materials and all other dangerous, toxic or hazardous pollutants, contaminants, chemicals, materials or substances listed or identified in, or regulated by, any Environmental Law, and (ii) "Environmental Laws" shall mean: all federal, state, county, municipal, local and other statutes, laws, ordinances and regulations which relate to or deal with human health or the environment, all as may be amended from time to time.

It is understood and it is specifically agreed that Mott will own and operate a gasoline service station and convenience store which sells gasoline and petroleum products in the ordinary course of its business.

(D) The following use and occupancy restrictions shall be applicable to the Development:

- (i) There shall be only one gasoline service station and convenience store in the Development which shall be located on Lot 1 (the Mott Lot).
- (ii) There shall be only one bank, savings and loan, credit union, or other financial institution in the Development which shall be located on Lot 2 (the Peoples Lot), and no automated teller machines, except on said Lot 2.

(E) This OREA is not intended to, and does not, create or impose any obligation on a Party to operate, continuously operate, or cause to be operated a business or any particular business at the Development or on any Lot.

5.2 No Re-subdivision or Dedication. No Lot shall be re-subdivided into smaller Lots. No part of any Lot may be dedicated as a public street (unless through eminent domain), nor used to access property outside the boundaries of the Development.

## ARTICLE VI MISCELLANEOUS

### 6.1 Default.

(A) The failure of any Party (the "Defaulting Party") to observe or perform any of the covenants, conditions or obligations of this OREA within thirty (30) days after the issuance of a notice by another Party (the Non-Defaulting Party") specifying the nature of the default claimed shall constitute a default and breach of this OREA by the Defaulting Party.

(B) Each Non-Defaulting Party shall have the right to prosecute any proceedings at law or in equity against any Defaulting Party hereto, or any other Person, violating or attempting to violate or defaulting upon any of the provisions contained in this OREA, and to recover damages for any such violation or default. Such proceeding shall include the right to restrain by injunction any violation or threatened violation by another of any of the terms, covenants, or conditions of this OREA, or to obtain a decree to compel performance of any such terms, covenants, or conditions, it being agreed that the remedy at law for a breach of any such term, covenant, or condition (except those, if any, requiring the payment of a liquidated sum) is not adequate. All of the remedies permitted or available to a Party under this OREA or at law or in equity shall be cumulative and not alternative, and invocation of any such right or remedy shall not constitute a waiver or election of remedies with respect to any other permitted or available right or remedy.

6.2 Notices. All notices, demands and requests (collectively the "notice") required or permitted to be given under this OREA must be in writing and shall be deemed to have been given as of the date such notice is (i) delivered to the Party intended, (ii) delivered to the then designated address of the Party intended, (iii) rejected at the then designated address of the Party intended, provided such notice was sent prepaid, or (iv) sent via facsimile so long as the original copy is also sent via (i) or (ii) above on the same day. The initial addresses of the Parties shall be:

Peoples:       The Peoples Bank and Trust Company  
                  310 Broad Street  
                  Selma, Alabama 36701

Mott:           Mott Oil, Inc.  
                  5299 Southland Circle  
                  Bessemer, Alabama 35023

Upon at least ten (10) days prior written notice, each Person shall have the right to change its address to any other address within the United States of America.

6.3 Condemnation. In the event any portion of any Lot shall be condemned, or conveyed under threat of condemnation, the award shall be paid to the Party owning the land or the improvements taken, and the other Parties hereby waive and release any right to recover any value attributable to the property interest so taken, except that (i) if the taking includes improvements belonging to more than one Party, such as Utility Lines or signs, the portion of the award allocable thereto shall be used to relocate, replace or restore such jointly owned improvements the like quality and character as existed prior to the expropriation, and. (ii) if the taking includes easement rights which are intended to extend beyond the term of this OREA, the portion of the award allocable to each such easement right shall be paid to the respective grantee thereof. In addition to the foregoing, if a separate claim can be filed for the taking of any other property interest existing pursuant to this OREA which does not reduce or diminish the amount paid to the Party owning the land or the improvement taken, then the owner of such other property interest shall have the right to seek an award for the taking thereof. Except to the extent they burden the land taken or unless such easement



or license provides otherwise, no easement or license set forth in this OREA shall expire or terminate based solely upon such taking.

#### 6.4 Construction and Interpretation.

(A) This OREA and the Exhibits hereto contain all the representations and the entire agreement between the Parties with respect to the subject matter hereof. Any prior negotiations, correspondence, memoranda or agreements are superseded in total by this OREA and Exhibits hereto. This OREA has been fully negotiated at arm's length between the signatories hereto, and after advice by counsel and other representatives chosen by such signatories, and such signatories are fully informed with respect thereto; no such signatory shall be deemed the scrivener of this OREA; and, based on the foregoing, the provisions of this OREA and the Exhibits hereto shall be construed as a whole according to their common meaning and not strictly for or against any Party.

(B) Whenever required by the context of this OREA, (i) the singular shall include the plural, and vice versa, and the masculine shall include the feminine and neuter genders, and vice versa and (ii) use of the words "including", "such as", or words of similar import, when following any general term, statement or matter shall not be construed to limit such statement, term or matter to specific items, whether or not language of non-limitation, such as "without limitation", or "but not limited to", are used with reference thereto, but rather shall be deemed to refer to all other items that could reasonably fall within the broadest scope of such statements, terms or matters.

(C) The captions preceding the text of each article and section are included only for convenience of reference. Captions shall be disregarded in the construction and interpretation of this OREA. Capitalized terms are also selected only for convenience and do not necessarily have any connection to the meaning that might otherwise be to such term in a context outside of this OREA.

(D) Invalidity of any of the provisions contained in this OREA, or of the application thereof to any person by judgment or court order shall in no way affect any of the other provisions hereof or the application thereof to any other person and the same shall remain in full force and effect.

(E) This OREA may be executed in several counterparts, each of which shall be deemed an original. The signatures to this OREA may be executed and notarized on separate pages, and when attached to this OREA shall constitute one complete document.

6.5 Negation of Partnership. None of the terms or provisions of this OREA shall be deemed to create a partnership between or among the Parties in their respective businesses or otherwise, nor shall it cause them to be considered joint venturers or members of any joint enterprise. Each Party shall be considered a separate owner, and no Party shall have the right to act as an agent



for another Party, unless expressly authorized to do so herein or by separate written instrument signed by the Party to be charged.

6.6 Not a Public Dedication. Nothing herein contained shall be deemed to be a gift or dedication of any portion of the Development or of any Lot or portion thereof to the general public, or for any public use or purpose whatsoever. Except as herein specifically provided, no right, privileges or immunities of any Party hereto shall inure to the benefit of any third-party Person, nor shall any third-party Person be deemed to be a beneficiary of any of the provisions contained herein.

6.7 Excusable Delays. Whenever performance is required of any Person hereunder, such Person shall use all due diligence to perform and take all necessary measures in good faith to perform; provided, however, that if completion of performance shall be delayed at any time by reason of acts of God, war, civil commotion, riots, strikes, picketing or other labor disputes, unavailability of labor or materials, damage to work in progress by reason of fire or other casualty, or any cause beyond the reasonable control of such Person, then the time for performance as herein specified shall be appropriately extended by the amount of the delay actually so caused. The provisions of this section shall not operate to excuse any Person from the prompt payment of any monies required by this OREA.

6.8 Mitigation of Damages. In all situations arising out of this OREA, all Parties shall attempt to avoid and mitigate the damages resulting from the conduct of any other Party. Each Party hereto shall take all reasonable measures to effectuate the provisions of this OREA.

6.9 OREA Shall Continue Notwithstanding Breach. It is expressly agreed that no breach of this OREA shall (i) entitle any Party to cancel, rescind, or otherwise terminate this OREA, or (ii) defeat or render invalid the lien of any mortgage or deed of trust made in good faith and for value as to any part of the Development. However, such limitation shall not affect in any manner any other rights or remedies which a Party may have hereunder by reason of any such breach.

6.10 Time. Time is of the essence of this OREA.

6.11 No Waiver. The failure of any Party to insist upon strict performance of any of the terms, covenants or conditions hereof shall not be deemed a waiver of any rights or remedies which that Party may have hereunder, at law or in equity and shall not be deemed a waiver of any subsequent breach or default in any of such terms, covenants or conditions. No waiver by any Party of any default under this OREA shall be effective or binding on such Party unless made in writing by such Party and no such waiver shall be implied from any omission by a Party to take action in respect to such default. No express written waiver of any default shall affect any other default or cover any other period of time other than any default and/or period of time specified in such express waiver. One or more written waivers or any default under any provision of this OREA shall not be deemed to be a waiver of any subsequent default in the performance or the same provision or any other term or provision contained in this OREA.

## **ARTICLE VII DECLARATION, BINDING EFFECT AND TERM**

7.1 Declaration and Binding Effect. The Parties declare that the terms of this OREA and all easements granted hereunder shall constitute covenants running with the land and shall bind the real estate described herein and inure to the benefit of and be binding upon the signatories hereto and their respective successors and assigns who become Parties hereunder. This OREA is not intended to supersede, modify, amend, or otherwise change the provisions of any prior instrument affecting the land burdened hereby.

7.2 Term of this OREA. This OREA shall be effective as of the date first above written and shall continue in full force and effect until 11:59 p.m. on December 31, 2014; provided, however, that the easements referred to in Article II hereof which are specified as being perpetual or as continuing beyond the term of this OREA shall continue in force and effect as provided therein. Upon termination of this OREA, all rights and privileges derived from and all duties and obligations created and imposed by the provisions of this OREA, except as relates to the easements mentioned above, shall terminate and have no further force or effect; provided, however, that the termination of this OREA shall not limit or affect any remedy at law or in equity that a Party may have against any other Party with respect to any liability or obligation arising or to be performed under this OREA prior to the date of such termination.

## **ARTICLE VIII EXCULPATION**

8.1 Certain Limitations on Remedies. None of the Persons comprising a Party (whether partners, shareholders, officers, directors, trustees, employees, beneficiaries or otherwise) shall ever be personally liable for any such judgment obtained against a Party. Each Party agrees to look solely to the interest in the Lot of a defaulting Party for recovery of damages for any breach of this OREA; provided, however, the foregoing shall not in any way impair, limit or prejudice the right of a Party to pursue equitable relief in connection with any term, covenant or condition of this OREA, including a proceeding for temporary restraining order, preliminary injunction, permanent injunction or specific performance.

**SIGNATURE PAGE  
FOR  
OPERATION, RESTRICTION AND EASEMENT AGREEMENT  
AND DECLARATION**

**IN WITNESS WHEREOF**, the undersigned has caused this OREA to be executed effective as of the day and year first above written.

**WITNESSES:**

Stanley W. Gentry  
Lynda H. Chen

**PEOPLES:**

**THE PEOPLES BANK AND TRUST  
COMPANY**

By:

ITS:

Michael Truclove  
Regional President

**STATE OF ALABAMA    )**  
**)**  
**COUNTY OF                )**

I, the undersigned Notary Public in and for said County, in said State, hereby certify that MICHAEL TRUCLOVE whose name as PRESIDENT of The Peoples Bank and Trust Company, an Alabama banking corporation, is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, he/she, acting in his/her capacity as OFFICER as aforesaid, executed the same voluntarily for and as the act of said company.

Given under my hand and official seal, this 17 day of September, 1999.

A. Doreen Williams  
**NOTARY PUBLIC**

My Commission Expires:

7/29/03



**SIGNATURE PAGE  
FOR  
OPERATION, RESTRICTION AND EASEMENT AGREEMENT  
AND DECLARATION**

IN WITNESS WHEREOF, the undersigned has caused this OREA to be executed effective as of the day and year first above written.

**WITNESSES:**

Stanley W. Cantelero  
Lynda H. Vernon

**MOTT:**

**MOTT OIL, INC**

By: W. Stephen Mott

**W. STEPHEN MOTT  
ITS: PRESIDENT**

**STATE OF ALABAMA** )

**COUNTY OF JEFFERSON** )

I, the undersigned Notary Public in and for said County, in said State, hereby certify that W. Stephen Mott, whose name as President of Mott Oil, Inc., an Alabama corporation is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, he, acting in his capacity as President as aforesaid, executed the same voluntarily for and as the act of said company.

Given under my hand and official seal, this 17 day of September, 1999.

Arthur E. Williams  
**NOTARY PUBLIC**

My Commission Expires:

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