

STATE OF ALABAMA)

SHELBY COUNTY)

**TERMINATION OF TENANCY IN COMMON
OPERATING AGREEMENT**

This is a Termination Agreement executed as of April 13, 2001 by and between **Frank C. Ellis, Jr., LLC**, an Alabama limited liability company ("Butch"), **Frank C. Ellis, III, LLC**, an Alabama limited liability company ("Corley"), **Benner Investments, LLC**, an Alabama limited liability company ("Benner"), **McGeever Investments, LLC**, an Alabama limited liability company ("McGeever"), **Robertson Investments, LLC**, an Alabama limited liability company ("Robertson") (collectively the "Parties").

RECITALS:

WHEREAS, the Parties entered into a Tenancy-in-Common Operating Agreement dated September 28, 1998 (the "Agreement"), which was recorded in Instrument Number 1998-38081, in the Office of the Judge of Probate of Shelby County, Alabama, with respect to that certain real estate described therein.

WHEREAS, the Parties have contemporaneously sold their interest in the Subject Property to Wal-Mart Real Estate Business Trust, a Delaware business trust ("Wal-Mart") as assignee under that certain Assignment of Purchase Agreement with Concordia Southeast, L.L.C., an Alabama limited liability company ("Concordia") as assignor;

WHEREAS, as a consequence of such transaction, the entire fee simple interest is now owned by Wal-Mart and, as a result of the full 100% conveyance of title, the Parties intend to terminate the Tenancy-in-Common Operating Agreement.

NOW, THEREFORE, in consideration of the premises, and the purchase by Wal-Mart of the undivided one hundred percent (100%) interest in the Property from Butch, Corley, Benner, McGeever and Robertson, the Parties agree that:

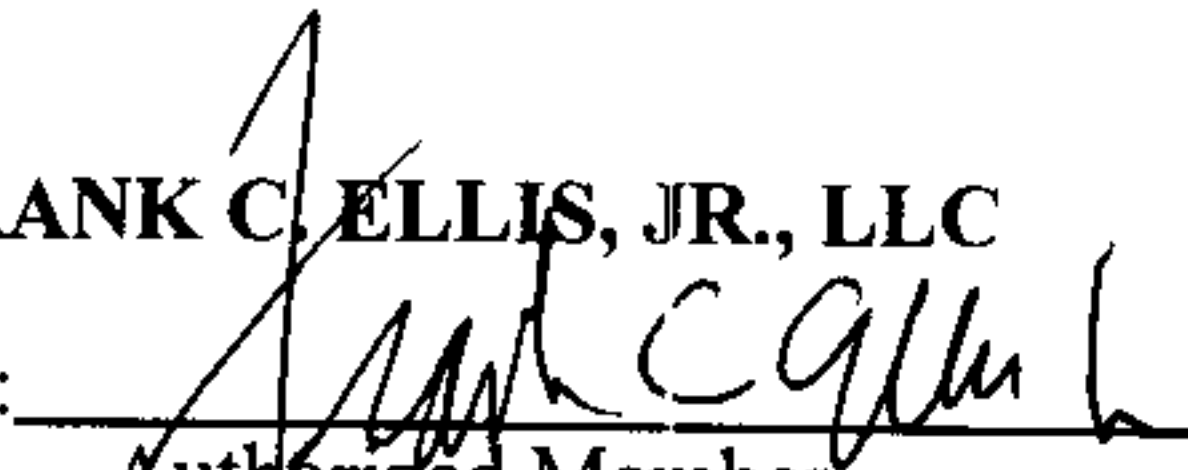
1. The Parties hereby waive their first right of refusal, granted under Paragraphs 2 (A) and 7 of the Agreement, to purchase the property in the event any party desires to sell;
2. Pursuant to Paragraph 9 (a) of the Agreement, the Agreement is hereby terminated effective as of April 13, 2001, and none of the parties shall have any further obligation or liability to the other from and after April 13, 2001 (the "Effective Date"), except for those provisions of the Agreement addressing indemnity of the Parties shall survive the Termination of the Agreement, including, but not limited to Paragraph 5(b), with respect to any occurrence prior to the Effective Date.

IN WITNESS WHEREOF, the parties have executed this Termination Agreement effective as of the 13 day of April, 2001.

04/17/2001-14735
12:52 PM CERTIFIED
SHELBY COUNTY JUDGE OF PROBATE
005 MEL 26.00

Inst # 2001-14735


FRANK C. ELLIS, JR., LLC

By: 
Its: Authorized Member

FRANK C. ELLIS, III, LLC

By: 
Its: Authorized Member

BENNER INVESTMENTS, LLC

By: 
Its: Authorized Member

McGEEVER INVESTMENTS, LLC

By: 
Its: Authorized Member

ROBERTSON INVESTMENTS, LLC

By: 
Its: Authorized Member

STATE OF ALABAMA)

SHELBY COUNTY)

I, the undersigned authority, a Notary Public in and for said County, in said State, hereby certify that **Frank C. Ellis, Jr.**, whose name as Authorized Member of **Frank C. Ellis, Jr., LLC**, an Alabama limited liability company, is signed to the foregoing Agreement and who is known to me, acknowledged before me on this day that, being informed of the contents of said instrument, he, in his capacity as such Authorized Member and with full authority, executed the same voluntarily for and as the act of said limited liability company on the day the same bears date.

Given under my hand this the 11th day of April, 2001.

(Notarial Seal)

Paula Mead

Notary Public

My Commission Expires:

01-19-2004

STATE OF ALABAMA)

SHELBY COUNTY)

I, the undersigned authority, a Notary Public in and for said County, in said State, hereby certify that **Frank C. Ellis, III**, whose name as Authorized Member of **Frank C. Ellis, III, LLC**, an Alabama limited liability company, is signed to the foregoing Agreement and who is known to me, acknowledged before me on this day that, being informed of the contents of said instrument, he, in his capacity as such Authorized Member and with full authority, executed the same voluntarily for and as the act of said limited liability company on the day the same bears date.

Given under my hand this the 13th day of April, 2001.

(Notarial Seal)

Chai

Notary Public

My Commission Expires:

4-19-2004

STATE OF ALABAMA)

SHELBY COUNTY)

I, the undersigned authority, a Notary Public in and for said County, in said State, hereby certify that **John Benner**, whose name as Authorized Member of **Benner Investments, LLC**, an Alabama limited liability company, is signed to the foregoing Agreement and who is known to me, acknowledged before me on this day that, being informed of the contents of said instrument, he, in his capacity as such Authorized Member and with full authority, executed the same voluntarily for and as the act of said limited liability company on the day the same bears date.

Given under my hand this the 13th day of April, 2001.

(Notarial Seal) 

Notary Public
My Commission Expires:

4-19-2004

STATE OF ALABAMA)

SHELBY COUNTY)

I, the undersigned authority, a Notary Public in and for said County, in said State, hereby certify that **John McGeever**, whose name as Authorized Member of **McGeever Investments, LLC**, an Alabama limited liability company, is signed to the foregoing Agreement and who is known to me, acknowledged before me on this day that, being informed of the contents of said instrument, he, in his capacity as such Authorized Member and with full authority, executed the same voluntarily for and as the act of said limited liability company on the day the same bears date.

Given under my hand this the 13th day of April, 2001.

(Notarial Seal) 

Notary Public
My Commission Expires:

4-19-2004

STATE OF ALABAMA)

SHELBY COUNTY)

I, the undersigned authority, a Notary Public in and for said County, in said State, hereby certify that **William Robertson**, whose name as Authorized Member of **Robertson Investments, LLC**, an Alabama limited liability company, is signed to the foregoing Agreement and who is known to me, acknowledged before me on this day that, being informed of the contents of said instrument, he, in his capacity as such Authorized Member and with full authority, executed the same voluntarily for and as the act of said limited liability company on the day the same bears date.

Given under my hand this the 13th day of April, 2001.

(Notarial Seal)



Notary Public
My Commission Expires:

4-19-2004

Inst # 2001-14735

04/17/2001-14735
12:52 PM CERTIFIED
SHELBY COUNTY JUDGE OF PROBATE
005 MEL 26.00