

This instrument prepared by:  
DANIEL M. SPITLER  
1200 City Natl. Bank Bldg.  
Birmingham, Alabama 35203

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COLLATERAL ASSIGNMENT OF LEASES

THIS COLLATERAL ASSIGNMENT OF LEASES made this 10<sup>TH</sup> day of April, 1974, by W. M. HUMPHRIES DEVELOPMENT COMPANY, INC., (hereinafter called "Assignor"), to AETNA BUSINESS CREDIT, INC., (hereinafter called "Assignee");

W I T N E S S E T H:

Assignor, in consideration of the sum of Ten Dollars (\$10.00) cash, in hand paid and other good and valuable consideration paid by Assignee, the receipt and sufficiency of which are hereby acknowledged, does hereby GRANT, CONVEY, ASSIGN, TRANSFER and SET OVER unto Assignee, its successors and assigns, the following:

A. All rights, interests and estates of Assignor in, to and under the lease agreements and other instruments which cover or affect portions of the land described in Exhibit "A" attached hereto and made a part hereof, or the improvements located thereon; together with all renewals and extensions of such lease agreements and other instruments and all other lease agreements that may hereafter be entered into by Assignor which cover a portion of said land or the improvements located thereon (such lease agreements, other instruments, renewals and extensions being herein called the "Leases"); and

B. All rents, rentals and other sums of money that may now and at any time hereafter become due and payable to Assignor under the terms of the Leases.

This Collateral Assignment of Leases is made by Assignor as additional security for the payment of the following note, obligations, indebtedness and liabilities: (a) one certain promissory note of even date herewith in the principal amount of One Million Five Hundred Thousand Dollars (\$1,500,000.00) made by Assignor and payable to the order of Assignee, with interest at the rate or rates therein provided, both principal and interest being payable as therein provided, and all amounts remaining unpaid thereon being finally due and payable three years after date, and containing a provision for the payment of a reasonable additional amount as attorneys' fees, and all other notes given in substitution therefor or in renewal or extension thereof, in whole or in part, such note and all other notes given in substitution therefor or renewal or extension thereof, in whole or in part, being hereinafter called the "Note"; and (b) all indebtedness incurred or arising pursuant to the provisions of a Mortgage and Security Agreement of even date herewith and all other instruments securing the payment of the Note (hereinafter called the "Security Instruments"), SUBJECT, HOWEVER, to the terms, provisions and conditions herein set forth.

1. Assignor hereby represents, covenants and warrants unto Assignee that Assignor has not executed any prior assignments of the Leases or the rents, rentals and other sums of money that become due and payable thereunder; and that Assignor has performed no act or executed any other instrument which might prevent Assignee from enjoying and exercising any of its rights and privileges evidenced hereby.



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2. Assignor agrees that, so long as the indebtedness evidenced by the Note or any part thereof shall remain unpaid, Assignor will make no such assignment, pledge or disposition of the Leases or the rents, rentals and other sums of money that become due and payable thereunder, and any such acts, if done or permitted to be done without the prior written consent of Assignee, shall be null and void.

3. Assignor covenants with Assignee to observe and perform all the obligations imposed upon the lessors under the Leases and not to do or permit to be done anything to impair the security thereof, and to execute and deliver at the request of Assignee all such further assurances and assignments in the premises covered by the Leases as Assignee shall from time to time require.

4. Until default in the payment of any of the installments of interest and principal provided for in the Note, or until default under any of the Security Instruments, or until breach by Assignor of any of the covenants, warranties or representations made by Assignor in this Collateral Assignment of Leases for a period of ten (10) days after written notification of such breach is received by Assignor, Assignor shall be entitled to collect all rents, rentals and other sums of money that become due and payable under the Leases, but not more than one (1) month in advance; but in the event of any such default or breach, Assignee shall have the right, power and privilege (but shall be under no duty) to take possession of the premises described in the Leases and have, hold, manage, lease and operate the same on such terms and for such period of time as Assignee may deem proper; and either with or without taking possession of said premises, Assignee shall have the right, power and privilege (but shall be under no duty) immediately to collect and sue for, in its own name, or in the name of Assignor, such rents, rentals and other sums of money as they become due and apply the same, less the cost and expense of collection thereof, toward the payment of the Note, and any other indebtedness secured by any of the Security Instruments, principal, interest and attorneys' fees, in such order as Assignee in its discretion may elect. A written demand by Assignee on each lessee for the payment of rent, rentals and other sums of money that become due under the Leases, after the occurrence of any default or breach of Assignor claimed by Assignee, shall be sufficient to warrant such lessee to make all future payments of such rents, rentals and other sums of money directly to Assignee without the necessity for further consent by Assignor. Each such lessee shall be entitled to rely upon a written demand by Assignee for such payment and shall be fully protected from any claims by Assignor for all payments made to Assignee after receipt of such written demand.

5. Assignee shall not be liable for any loss sustained by Assignor or resulting from Assignee's failure to let the premises described in the Leases after default or from any other act or omission of Assignee in managing the premises described in the Leases after default unless such loss is caused by the willful misconduct and bad faith of Assignee nor shall Assignee be obligated to perform or discharge any obligation, duty or liability under said Leases or under or by reason of this instrument. Assignor shall and does hereby agree to indemnify Assignee for, and to hold Assignee harmless from, any and all liability, loss or damage which may or might be incurred under the Leases or under or by reason of this instrument and from any and all claims and demands whatsoever which may be asserted against Assignee by reason of any alleged obligations or undertakings on its part to perform or discharge any of the terms, covenants or agreements contained in the Leases. Should Assignee incur any such liability under the Leases or under or by reason of this instrument



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or in defense of any such claims or demands, the amount thereof, including costs, expenses and reasonable attorneys' fees, shall be secured hereby; and Assignor shall reimburse Assignee therefor immediately upon demand, failing which Assignee may, at its option, declare all indebtedness secured hereby and by the Security Instruments to be immediately due and payable. This Collateral Assignment of Leases shall not operate to place responsibility upon Assignee for the control, care, management or repair of the premises covered by the Leases, nor for the carrying out of any of the terms and conditions of the Leases; nor shall it operate to make Assignee responsible or liable for any waste committed on the said premises by the tenants or by any other parties or for any dangerous or defective condition of said premises, or for any negligence in the management, upkeep, repair or control of said premises resulting in loss or injury or death to any tenant, licensee, employee or stranger.

6. Nothing contained herein and no act done or omitted by Assignee pursuant to the powers and rights granted it hereunder shall be deemed to be a waiver by Assignee of its rights and remedies under the Note and the Security Instruments, and this Collateral Assignment of Leases is made and accepted without prejudice to any of the rights and remedies possessed by Assignee under the terms of the Note and the Security Instruments. The right of Assignee to collect said principal sum, interest and indebtedness and to enforce any other security therefor held by it may be exercised by Assignee either prior to, simultaneously with, or subsequent to any action taken by it hereunder.

7. Pursuant to the power and authority, if any, granted to Assignor in each of the Leases, Assignor does hereby exercise its power and authority to subordinate, and does hereby subordinate, each of the lessee's interests under the Leases to the liens and security interests evidenced by the Security Instruments; and Assignee, by its acceptance of the delivery of this Collateral Assignment of Leases does hereby agree, in case of a default resulting in Assignee's acquisition of the herein described property through foreclosure or otherwise, to recognize each of the Leases and the rights of each lessee thereunder, if such lessee shall continue to perform the covenants, agreements and conditions imposed upon such lessee under his or its lease. This agreement to recognize shall be contingent upon each lessee, at Assignee's request, attorning to Assignee.

8. In the event that any of the covenants, agreements, terms or provisions contained in the Note, the Mortgage, or any other instrument securing the Note shall be invalid, illegal or unenforceable in any respect, the validity of the remaining covenants, agreements, terms or provisions contained herein and in the Note and any other instrument securing the Note shall in no way be affected, prejudiced or disturbed.

9. The terms, provisions, representations and warranties herein contained shall be binding upon Assignor and the respective successors and assigns of Assignor, and shall inure to the benefit of Assignee, its successors and assigns.

IN WITNESS WHEREOF, Assignor has caused this Collateral Assignment of Leases to be executed on the day, month and year first above written.



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W. M. HUMPHRIES DEVELOPMENT COMPANY, INC.

By

  
W. M. Humphries, Its President

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STATE OF ALABAMA)  
)  
JEFFERSON COUNTY)

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that W. M. Humphries, whose name as President of W. M. Humphries Development Company, Inc., a corporation, is signed to the foregoing Collateral Assignment of Leases, and who is known to me, acknowledged before me on this day that, being informed of the contents of the Collateral Assignment of Leases, 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 official seal this 10th day of April, 1974.

Kenneth S. Leaney  
Notary Public

My Commission Expires: 10-1-75

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EXHIBIT "A"

Lands located in parts of Sections 1 and 12, Township 20 South, Range 3 West, Shelby County, Alabama, as follows: In Section 1, Township 20 South, Range 3 West; the North 1/4, the South 1/2 of the Northwest 1/4, the Southwest 1/4 of the Northeast 1/4, the Northwest diagonal 1/2 of the Southeast 1/4 of the Northeast 1/4, the East 1/2 of the Northwest 1/4 of the Southwest 1/4, the East 1/2 of the Southwest 1/4 and West 1/2 of the Southeast 1/4, in Section 12, Township 20 South, Range 3 West; all of the Northwest 1/4 of the Northeast 1/4 lying Northwest of the Northwest right of way boundary of U. S. Highway 31. Said parcel contains 514.63 acres.

EXCEPT that part of the Northwest 1/4 of Section 1, lying Northwest of the Northwest right of way boundary of Helena Road. Contains 1.181 acres - Parcel "A".

EXCEPT that part of the Northwest 1/4 of the Northwest 1/4 of Section 1, more particularly described as follows: Commence at the Northwest corner of said Section 1, thence in a Southerly direction along the West line of said Section 1 a distance of 534.2 feet to the point of beginning; thence continue along last described course a distance of 325.3 feet; thence 120° left in a Northeasterly direction a distance of 427.0 feet; thence 110° 43' 30" left in a Northwesterly direction a distance of 383.2 feet, thence 100° 07' left in a Southwesterly direction a distance of 150.0 feet to the point of beginning. Area of this parcel not included in original acreage - Parcel "B".

EXCEPT that part of the East 1/2 of Section 1, more particularly described as follows: Begin at the Northeast corner of said Section 1, thence South along the East line of said Section a distance of 1326.0 feet, thence 45° 51' right in a Southwesterly direction a distance of 2025.0 feet, thence 90° right in a Northwesterly direction a distance of 682.0 feet, thence 81° 04' right in a Northeasterly direction a distance of 663.0 feet; thence 90° left in a Northwesterly direction a distance of 500.0 feet, thence 90° right in a Northeasterly direction a distance of 1807.34 feet to the North line of said Section 1, thence 55° right in an Easterly direction a distance of 844.43 feet to the point of beginning. Said parcel contains 74.158 acres - Parcel "C".

EXCEPT a parcel of land located in the Southwest 1/4 of the Northeast 1/4 of said Section 1, more particularly described as follows: Commence at the Northeast corner of said 1/4-1/4 section, thence in a Southerly direction along the East line of said 1/4-1/4 section a distance of 434.70 feet, thence 90° right in a Westerly direction a distance of 207.69 feet to the point of beginning; thence 36° 57' 45" right in a Northwesterly direction a distance of 250.0 feet; thence 90° left in a Southwesterly direction a distance of 120.0 feet, thence 90° left in a Southeasterly direction a distance of 140.0 feet, thence 90° right in a Southwesterly direction a distance of 55.0 feet, thence 90° left in a Southeasterly direction a distance of 110.0 feet, thence 90° left in a Northeasterly direction a distance of 175.0 feet to the point of beginning. Said parcel contains 0.83 acre - Parcel "D".

EXCEPT Chandalar South First Sector, as recorded in Map Book 5, Page 106, in the Office of the Judge of Probate of Shelby County, Alabama. Parcel contains 54.118 acres - Parcel "E".

EXCEPT Chandalar South Second Sector, as recorded in Map Book 6, Page 12, in the Office of the Judge of Probate of Jefferson County, Alabama. Parcel contains 36.22 acres - Parcel "F".

EXCEPT a tract of land known as Chandalar South Townhouses, as more particularly described in Miscellaneous Book 6, Page 823 (which includes a 60 foot easement), in the Office of the Judge of Probate of Shelby County, Alabama. Parcel "G".

EXCEPT a parcel of land located in the Northwest 1/4 of the Northeast 1/4 of Section 12, Township 20 South, Range 3 West, Shelby County, Alabama, more particularly described as follows: Commence at the Northeast corner of the said 1/4-1/4 section; thence in a Southerly direction along the East line of said 1/4-1/4 section a distance of 469.3 feet to the intersection of the



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EXHIBIT "A" (cont'd.)

Northwest right of way line of U. S. Highway 31, thence 27° 24' right in a Southwesterly direction along said right of way line a distance of 438.95 feet to the point of beginning; thence continue along last described course a distance of 75.05 feet, thence 90° right in a Northwesterly direction a distance of 180.0 feet, thence 77° 18' 39" right in a Northerly direction a distance of 181.99 feet, thence 122° 27' 21" right and being tangent to a curve to the left, said curve having a central angle of 19° 46' and a radius of 230.57 feet, thence along arc of said curve in a Southeasterly direction a distance of 79.55 feet to end of said curve and the beginning of a curve to the right, said curve having a central angle of 57° 19' 22" and a radius of 164.0 feet, thence along arc of said curve in a Southeasterly direction a distance of 164.08 feet to end of said curve and the beginning of a curve to the right, said curve having a central angle of 32° 40' 38" and a radius of 25.0 feet, thence along arc of said curve in a Southerly direction a distance of 14.26 feet to end of said curve and the point of beginning. Said parcel contains 0.63 acre - Parcel "H".

EXCEPT a parcel of land located in the Northwest 1/4 of the Northeast 1/4 of Section 12, Township 20 South, Range 3 West, more particularly described as follows: Commence at the Southwest corner of said 1/4-1/4 section, thence in a Westerly direction along the South line of said 1/4-1/4 section, a distance of 627.4 feet to the point of beginning; thence continue along last described course a distance of 255.0 feet to the intersection of the Northwest right of way line of U. S. Highway 31, thence 64° 08' 15" left along said right of way in a Northeasterly direction a distance of 144.47 feet, thence 115° 51' 45" left in a Westerly direction a distance of 318.02 feet, thence 90° left in a Southerly direction a distance of 130.0 feet to the point of beginning. Said parcel contains 0.855 acre - Parcel "I".

Parcels "A", "B", "C", "D", "E", "F", "G", "H" and "I" as referred to hereinabove are identified on that certain Land Use Map dated March 7, 1974, and certified on said date by Allen Whitley, Registered Land Surveyor and Engineer, Registration No. 3943.

TOGETHER WITH all furnishings, fixtures, furniture and articles of personal property now or hereafter attached to or used in and about the building or buildings now erected or hereafter to be erected on the lands described herein, which are necessary to the complete and comfortable use and occupancy of such building or buildings for the purposes for which they were or are to be erected, including, but not limited to, all machines, engines, boilers, dynamos, elevators, stokers, tanks; all awnings, screens, cabinets, shades, blinds, lawn mowers, and all plumbing, heating, lighting, ventilating, refrigerating, cooking, laundry, and incinerating equipment and all fixtures and appurtenances thereto, and such other goods and chattels and personal property as are ever used or furnished in operating buildings or the activities conducted therein, similar to the buildings constructed or to be constructed by Debtor on said real estate, and all renewals or replacements thereof or articles in substitution therefor, whether or not the same are or shall be attached to said building or buildings in any manner; and all building materials and equipment now or hereafter delivered to said premises and intended to be installed therein.



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STATE OF ALA. SHELBY CO.  
I CERTIFY THIS  
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REC. BK. & PAGE AS SHOWN ABOVE  
Conrad J. [Signature]  
JUDGE OF PROBATE

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