

ASSIGNMENT AND SECURITY AGREEMENT

THIS ASSIGNMENT AND SECURITY AGREEMENT dated as of this 11th day of January, 1977, by and between JOHN A. HINES, JR. and CINDY N. HINES (the "Assignor") and BIRMINGHAM TRUST NATIONAL BANK, a national banking association (the "Assignee").

RECITALS

Assignor is indebted to Assignee in the sum of Three Hundred Fifty Thousand Dollars (\$350,000.00), as evidenced by that certain promissory note of even date herewith (the "Bank Note"). Assignor is the sole owner and holder of that certain Mortgage executed by J. I. McCormick and Charles A. J. Beavers to Assignor and Alabaster Motor Cross, Inc., dated September 6, 1974 and recorded in Mortgage Book 341, page 663 in the office of the Judge of Probate of Shelby County, Alabama (the "Mortgage"), together with the indebtedness secured thereby and evidenced by the note described below. The Assignor has agreed to transfer and assign to the Assignee as collateral security for the payment of the Bank Note the indebtedness secured by the Mortgage as evidenced by a promissory note in the original principal sum of Seven Hundred Two Thousand Three Hundred Fifty-three and 30/100 Dollars (\$702,353.30) (the "Note"), together with the Mortgage securing the Note. Alabaster Motor Cross, Inc., which was a co-holder of the Note and Mortgage, was dissolved pursuant to a Certificate of Dissolution dated September 23, 1975 and recorded in the office of the Judge of Probate of Shelby County, Alabama, in Book 13, page 471, and the Note and Mortgage were duly transferred and assigned to Assignor, the owner of all the outstanding capital stock of Alabaster Motor Cross, Inc. upon such dissolution.

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Shelby Cnty Judge of Probate, AL
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AGREEMENT

NOW, THEREFORE, in consideration of the premises and for valuable consideration, Assignor does hereby grant, bargain, sell, convey and assign unto Assignee the Mortgage, together with the indebtedness secured thereby and evidenced by the Note and all of Assignor's right, title and interest in and to the property described in the Mortgage, together with the Note, all as collateral security for the payment of Three Hundred Fifty Thousand Dollars (\$350,000.00) that Assignor owes Assignee pursuant to the Bank Note of even date herewith.

TO HAVE AND TO HOLD unto the Assignee and to its successors and assigns, forever; provided, however, that if Assignor, its successors and assigns, shall pay or cause to be paid all sums owing to Assignee by Assignor pursuant to the terms of the Bank Note, and shall comply with all other terms and conditions contained in the Bank Note, this assignment shall be null and void, it being made for the sole purpose of securing the payment of such sum with interest thereon, and agreed to charges as therein specified.

This assignment is made with full recourse on the undersigned and the Assignor warrants, viz: Assignor covenants with Assignee that the Note secured by the Mortgage is presently outstanding in the principal amount of Seven Hundred Two
Three Hundred Fifty Three and 34/100 Dollars (\$702,353.34); that Assignor has not extended the time for performance of or modified any of the conditions, covenants, provisions or terms contained in the Note or Mortgage; that he is the sole legal owner of the Note and Mortgage free and clear of any liens or encumbrances, with full power to sell and assign the same; that he has executed no release, discharge, satisfaction or cancellation of the Note or Mortgage; that he has executed no release of any portion of the security described in the Mortgage.



To protect the security of this assignment Assignor agrees with Assignee:

1. To give prompt notice to the Assignee of any default on the part of the makers of the Note in the payment of any sum due under the Note or of any default in any other term or condition of the Note or Mortgage.

2. Not to modify, extend, renew, or in any way alter the terms, conditions or provisions of the Note or the Mortgage.

3. At Assignor's sole cost and expense to appear in and defend any action or proceeding arising under, growing out of, or in any manner connected with the Note or Mortgage, and to pay all costs and expenses of the Assignee, including attorney's fees in a reasonable sum, in any such action or proceeding in which the Assignee may appear.

4. That should Assignor fail to make any payment or to do any act as herein provided or as provided in the Bank Note, then the Assignee, without obligation so to do and without notice to or demand on Assignor, and without releasing Assignor from any obligation under the Bank Note or hereunder, may make or do the same in such manner and to such extent as the Assignee may deem necessary to protect the security hereof including, without limiting its general powers, to appear in and defend any action or proceeding purporting to affect the security hereof with rights or powers of Assignor, and in exercising any such powers to pay any necessary costs and expenses, employ counsel, and incur and pay reasonable attorney's fees.

5. That the makers of the Note have no right of setoff and no defenses against the Note and that it is in full force and effect.

6. Assignee may do any acts which the Assignee deems proper to protect the security hereof, including, but not limited to, the foreclosure of the Mortgage and the collec-

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tion of all principal and interest due from the maker of the Note, and apply the same, less costs and expenses of operation and collection, including reasonable attorney's fees, upon any indebtedness secured hereby and in such order as the Assignee may determine.

7. This Agreement shall inure to and be binding upon the undersigned, their respective heirs, administrators, executors, successors and assigns.

IN WITNESS WHEREOF, Assignor has caused this instrument to be properly executed by ~~its General Partner~~ ^{John A. Hines} on the day and year first above written.

John A. Hines (SEAL)
John A. Hines
Cindy Norman Hines (SEAL)
Cindy Norman Hines

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SEAL OF THE JUDGE OF PROBATE
SHELBY COUNTY, ALABAMA
JAN 15 1977

STATE OF ALABAMA)
JEFFERSON COUNTY)

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that John A. Hines and wife Cindy Norman Hines, whose names are signed to the foregoing instrument, and who are known to me, acknowledged before me on this day that, being informed of the contents of the instrument, they executed the same voluntarily on the day the same bears date.

Given under my hand and official seal this 11th day of January, 1977.

My Commission Expires Sept. 20, 1980

Walter W. Holcomb (SEAL)
Notary Public

This instrument was prepared by J. Fred Powell, Attorney at Law, 1600 Bank for Savings Building, Birmingham, Alabama 35203.



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